

SUPPLEMENTAL
SUPPLEMENT

TO THE

CODE OF IOWA
1915

CONTAINING

ALL LAWS OF GENERAL AND
PERMANENT NATURE

ENACTED BY

THE THIRTY-SIXTH GENERAL ASSEMBLY OF THE STATE OF IOWA,
WITH ANNOTATIONS TO ALL STATUTES
TO JUNE 1, 1915

PREPARED FOR PUBLICATION UNDER THE DIRECTION OF

U. G. WHITNEY

REPORTER OF THE SUPREME COURT
AND EX-OFFICIO EDITOR OF THE CODE

PUBLISHED BY AUTHORITY OF THE STATE

DES MOINES, IOWA
Robert Henderson, State Printer
J. M. Jamieson, State Binder
1915

TABLE OF CONTENTS

State Government.....	III
Commissioners for Iowa in other States.....	X
Explanatory Note.....	XI
Abbreviations	XIII
Table of Titles.....	XIV
Provisions Relating to the Supplemental Supplement.....	LI
Constitution of Iowa, Annotated.....	LIII
Supplemental Supplement to the Code, 1915.....	I
Certificate	359
Condition of the Treasury.....	361

STATE GOVERNMENT

List of State Officers, Judges of the Supreme, District and Superior Courts, and Members of the General Assembly, at the time of this publication.

Name	Position	County from Which Originally Chosen
George W. Clarke.....	Governor	Dallas
A. Cornelius Gustafson	Private Secretary to the Governor.....	Montgomery
William L. Harding....	Lieutenant-Governor	Woodbury
William S. Allen.....	Secretary of State.....	Jefferson
Roy M. Williams.....	Deputy Secretary of State.....	Adair
Frank S. Shaw.....	Auditor of State.....	Tama
E. S. Gose.....	Deputy Auditor of State.....	Greene
William C. Brown.....	Treasurer of State.....	Wright
Quincy A. Willis.....	Deputy Treasurer of State.....	Dallas
George Cosson.....	Attorney-General	Audubon
John Fletcher.....	Assistant Attorney-General.....	Pottawattamie
Albert M. Deyoe.....	Superintendent of Public Instruction.....	Hancock
Frank D. Joseph.....	Deputy Superintendent of Public Instruction..	Delaware
Burgess W. Garrett....	Clerk of Supreme Court.....	Decatur
John V. Arney.....	Deputy Clerk of Supreme Court.....	Decatur
Ulysses G. Whitney....	Reporter of Supreme Court and Ex-officio Editor of Code.....	Woodbury
Robert Henderson.....	State Printer.....	Pottawattamie
John M. Jamieson.....	State Binder.....	Guthrie
Clifford Therne, Chm...	Railroad Commissioners.....	Washington
John A. Guiher.....		Madison
James H. Wilson.....	Secretary Board Railroad Commissioners.....	Adair
George L. McCaughan		Polk
John H. Henderson.....	Commerce Counsel.....	Warren
Dwight N. Lewis.....	Assistant Commerce Counsel.....	Polk
Warren Garst.....	Iowa Industrial Commissioner.....	Carroll
Emory H. English.....	Insurance Commissioner.....	Polk
James H. McConologue, Chairman	Board of Control of State Institutions.....	Cerro Gordo
Anthony M. McColl....		Dallas
William J. Dixon.....		Sac
Forrest S. Treat.....	Secretary of Board of Control.....	Polk
Daniel D. Murphy, El- kader, President...	State Board of Education.....	Clayton
Abraham B. Funk.....		Dickinson
George T. Baker.....		Scott
H. M. Elcher.....		Washington
Parker L. Holbrook....		Monona
Charles R. Brenton....		Dallas
Roger Leavitt.....		Black Hawk
Edward P. Schoentgen.		Pottawattamie
Frank F. Jones.....		Montgomery
William R. Boyd.....		Linn
William H. Gemmill....	Finance Committee.....	Carroll
Thomas Lambert.....		Jackson
William H. Berry.....	Board of Parole.....	Warren
David C. Mott.....		Iowa
John E. Howe.....	Secretary of Board of Parole.....	Adair
Sam D. Woods.....		Adair
George D. Newcomb, Chairman	Commission of Pharmacy.....	Union
David E. Hadden.....		Buena Vista
Archie C. Wilson.....		Fayette
Harry E. Eaton.....	Secretary of Pharmacy Commission.....	Page
Dr. Walter L. Bierring	President State Board of Health.....	Polk
Dr. Guilford H. Sumner	Secretary State Board of Health.....	Black Hawk

IV
STATE GOVERNMENT.

STATE OFFICERS—CONTINUED

Name	Position	County from Which Originally Chosen
Dr. Guilford H. Sumner	State Registrar of Vital Statistics.....	Black Hawk
Edward Sweeney.....	} State Mine Inspectors.....	Polk
Rhys T. Rhys.....		Wapello
Will Holland.....		Monroe
Wesley Greene.....	Secretary Horticultural Society.....	Scott
Ole O. Roe.....	State Fire Marshal.....	Polk
Melvin H. Byers.....	Chief Oil Inspector.....	Polk
Arthur H. Davison.....	Secretary of Executive Council.....	Lyon
Guy E. Logan.....	Adjutant-General and Custodian.....	Montgomery
James I. Gibson.....	State Veterinary Surgeon.....	Polk
William B. Barney.....	State Dairy and Food Commissioner.....	Franklin
E. C. Hinshaw.....	Fish and Game Warden.....	Dickinson
Ambrose L. Urick.....	Commissioner of Labor Statistics.....	Polk
Johnson Brigham.....	State Librarian.....	Polk
A. J. Small.....	State Law Librarian.....	Polk
Edgar R. Harlan.....	Curator Historical Department.....	Van Buren
Arthur R. Corey.....	Secretary Board of Agriculture.....	Kossuth
George M. Chappel.....	Director of Weather and Crop Service.....	Polk
George F. Kay.....	State Geologist.....	Johnson
James H. Lees.....	Assistant State Geologist.....	Polk

JUDICIAL DEPARTMENT.
SUPREME COURT.

Name	Position	County from Which Chosen	Postoffice Address
Horace E. Deemer.....	Chief Justice.....	Montgomery	Red Oak
Scott M. Ladd.....	Judge	O'Brien	Sheldon
William D. Evans.....	Judge	Franklin	Hampton
Silas M. Weaver.....	Judge	Hardin	Iowa Falls
Frank R. Gaynor.....	Judge	Plymouth	LeMars
Byron W. Preston.....	Judge	Mahaska	Oskaloosa
Benjamin I. Salinger.....	Judge	Carroll	Carroll

DISTRICT COURTS.

District	Name	Postoffice Address	Counties in District
1	W. S. Hamilton.....	Ft. Madison.....	Lee
	Henry Bank, Jr.....	Keokuk	
2	C. W. Vermillion.....	Centerville	Appanoose, Davis, Jefferson, Lucas, Monroe, Van Buren, Wapello
	Francis M. Hunter.....	Ottumwa	
	D. M. Anderson.....	Albia	
3	Seneca Cornell.....	Ottumwa	Adams, Clarke, Decatur, Ringgold, Taylor, Union, Wayne
	Hiram K. Evans.....	Corydon	
	Thomas L. Maxwell.....	Creston	
4	George Jepson.....	Sioux City.....	Monona, Woodbury
	W. G. Sears.....	Sioux City.....	
	John W. Anderson.....	Onawa	
5	Lorin N. Hays.....	Knoxville	Adair, Dallas, Guthrie, Madison, Marion, Warren
	W. H. Fahey.....	Perry	
	James H. Applegate.....	Guthrie Center...	
6	Henry Silwold.....	Newton	Jasper, Keokuk, Mahaska, Poweshiek, Washington
	John F. Talbott.....	Brooklyn	
	K. E. Wilcockson.....	Sigourney	

V

STATE GOVERNMENT.

DISTRICT COURTS—CONTINUED.

District	Name	Postoffice Address	Counties in District
7	A. P. Barker.....	Clinton	Clinton, Jackson, Muscatine, Scott
	William Theophilus.....	Bettendorf	
	A. J. House.....	Maquoketa	
	F. D. Letts.....	Davenport	
8	M. F. Donegan.....	Davenport	Iowa, Johnson
	Ralph P. Howell.....	Iowa City.....	
9	Hubert Utterback.....	Des Moines.....	Polk
	Lawrence DeGraff.....	Des Moines.....	
	W. H. McHenry.....	Des Moines.....	
	Charles A. Dudley.....	Des Moines.....	
	William S. Ayres.....	Des Moines.....	
10	H. B. Boies.....	Waterloo	Black Hawk, Buchanan, Delaware, Grundy
	Geo. W. Dunham.....	Manchester	
	Charles W. Mullan.....	Waterloo	
11	Robert M. Wright.....	Ft. Dodge.....	Boone, Franklin, Hamilton, Hardin, Story, Webster, Wright
	H. E. Fry.....	Boone	
	Edward M. McCall.....	Nevada	
12	C. H. Kelly.....	Charles City.....	Bremer, Butler, Cerro Gordo, Floyd, Hancock, Mitchell, Winnebago, Worth
	Millard F. Edwards.....	Parkersburg	
	Joseph J. Clark.....	Mason City.....	
13	William J. Springer.....	New Hampton.....	Allamakee, Chickasaw, Clayton, Fayette, Howard, Winneshiek
	A. N. Hobson.....	West Union.....	
14	Daniel F. Coyle.....	Humboldt	Buena Vista, Clay, Dickinson, Emmet, Humboldt, Kossuth, Palo Alto, Pochontas
	N. J. Lee.....	Estherville	
15	A. B. Thornell.....	Sidney	Audubon, Cass, Fremont, Harrison, Mills, Montgomery, Page, Pottawattamie, Shelby
	Eugene B. Woodruff.....	Glenwood	
	Thomas Arthur.....	Logan	
	Joseph B. Rockafellow.....	Atlantic	
	O. D. Wheeler.....	Council Bluffs.....	
16	Marion E. Hutchison.....	Lake City.....	Calhoun, Carroll, Crawford, Greene, Ida, Sac
	E. O. Albert.....	Jefferson	
17	James W. Willett.....	Tama	Benton, Marshall, Tama
	B. F. Cummings.....	Marshalltown	
18	Frederick O. Ellison.....	Anamosa	Cedar, Jones, Linn
	Milo P. Smith.....	Cedar Rapids.....	
	John T. Moffit.....	Tipton	
19	J. W. Kintzinger.....	Dubuque	Dubuque
	Robert Bonson.....	Dubuque	
20	James D. Smyth.....	Burlington	Des Moines, Henry, Louisa
	Oscar Hale.....	Wapello	
	William Hutchinson.....	Alton	
21	William D. Boies.....	Sheldon	Cherokee, Lyon, O'Brien, Osceola, Plymouth, Sioux

SUPERIOR COURTS.

Name	P. O. Address	Name	P. O. Address
Charles B. Robbins.....	Cedar Rapids	John R. Bane.....	Oelwein
Frank J. Capell.....	Council Bluffs	W. W. Cardell.....	Perry
Paul G. Norris.....	Grinnell	George H. Castle.....	Shenandoah
William L. McNamara.....	Keokuk		

VI

STATE GOVERNMENT.

THIRTY-SIXTH GENERAL ASSEMBLY.

OFFICERS OF THE SENATE.

President of the Senate—William L. Harding, of Sioux City, Woodbury county.
President Pro Tempore—LeMerton E. Crist, of Osceola, Clarke county.
Secretary—Thomas Watters, of Des Moines, Polk county.
First Assistant Secretary—M. H. Francis, of Woodward, Boone county.
Second Assistant Secretary—Lewis E. Stamm, of Des Moines, Polk county.
Engrossing Clerk—Walter H. Beam, of Martensdale, Warren county.
Enrolling Clerk—Edythe Park Ditto, of Des Moines, Polk county.
Journal Clerk—Emma C. Malm, of Des Moines, Polk county.
Journal Clerk—Mary A. Reid, of Maquoketa, Jackson county.
Sergeant-at-Arms—W. A. Grove, of Rolfe, Pocahontas county.
Bill Clerk—B. S. Record, of Woodward, Dallas county.
File Clerk—George N. Morris, of Des Moines, Polk county.
Postmistress—Agnes Lee, of Ossian, Winneshiek county.
Doorkeeper—J. H. Doty, of Spencer, Clay county.

SENATORS.

District	Name	P. O. Address	Counties Composing District.
50	Allen, Joseph H.....	Pocahontas	Buena Vista, Humboldt, Pocahontas
28	Arney, Wallace H.*.....	Marshalltown ...	Marshall
49	Balkema, Nicholas*.....	Sioux Center.....	Lyon, O'Brien, Osceola, Sioux
41	Boe, Lars W.*.....	Forest City.....	Mitchell
34	Caswell, Grant L.....	Denison	Winnebago, Worth Crawford, Harrison, Monona
37	Chase, Daniel C.....	Webster City....	Hamilton, Hardin, Wright
15	Clarkson, John T.*.....	Albia	Marion, Monroe
11	Crist, LeMerton E.*.....	Osceola	Clarke, Warren
4	Darrah, John H.*.....	Chariton	Lucas, Wayne
31	Doran, Justin R.*.....	Beaver	Boone, Story
20	Eversmeyer, Fred'k W...	Muscatine	Muscatine, Louisa
42	Enger, Lauritz M.....	Decorah	Howard, Winneshiek
32	Farr, Edgar P.*.....	Sioux City.....	Woodbury
40	Fellows, Albert M.*.....	Lansing	Allamakee, Fayette
29	Fleck, David S.....	Newton	Jasper
7	Foskett, Herbert I.....	Shenandoah ...	Fremont, Page
17	Foster, John W.*.....	Guthrie Center...	Audubon, Dallas, Guthrie
1	Frailey, Joseph R.....	Fort Madison....	Lee
47	Francis, Leslie E.*.....	Spirit Lake.....	Clay, Dickinson, Emmet, Kossuth, Palo Alto
46	Gillette, Guy M.*.....	Cherokee	Cherokee, Ida, Plymouth
22	Greene, William J.....	Clinton	Clinton
38	Grout, Henry W.....	Waterloo	Black Hawk, Grundy
39	Hagemann, Fred P.*.....	Waverly	Bremer, Butler
26	Heald, Francis A.*.....	Cedar Rapids....	Linn
48	Helmer, Charles C.....	Carroll	Carroll, Greene, Sac
21	Henigbaum, Fred G.....	Davenport	Scott
23	Hilsinger, George E.*....	Sabula	Jackson
44	Jackson, George H.....	Charles City....	Chickasaw, Floyd
8	Jones, Frank F.*.....	Villisca	Mills, Montgomery
19	Kimball, Clement F.*....	Council Bluffs...	Pottawattamie
12	Laffer, Charles C.....	Sigourney	Keokuk, Poweshiek
27	Larrabee, Frederic*.....	Fort Dodge.....	Calhoun, Webster
10	Lindly, John M.....	Winfield	Henry, Washington
6	Nye, Albert D.*.....	Bedford	Adams, Taylor
30	Parker, Addison M.....	Des Moines.....	Polk
33	Perkins, Eli C.*.....	Delhi	Buchanan, Delaware
36	Quigley, Robert*.....	McGregor	Clayton

VII

STATE GOVERNMENT.

SENATORS—CONTINUED

District	Name	P. O. Address	Counties Composing District
14	Ream, John F.*	Oskaloosa, R. 5	Mahaska
43	Robinson, Thomas J. B.*	Hampton	Cerro Gordo, Franklin, Hancock
16	Savage, Arthur C.*	Adair	Adair, Madison
35	Schrup, Nicholas J.	Dubuque	Dubuque
24	Sheean, William D.*	Anamosa	Cedar, Jones
2	Taylor, John H.*	Farmington	Jefferson, Van Buren
5	Thomas, Charles H.*	Kent	Decatur, Ringgold, Union
9	Thompson, Frank E.	Burlington	Des Moines
18	Voorhees, John C.	Anita	Cass, Shelby
25	White, James A.*	South Amana	Iowa, Johnson
45	White, Harry C.	Garrison	Benton, Tama
13	Whitmore, Chester W.	Ottumwa	Wapello
3	Wilson, James M.*	Centerville	Appanoose, Davis

*Term expires 1916.

OFFICERS OF THE HOUSE.

Speaker—William I. Atkinson, of Clarksville, Butler county.
Speaker Pro Tempore—Lee W. Elwood, of Elma, Howard county.
Chief Clerk—W. C. Ramsay, of Belmond, Wright county.
Assistant Clerk—I. E. Lane, of Des Moines, Polk county.
Reading Clerk—Harlan G. Knapp, of Rockford, Floyd county.
Engrossing Clerk—Ora Greer, of Bedford, Taylor county.
Enrolling Clerk—Mabel Elwood, of Lime Springs, Howard county.
Journal Clerk—Lillian Leffert, of Des Moines, Polk county.
Journal Clerk—Clyde McFarlin, of Montezuma, Poweshiek county.
File Clerk—J. B. Putnam, of Indianola, Warren county.
Assistant File Clerk—Glen Van Duyn, of Des Moines, Polk county.
Bill Clerk—Frank Vetter, of Grant, Montgomery county.
Assistant Bill Clerk—Morley Morrison, of North English, Iowa county.
Sergeant-at-Arms—H. Armstrong, of Humboldt, Humboldt county.
Assistant Postmistress—Mrs. Clara W. Patterson, of Des Moines, Polk county.
Doorkeeper—Jas. A. Weiss, of Anamosa, Jones county.

REPRESENTATIVES

District	Name	P. O. Address	Counties Composing District
12	Anderson, Claus L.	Stanton	Montgomery
95	Anderson, Joseph H.	Thompson	Winnebago
3	Anderson, Reuben W.	Pulaski	Davis
54	Anderson, Walter W.	Scranton	Greene
73	Atkinson, Wm. I.	Clarksville	Butler
33	Bailey, James W.	Harlan	Shelby
19	Ball, Geo. W.*	Fairfield	Jefferson
48	Barry, Justin	Walker	Linn
2	Bauman, S. H.	Birmingham	Van Buren
70	Becker, William	Elkader	Clayton
96	Bingham, Lewis L.	Estherville	Emmet
36	Brady, Henry	Perry	Dallas
37	Brammer, George E.	Des Moines	Polk
66	Bronson, Clayton E.	Waterloo	Black Hawk
77	Bruce, Robert	Rolfe	Pocahontas
27	Buxton, William, Jr.	Indianola	Warren
17	Clark, Charles H.	Albia	Monroe

VIII
STATE GOVERNMENT.

REPRESENTATIVES—CONTINUED

District	Name	P. O. Address	Counties Composing District
14	Coakley, Joshua W.....	Creston	Union
41	Coast, William O.....	Iowa City.....	Johnson
13	Cochrane, William H.....	Corning	Adams
38	Craven, James E.....	Kellogg	Jasper
26	Crozler, George W.....	Knoxville	Marion
74	Darrah, John H.....	Hampton	Franklin
5	Doze, Joseph E.....	Humeston	Wayne
86	Durant, Seth B.....	Forest City.....	Hancock
15	Eggleston, Cornelius B...	Osceola	Clarke
92	Elwood, Lee W.....	Elma	Howard
18	Freeman, Merlin A.....	Ottumwa	Wapello
37	Garton, Samuel B.....	Des Moines	Polk
51	Gilbert, William N.....	State Center	Marshall
83	Gilmore, Charles.....	Sioux Rapids	Clay
31	Grason, Jacob C.....	Council Bluffs	Pottawattamie
61	Gray, Ross C.....	Rockwell City	Calhoun
65	Greene, Edmund K.....	Reinbeck	Grundy
58	Griffin, Thomas F.....	Sioux City	Woodbury
62	Hadley, Peter.....	Fort Dodge	Webster
47	Hale, John K.....	Anamosa	Jones
8	Hall, Charles A.....	Bedford	Taylor
90	Helming, Otto A.....	Waukon	Allamakee
53	Herman, John F.....	Boone	Boone
68	Holbert, Aaron B.....	Greeley	Delaware
69	Horchem, B. J.....	Dubuque	Dubuque
45	Ingwersen, Martin.....	Clinton	Clinton
21	Jamison, James E.....	Burlington	Des Moines
52	Jessen, John C.....	Story City.....	Story
16	Johnston, James F.....	Chariton	Lucas
76	Johnston, Robert J.....	Humboldt	Humboldt
97	Jones, Fred W.....	Spirit Lake.....	Dickinson
87	Jones, Ira W.....	Clear Lake.....	Cerro Gordo
69	Kane, Allan J.....	Dubuque	Dubuque
46	Kelso, Joseph, Jr.....	Bellevue	Jackson
89	Kepple, Presley L.....	Ionia	Chickasaw
43	Kimberly, David W.....	Davenport	Scott
56	Klinker, Peter J.....	Denison	Crawford
20	Kopp, William F.....	Mt. Pleasant	Henry
60	Lee, C. Orville.....	Sac City.....	Sac
28	Lenocker, Reuben A.....	Dexter	Madison
43	Lueders, George.....	New Liberty	Scott
29	McDermid, Pierre.....	Fontanelle	Adair
66	McFarlane, Arch W.....	Waterloo	Black Hawk
63	McFerrin, Rube.....	Webster City.....	Hamilton
49	Mackie, David E.....	Mount Auburn.....	Benton
58	Michael, James S.....	Sioux City.....	Woodbury
72	Miller, Charles W.....	Waverly	Bremer
35	Moore, William F.....	Guthrie Center.....	Guthrie
23	Monro, David R.....	Keota	Washington
78	Murray, Roy W.....	Storm Lake.....	Buena Vista
31	Neff, Lewis J.....	Walnut	Pottawattamie
91	Nicholson, Howell P., Jr.	Ossian	Winneshiek
24	Nordyke, Roy D.....	Richland	Keokuk
99	Oldenburg, William.....	Alvord	Lyon
44	Petersen, Henry H.....	Lowden	Cedar
32	Pitt, M. B.....	Logan	Harrison
88	Purdy, George H.....	Rockford	Floyd
39	Rayburn, Edward D.....	Montezuma	Poweshiek
10	Rees, Sylvester C.....	Hamburg	Fremont
75	Reese, Jacob H.....	Belmond	Wright

IX
STATE GOVERNMENT.

REPRESENTATIVES—CONTINUED

District	Name	P. O. Address	Counties Composing District
42	Richards, Albert L.....	West Liberty	Muscatine
48	Ring, Herbert C.....	Cedar Rapids	Linn
7	Roberts, H. Guy.....	Mount Ayr.....	Ringgold
55	Rogers, Douglas.....	Manning	Carroll
94	Rone, Tollef C.....	Northwood	Worth
57	Rowles, William M.....	Onawa	Monona
1	Sawyer, Charles F.....	Keokuk	Lee
64	Schmedika, William.....	Radcliffe	Hardin
4	Shaeffer, Lafayette.....	Mystic	Appanoose
50	Shortess, Fremont E.....	Traer	Tama
18	Slaught, Arthur W.....	Ottumwa	Wapello
30	Smith, Charles C.....	Griswold	Cass
59	Spotts, Oliver O.....	Battle Creek.....	Ida
98	Steelsmith, Daniel C.....	Melvin	Osceola
80	Stokes, Albert T.....	LeMars	Plymouth
81	Stone, D. O.....	Hawarden	Sioux
85	Sullivan, John W.....	Algona	Kossuth
11	Swain, Ira J.....	Malvern.....	Mills
82	Swenson, Peter.....	Hartley	O'Brien
67	Taylor, Thomas E.....	Independence	Buchanan
6	Thompson, Melbern F....	Van Wert.....	Decatur
45	Tucker, George F.....	Lyons	Clinton
40	Turner, Fred G.....	North English.....	Iowa
71	Wayman, Samuel G.....	Waucoma	Fayette
9	Wenstrand, Alfred.....	Essex	Page
84	Wigdahl, Lars O.....	Ruthven	Palo Alto
22	Wilson, Charles B.....	Morning Sun.....	Louisa
79	Wilson, George.....	Cherokee	Cherokee
93	Wilson, Henry L.....	Osage	Mitchell
25	Wilson, Thomas J.....	Beacon	Mahaska
34	Witthauer, Otto.....	Exira	Audubon

X

COMMISSIONERS FOR IOWA IN OTHER STATES.

COMMISSIONERS FOR IOWA IN OTHER STATES.

List of commissioners for Iowa in other states, qualified to act as such on the first day of June, 1915, whose terms of office will not expire prior to July 5, 1915; published as required in section 12, House File No. 110, 36 G. A., showing their names, postoffice addresses, date of commission, qualification and expiration of commission.

CALIFORNIA.

Name	Postoffice	Date on and After Which Qualified	Date of Expiration of Commission
J. H. O'Connor.....	Los Angeles.....	December 18, 1914	December 17, 1917..
Henry C. Gardiner.....	San Diego.....	August 24, 1912	August 23, 1915.....

NEW YORK.

George H. Corey.....	New York City...	January 9, 1915	January 8, 1918....
Hartley K. Armstrong...	Penn Yan.....	November 20, 1912	November 19, 1915..
Joseph B. Braman.....	New York City..	October 25, 1913	October 24, 1916....

PENNSYLVANIA.

John S. Wurts.....	Philadelphia ...	September 26, 1914	September 25, 1917..
Thomas J. Hunt.....	Philadelphia ...	July 1, 1914	June 30, 1917.....

DISTRICT OF COLUMBIA.

Isaac R. Hill.....	Washington, D. C.	August 2, 1912	August 1, 1915.....
--------------------	-------------------	----------------	---------------------

EXPLANATORY NOTE

Please read and understand this. It has a purpose or it would not be here.

Under the old plan, session laws were issued in the language of the enrolled bills, and every lawyer and judge did his own compiling. When the session laws became so numerous that compilation was difficult for the best of lawyers, relief was obtained by issuing a supplement—in other words, we appointed a commission and an editor and had them perform the compilation for us. The last Assembly decided to actually compile the session laws, in a word “fit” them into the general laws of the state before publishing them. The plan contemplates the publishing, in the near future, of a one-volume code and thereafter to have but two volumes of statute law, viz: (1) the Code and (2) a biennial cumulative supplement. This volume is the first step in the plan.

It was the belief of the lawmakers that only on quite rare occasions is it necessary to go back of the Code or Supplement and examine the wording of an enrolled Act. This volume does not deprive the searcher of that advantage.

The material in this volume will enable anyone to substantially redraft any enrolled bill.

Illustration No. 1. I desire, for instance, to have before me in the fullest detail, the new statute relating to the government of cities and towns by a council and manager. By means of the index I find the first section is section 1056-b. I note at the end of the section that the enrolled Act is known as House File No. 408. Turning to the “Table of Titles” I run down to H. F. 408 and find six things, viz: (1) The number (H. F. 408), (2) The verbatim title, (3) Date of approval by governor, (4) Date on which the act takes effect by publication (if such is the case), (5) The number of sections in the enrolled Act, and (6) The corresponding sections in this volume. In other words, if I care to cut out the title and paste it at the head of section 1056-b, followed by an enacting clause, I will have a verbatim copy of the Act.

Every statute on a new subject matter (such, for instance, as the Municipal Court Act, the Absent Voter’s Act, the Contributory Negligence Act, the “Blue Sky” Law) appears in this volume as a literal copy of the enrolled Act. The only differences are (a) the title has been moved to the front of the book, (b) the enacting clause has been omitted, and (c) the publication clause, if any, has been indicated, by giving the date of publication only.

Illustration No. 2. In reading section 2405 of the Code I note that changes have been made by S. F. 423. I desire to have the entire Act before me. I refer to the Table of Titles. I find the title, note that the Act becomes a law July 4, 1915, and that there is but one section in the Act, which section takes section 2405 in this volume. Referring to this same section in the Code I compare the section there found with the section in this volume. I readily note that the words, “judicial district in which it was issued” have been stricken from lines thirteen and fourteen

XII

EXPLANATORY NOTE.

and that the word "state" has been inserted in lieu thereof. I also note that the words, "in said district" in the sixteenth line have been stricken out and the words "within the state" have been inserted. I now understand that the change makes a liquor injunction binding against the defendant throughout the state. I know therefore that this one section of the Act was so worded that it directed the striking out of said words and the insertion of said other words in lieu thereof. I can readily draft the section and by placing the title at the head thereof, followed by an enacting clause, I have the Act, for almost any possible purpose, as accurately as though I had possession of the enrolled bill.

Illustration No. 3. I notice that section 2963-a appears in this volume and also in the Supplement to the Code, 1913. It is a general legalizing act. Noting at the bottom of the section that House File 184 has made some change, I turn to the Table of Titles, and learn (a) that the enrolled Act contains but two sections, (b) that section 1 of said Act takes section 2963-a in this volume and that section 2 of the Act takes section 2963-a1 in this volume. Turning to section 2963-a in this volume I notice that it is section 1 of the enrolled Act and is a full repeal of section 2963-a of the Supplement to the Code, 1913, *and the enactment of a substitute*. Turning to the next section, 2963-a1, I notice it is section 2 of the Act and that it is a new section and limits the application of the first preceding substituted section. Therefore, I know I have the entire Act before me, to wit: the title and both sections of the Act.

Whenever a section of the Code, or a section of the Supplement to the Code, 1913, is repealed, the said repeal appears literally in this volume and if something is substituted in lieu of the repealed section, the substitution literally appears also.

U. G. WHITNEY,
Reporter of the Supreme Court,
and Ex-officio Editor of the Code.

XIII
ABBREVIATIONS.

ABBREVIATIONS

C.'51.....	Code of 1851.
C.'73.....	Code of 1873.
ch.....	Chapter.
Const.....	Constitution.
et seq.....	And sections following.
Fed.....	Federal Reporter.
G. A.....	General Assembly.
G. Gr.....	George Greene's Iowa Reports.
Ibid.....	Same reference.
Mor.....	Morris' Iowa Report.
N. W.....	Northwestern Reporter.
p.....	Page.
¶ or Par.....	Paragraph
R. or Rev.....	Revision of 1860.
R. S. or Rev. Stat.....	Revised Statutes of 1843.
R. (in index).....	Section of Rules of Supreme Court.
S. (in index).....	Supplement.
s. c.....	Same case.
§ or Sec.....	Section.
H. F.....	House File.
S. F.....	Senate File.
S. S. F.....	Substitute Senate File.

Volumes of the regular series of Iowa Reports are referred to by giving the numbers of the volume and page separated by a dash (—).

XVI

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
Sub. for S. F. 12	AN ACT to amend section twenty-four hundred thirteen of the code, relating to liquor search warrants and seizure; and to amend section twenty-four hundred fifteen of the code, relating to notice, trial, judgment and appeal upon same. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1 2	2413 2415
S. F. 14	AN ACT to amend chapter one of the acts of the thirty-fifth general assembly relating to the compilation, publication and distribution of the supplement to the code, 1913, and index. Approved by Governor February 19, A. D. 1915. Took effect by publication from and after February 23, A. D. 1915.	1 2 3 4 5	8 Prefix 9 Prefix 10 Prefix 11 Prefix Pub. clause
S. F. 16	AN ACT additional to and amendatory of the law as it appears in title III, chapter 5-B, of the supplement to the code, 1913, and to provide for medical and surgical treatment and hospital care of children who are afflicted with any malady or deformity which can probably be remedied, whose parents, or other persons chargeable with their support, are unable to provide such treatment and care, providing for payment of the expenses thereof, and conferring upon juvenile courts jurisdiction and certain powers in such cases, and conferring additional powers upon the board of control of state institutions and the state board of education relative to the commitment of inmates of institutions under their control to the medical college of the state university. Approved by Governor March 9, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11	254-b 254-c 254-d 254-e 254-f 254-g 254-h 254-i 254-j 254-k 254-l
S. F. 30	AN ACT to amend section forty-seven hundred fifty-nine of the code relating to the crime of abortion. Approved by Governor March 24, A. D. 1915. To take effect July 4, 1915.	1	4759
S. F. 34	AN ACT to amend section three thousand four hundred seventy-seven-a, of the supplement to the code, 1913, relating to the recovery by a woman or her estate for personal injury. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	3477-a
S. F. 40	AN ACT to amend section twenty-five hundred forty of the supplement to the code, 1913, relating to the season during which fish may be taken. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	2540
S. F. 41	AN ACT to create the office of city manager, providing for the appointment, salary and term of office and prescribing the duties and powers thereof. (Additional to chapter two title five, of the code.) Approved by Governor April 8, A. D. 1915. Took effect by publication from and after April 12, 1915.	1 2 3 4 5	679-1a 679-2a 679-3a 679-4a Pub. clause
Sub. for S. F. 45	AN ACT to amend sections fifty-seven hundred sixteen and fifty-seven hundred seventeen, supplement to the code, 1913, relating to the compensation and allowance of officers and employes of the reformatory at Anamosa, and the penitentiary at Fort Madison. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1 2	5716 5717

XVII

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 51	AN ACT to amend the law as it appears in section six hundred eighty-seven-a, supplement to the code, 1913, relating to the publication of proceedings of city and town councils. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1	687-a
S. F. 66	AN ACT to amend section nine hundred thirty-two of the code, relating to the transfer of public squares or other plats of ground deeded or dedicated to the public, to be used for school purposes. Approved by Governor March 9, A. D. 1915. Took effect by publication from and after March 11, 1915.	1 2	932 Pub. clause
S. F. 98	AN ACT to provide for the purchase or condemnation by boards of supervisors of land for highway purposes in order to avoid unnecessarily expensive bridges or grades and to avoid railroad crossings and to straighten any road or to cut off dangerous corners on the highways or to widen any road above statutory width or for the purpose of preventing the encroachment of a stream upon a public highway, to provide for the payment of such changes, to provide for the abandonment of highways already established and to provide for the procedure therefor, and to repeal section one thousand five hundred twenty-seven-a supplement to the code, 1913. Approved by Governor April 17, 1915. Took effect by publication from and after May 5, 1915.	1 2 3 4 5 6 7 8 9	1527-r1 1527-r2 1527-r3 1527-r4 1527-r5 1527-r6 1527-r7 1527-a Pub. clause
S. F. 101	AN ACT to amend the law relating to the amount of tax levy in consolidated independent school districts as the same appears in section twenty-seven hundred ninety-four-a, supplement to the code, 1913. Approved by Governor March 24, A. D. 1915. Took effect by publication from and after March 29, 1915.	1 2	2794-a Pub. clause
S. F. 105	AN ACT in relation to semi-monthly payment of wages and salaries by railway corporations and providing a penalty for violation thereof. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1 2	2110-b1 2110-b2
Sub. for S. F. 106	AN ACT to repeal section twenty-one hundred twenty-one of the code, and to enact a substitute therefor, relating to the duties, office, and salaries of railroad commissioners. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1	2121
Sub. for S. F. 112	AN ACT to provide for the general distribution of the senate journal and the house journal and fixing the subscription charge to be made therefor, and providing for the printing thereof and fixing the compensation to be paid to the state printer and binder therefor. Approved by Governor April 15, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	132-a 132-b 132-c 132-d
S. F. 126	AN ACT amending the law as it appears in section two thousand four hundred sixty-one-a, supplement to the code 1913, making any person found to be a bootlegger guilty of committing a misdemeanor. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1	2461-a

XVIII
TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 139	AN ACT prescribing the damages that may be recovered for publication of libelous matter in newspapers. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	3592-a
S. F. 143	AN ACT authorizing cities (other than special charter cities) having a population of two thousand or more to construct, repair, improve and reconstruct paved roadways along streets, avenues and highways constituting main traveled ways into and out of such cities, to establish paving districts, the lots and tracts of land within which may be assessed to pay all or a portion of the cost of such improvement and providing for the levying of a general municipal tax to defray any balance thereof. Approved by Governor March 26, A. D. 1915. Took effect by publication from and after April 13, 1915.	1	840-h
		2	840-i
		3	840-j
		4	840-k
		5	840-l
		6	840-m
		7	840-n
		8	840-o
		9	840-p
		10	840-q
		11	840-r
		12	Pub. clause
S. F. 144	AN ACT to amend section two hundred and seven of the code relative to the salary of the deputy clerk of the Supreme Court. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1	207
S. F. 145	AN ACT to amend section seven hundred twenty-two-a, supplement to the code, 1913, relating to acquisition by cities and towns of heating plants, water works, gas works and power plants by condemnation proceedings. Approved by Governor March 4, A. D. 1915. To take effect July 4, 1915.	1	722-a
S. F. 146	AN ACT to amend section two hundred fifty-four-a-twelve, supplement to the code, 1913, relating to the management, control and investment of funds donated for cemetery purposes. Approved by Governor February 19, A. D. 1915. To take effect July 4, 1915.	1	254-a12
S. F. 147	AN ACT to amend section nine hundred thirty-two-c, supplement to the code, 1913, relating to the investment of the firemen's pension fund. Approved by Governor February 19, A. D. 1915. To take effect July 4, 1915.	1	932-c
S. F. 149	AN ACT to repeal section thirty-six-a, supplement to the code, 1913, and to enact a substitute therefor relating to the distribution of laws becoming effective by publication. Approved by Governor April 17, A. D. 1915. Took effect by publication from and after May 3, 1915.	1	36-a
		2	Pub. clause
S. F. 150	AN ACT to provide for the levy of a tax for the improvement of certain parks and directing the expenditure thereof. Approved by Governor April 13, A. D. 1915. To take effect July 4, 1915.	1	850-p
S. F. 151	AN ACT to amend section five hundred eighty-seven of the code, relating to regulations for cemeteries. Approved by Governor March 31, A. D. 1915. To take effect July 4, 1915.	1	587
		2	587-a
		3	587-b

XIX

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 156	AN ACT to amend the law as it appears in section two thousand seven hundred fifty-seven supplement to the code, 1913, relating to meetings of boards of directors of school districts, and organization thereof. Approved by Governor April 1, A. D. 1915. To take effect July 4, 1915.	1	2757
S. F. 176	AN ACT to repeal section three thousand ninety-four of the code, and to enact a substitute therefor, relating to the filing of mechanic's liens by subcontractors after thirty days. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	3094
S. F. 180	AN ACT to amend the law as it appears in section twenty-seven hundred twenty-seven-a three, supplement to the code, 1913, relating to the compensation of the secretary of the board of control. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	2727-a3
Sub. for S. F. 183	AN ACT to amend the law as the same appears in section two hundred fifty-three and section two hundred fifty-four-a-2 of the supplement to the code, 1913, relating to compensation of judges of the district court and shorthand reporters. Approved by Governor April 8, A. D. 1915. Took effect by publication from and after April 11, 1915.	1 2 3	253 254-a2 Pub. clause
S. F. 185	AN ACT to amend section eight hundred eighty-seven of the code, relative to taxation and to authorize, in cities and towns of less than eight thousand, a levy for road purposes. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	887-a
S. F. 189	AN ACT to amend the law as it appears in sections twenty-four hundred seventy-seven-a, twenty-four hundred seventy-seven-b, twenty-four hundred seventy-seven-c and twenty-four hundred seventy-seven-d, supplement to the code, 1913, and to regulate the street trades all relating to child labor. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5	2477-a 2477-a1 2477-b 2477-c 2477-d
S. F. 201	AN ACT to amend section twenty-five hundred eighty-eight, supplement to the code, 1913, relating to the practice of pharmacy. Approved by Governor March 29, A. D. 1915. To take effect July 4, 1915.	1	2588
S. F. 202	AN ACT to amend the law relating to sewer outlets and purifying plants and the tax levy provided therefor as the same is found in section eight hundred forty-g supplement to the code, 1913. Approved by Governor March 25, A. D. 1915. Took effect by publication from and after March 29, 1915.	1 2	840-g Pub. clause
S. F. 207	AN ACT to amend the law as it appears in section twenty-seven hundred twenty-seven-a fifty, supplement to the code, 1913, relating to purchase of supplies by board of control. Approved by Governor March 22, A. D. 1915. To take effect July 4, 1915.	1	2727-a50
S. F. 208	AN ACT to legalize certain satisfactions of mortgage prior to January 1, 1900. Approved by Governor March 30, A. D. 1915. To take effect July 4, 1915.	1 2	2963-x 2963-x1

XX

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 209	AN ACT to legalize certain satisfactions of mortgages executed by attorney in fact. Approved by Governor March 26, A. D. 1915. To take effect July 4, 1915.	1 2	2963-v 2963-w
S. F. 218	AN ACT to encourage the dairy industry and beef cattle growing industries of the state of Iowa and to aid in providing instruction in practical and scientific methods and making an appropriation therefor. Approved by Governor April 20, A. D. 1915. Took effect by publication from and after May 3, 1915.	1 2 3 4 5 6 7 8 9 10 11 12	2528-f4 2528-f5 2528-f6 2528-f7 2528-f8 2528-f9 2528-f10 2528-f11 2528-f12 2528-f13 2528-f14 Pub. clause
S. F. 222	AN ACT to amend the law as same appears in section eight hundred ten of the supplement to the code, 1913, in relation to publication of preliminary notice of street improvements. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	810
S. F. 223	AN ACT to amend the law as same appears in section eight hundred thirteen of the supplement to the code, 1913, relating to bids for street improvements. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after May 6, 1915.	1 2	813 Pub. clause
S. F. 234	AN ACT to repeal the law as it appears in section two thousand five hundred and seventy-five-a-52 supplement to the code, 1913, and to enact a substitute therefor, making annual appropriation for carrying on the work of the state entomologist. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	2575-a52
S. F. 235	AN ACT to amend the law as it appears in section twenty-nine hundred eleven-a, and in section twenty-nine hundred eleven-b, supplement to the code, 1913, relating to the sale of stocks of goods, wares or merchandise in bulk. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2	2911-a 2911-b
S. F. 240	AN ACT to amend section twenty-six hundred and six of the supplement to the code, 1913, relative to the admission of soldiers' wives and widows to the Soldiers' Home. Approved by Governor April 15, A. D. 1915. To take effect July 4, 1915.	1	2606
S. F. 249	AN ACT granting to cities and towns power to regulate the installation and inspection of electric light and power wiring, fixtures, apparatus; to provide for the removal of electric light and power wiring, electrical fixtures and appliances installed in violation of the manner prescribed and to impose penalties for a violation of ordinances enacted under this act. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	711-a

XXI

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 254	AN ACT to repeal section fourteen hundred nine, of the code, relating to the certification of taxes to another county, and enact a substitute therefor. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	1409
S. F. 260	AN ACT to amend section one thousand eight hundred twenty-two-a, supplement to the code, 1913, relating to beneficiary associations composed of the members of any one religious denomination and permitting any corporation heretofore organized whose membership and plan of business permits, to bring its business under chapter nine, title nine, of the code. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	1822-a
S. F. 265	AN ACT to amend the law as it appears in chapter thirteen title twelve supplement to the code, 1913, relating to the dairy and food commissioner, providing license for emulsifying devices, and to adopt and establish a state trade mark for butter. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1 2	2515-f 2515
S. F. 272	AN ACT to amend section two thousand eight hundred eighty-eight-h, supplement to the code, 1913, relating to the appropriation for the Iowa library commission. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	2888-h
S. F. 276	AN ACT to amend the law relating to pure food as the same appears in sections forty-nine hundred ninety-nine-a thirty-one, forty-nine hundred ninety-nine-a thirty-one-c, forty-nine hundred ninety-nine-a thirty-one-e and forty-nine hundred ninety-nine-a thirty-one-f supplement to the code, 1913. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	4999-a31 4999-a31c 4999-a31e 4999-a31f
S. F. 282	AN ACT to repeal the law relating to the appropriation for state aid to the consolidated schools as the same appears in section twenty-seven hundred ninety-four-g supplement to the code, 1913, and to enact a substitute therefor. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	2794-g
S. F. 289	AN ACT to amend sections three thousand nine-a to three thousand nine-r, supplement to the code, 1913, establishing legal weights and measures, providing for the inspection of same, punishing the keeping or using of false or incorrect weights and measures, placing the enforcement of said act in charge of the dairy and food commissioner; and repealing sections three thousand twenty-nine-a, three thousand twenty-nine-b, three thousand twenty-nine-c, three thousand twenty-nine-d, supplement to the code, 1913, and other acts or parts of acts in conflict therewith. Approved by Governor April 16, A. D. 1915. Took effect by publication from and after April 29, 1915.	1 2 3 4 5 6 7 8	3009-i 3009-j 3009-m 3009-n 3009-p 3009-r 3029-a 3029-b 3029-c 3029-d 3029-d1 Pub. clause

XXII

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 291	AN ACT to amend section two thousand seventeen, supplement to the code, 1913, relating to the right to raise or lower highways where they are crossed by railroads. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	2017
S. F. 295	AN ACT providing punishment for making false charges concerning the honesty of employes. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	5028-w1
S. F. 302	AN ACT to amend the law relating to the term of office of members of the board of supervisors as the same appears in section four hundred eleven, supplement to the code, 1913. Approved by Governor April 15, A. D. 1915. To take effect July 4, 1915.	1	411
S. F. 304	AN ACT to amend section two thousand six hundred six, supplement to the code, 1913, relative to the rules of admission to the Iowa soldiers' home. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	2606
S. F. 315	AN ACT to amend section twenty-four hundred eighty-ten a, on page nine hundred seventy-four, supplement to the code, 1913, relating to telephone systems in mines. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	2489-10a
S. F. 316	AN ACT to amend section three thousand sixty-a one hundred twenty, supplement to the code, 1913, relative to the discharge of a person secondarily liable on a negotiable instrument. Approved by Governor March 30, A. D. 1915. To take effect July 4, 1915.	1	3060-a120
S. F. 317	AN ACT to amend section ten hundred eighty-seven-a twenty-one, supplement to the code, 1913, relating to the canvass of primary election returns. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1	1087-a21
S. F. 319	AN ACT to amend section twenty-nine hundred-a-seven, supplement to the code, 1913, respecting the sale of abandoned river channels, sand bars or islands. Approved by Governor April 1, A. D. 1915. To take effect July 4, 1915.	1	2900-a7
S. F. 329	AN ACT to enjoin and abate houses of lewdness, assignation and prostitution, to declare the same to be nuisances, to enjoin the persons who conduct or maintain the same, and the owner or agent of any building used for such purposes, and to assess a tax against the person maintaining said nuisance and against the ground, the building and owner or agent thereof. Approved by Governor April 1, A. D. 1915. Took effect by publication after April 7, 1915.	1 2 3 4 5 6 7 8 9 10 11 12	4944-h1 4944-h2 4944-h3 4944-h4 4944-h5 4944-h6 4944-h7 4944-h8 4944-h9 4944-h10 4944-h11 Pub. clause

XXIII

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 339	AN ACT to amend the law as it appears in section twenty-six hundred thirty-four-a, supplement to the code, 1913, relating to the salary of the secretary of the educational board of examiners. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	2634-a
S. F. 340	AN ACT to repeal section four hundred seventy-nine, supplement to the code, 1913, relating to the compensation of county auditors, and to enact a substitute therefor; and to amend section twenty-eight hundred fifty, supplement to the code, 1913, relating to fees for school fund loans. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2 3	479 479-a 2850
S. F. 341	AN ACT to repeal section four hundred ninety, supplement to the code, 1913, relating to the compensation of county treasurers and to enact a substitute therefor. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2	490 490-a
S. F. 342	AN ACT to amend section four hundred eighty-one of the code, relating to the appointment and compensation of deputy county auditors. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	481
S. F. 344	AN ACT to repeal section four hundred ninety-one of the code, relating to the appointment and compensation of deputy county treasurers, and to enact a substitute therefor. Approved by Governor April 20, A. D. 1915. Took effect by publication after May 14, 1915.	1 2	491 Pub. clause
S. F. 354	AN ACT amending sections sixteen hundred eighty-three-a, sixteen hundred eighty-three-c, and repealing sixteen hundred eighty-three-e, supplement to the code, 1913, and enacting a substitute therefor and authorizing the establishment of schools for teaching the science of agriculture, animal industry, horticulture, and domestic science in the counties of the state. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	1683-a 1683-c art. 1 1683-c art. 2 1683-e
S. F. 359	AN ACT to amend the law relating to the subjects to be taught in the public schools, as the same appears in section twenty-seven hundred seventy-five-a, supplement to the code, 1913. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	2775-a
S. F. 375	AN ACT to amend sections two thousand two hundred fifteen-f twenty-four, two thousand two hundred fifteen-f twenty-five, and two thousand two hundred fifteen-f twenty-seven, supplement to the code, 1913, relating to the militia and the military code of Iowa. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1 2 3	2215-f24 2215-f25 2215-f27

XXIV

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
Sub. for S. F. 376	AN ACT to amend section twenty-two hundred fifteen-f fourteen, section twenty-two hundred fifteen-f fifteen and section twenty-two hundred fifteen-f seventeen, supplement to the code, 1913; to repeal section twenty-two hundred fifteen-f forty-three, supplement to the code, 1913, and enact a substitute therefor. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	2215-f14 2215-f15 2215-f17 2215-f43
S. F. 377	AN ACT to amend section two thousand two hundred fifteen-f four and section two thousand two hundred fifteen-f fourteen, supplement to the code, 1913, relating to the militia and the military code of Iowa. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1 2	2215-f4 2215-f14
Sub. for S. F. 378	AN ACT to amend section twenty-two hundred fifteen-f thirty-one, supplement to the code, 1913, and to repeal section twenty-two hundred fifteen-f thirty-six, supplement to the code, 1913, and to enact a substitute therefor, relating to the militia and military code of Iowa, arms, equipment, etc., and to absence of soldiers without leave. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.	1 2	2215-f31 2215-f36
S. F. 379	AN ACT to amend section two thousand two hundred fifteen-f forty-two, supplement to the code, 1913, relating to the militia and the military code of Iowa. Approved by Governor April 14, A. D. 1915. To take effect July 4, 1915.	1	2215-f42
S. F. 385	AN ACT to amend the law as it appears in section seven hundred twenty-eight of the supplement to the code, 1913, relating to the number of library trustees, and reducing the number thereof from nine to six. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	728
S. F. 386	AN ACT to repeal section fifty-seven hundred nine of the code and to enact a substitute therefor, relating to insane criminals in the state penitentiaries. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6	5709 5709-a 5709-b 5709-c 5709-d 5709-e
S. F. 390	AN ACT to provide for the acquisition of water supply for power house purposes by condemnation by interurban railways, and making applicable to interurban railways sections nineteen hundred ninety-six and nineteen hundred ninety-seven of the code. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after April 29, 1915.	1 2 3	2033-l 2033-m Pub. clause
S. F. 392	AN ACT to amend section four thousand nine hundred ninety-nine-a five, supplement to the code, 1913, relating to the removal of safety appliances on machinery. Approved by Governor April 14, A. D. 1915. To take effect July 4, 1915.	1	4999-a5

XXV

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 393	AN ACT to amend section two thousand four hundred seventy of the supplement to the code, 1913, and to amend section two thousand four hundred seventy-three of the code relating to the duties of the commissioner of the bureau of labor statistics, and relating to the meaning or definitions of the terms "factory", "mill", and other like terms. Approved by Governor April 14, A. D. 1915. To take effect July 4, 1915.	1 2	2470 2473
S. F. 411	AN ACT to amend section nineteen hundred eighty-nine a-8, supplement to the code, 1913, relative to the letting of work for the construction of levees, drains, ditches, and water courses, and providing for bonds as protection for payment for same. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1	1989-a8
S. F. 413	AN ACT relating to the burden of proof as to contributory negligence. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	3593-a
S. F. 414	AN ACT to require all county engineers, employed in drainage or road work, and their assistants to file an itemized statement, under oath, and providing a penalty for violation thereof. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2	1527-s21b 1527-s21c
S. F. 418	AN ACT requiring common carriers of intoxicating liquor to keep a daily record of such shipments; prohibiting the delivery of such shipments unless so recorded; providing for inspection of such records by certain public officers designated; and making the failure to comply with the requirements of this act a misdemeanor. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5	2421-a 2421-b 2421-c 2421-d 2421-e
S. F. 420	AN ACT making it a misdemeanor for individuals to carry intoxicating liquors upon passenger vehicles, when same is intended for unlawful purposes. Approved by Governor April 10, A. D. 1915. To take effect January 1, 1916.	1 2	2461-g1 2461-g2
S. F. 421	AN ACT providing punishment for persistent violators of the provisions of chapter six, title twelve, of the code and laws amendatory thereto. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1 2	2461-m 2461-n
S. F. 422	AN ACT to amend section twenty-four hundred seven of the code, relating to injunctions and contempt proceedings for violations of the prohibitory liquor law. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	2407
S. F. 423	AN ACT to amend section twenty-four hundred five of the code, relating to actions to abate and enjoin liquor nuisances. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	2405

XXVI

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 424	AN ACT to amend the law as it appears in section twenty-three hundred eighty-two, supplement to the code, 1913, relating to the sale of intoxicating liquors, and providing the time when same shall go into effect. Approved by Governor April 9, A. D. 1915. To take effect January 1, 1916.	1 2	2382 2382-a
S. F. 425	AN ACT prohibiting the collection of, or attempt to collect, or solicitation for, payment within this state, for intoxicating liquor sold or shipped within this state for illegal purposes. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1 2	2423-a 2423-b
S. F. 426	AN ACT to amend the law as it appears in section twenty-four hundred sixty-one-a, supplement to the code, 1913, and extending the term "boot-logger" to include those who solicit, take, or accept orders for the sale, shipment, or delivery of intoxicating liquors contrary to law. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	2461-a
S. F. 427	AN ACT to repeal the law as it appears in section twenty-four hundred thirty-five supplement to the code, 1913, relating to mulct tax, statement by citizens, and enacting a substitute therefor. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1 2	2435 2435
S. F. 429	AN ACT relating to the accepting and giving of tips or gratuities, and providing a penalty therefor. Approved by Governor April 15, A. D. 1915. To take effect July 4, 1915.	1 2 3	5028-u 5028-v 5028-w
S. F. 436	AN ACT to repeal the law as it appears in sections one hundred forty-five and one hundred fifty-four of the code, one hundred forty-six, supplement to the code, 1913, relating to the office of custodian of public buildings and property, and to amend the law, as it appears in section one hundred forty-seven of the code and section twenty-two hundred fifteen-f-16, supplement to the code, 1913, to impose upon the adjutant general the powers and duties heretofore required to be exercised by the custodian of public buildings and property and to provide additional compensation for the adjutant general. Approved by Governor April 14, A. D. 1915. Took effect by publication from and after April 23, 1915.	1 2 3 4	145 146 154 154-a 147 2215-f16 Pub. clause
S. F. 438	AN ACT to amend section four thousand two hundred twenty-seven, chapter four-A of title twenty-one, supplement to the code, 1913, by adding thereto a paragraph providing for payment of costs and expenses of restoring missing public records. Approved by Governor April 15, A. D. 1915. To take effect July 4, 1915.	1	4227-e
S. F. 439	AN ACT to amend section one hundred thirty-six of the supplement to the code, 1913, relating to the publication of the Iowa academy of sciences. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	136

XXVII

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 447	<p>AN ACT to repeal the law relating to the care and propagation of fish and the protection of birds and game as the same appears in sections twenty-five hundred forty, twenty-five hundred forty-a, twenty-five hundred forty-four, twenty-five hundred fifty-one, twenty-five hundred fifty-two, twenty-five hundred fifty-four, twenty-five hundred fifty-five, twenty-five hundred fifty-six, twenty-five hundred fifty-nine, twenty-five hundred sixty-two and twenty-five hundred sixty-two-a, supplement to the code, 1913, and to enact a substitute therefor.</p> <p>Whereas, it now appears that chapter one hundred fifty-three, acts of the thirty-third general assembly relating to the protection of fish and game did not become a law by reason of the fact that the speaker of the house of said general assembly failed to sign the enrolled bill known as House File No. 534, and</p> <p>Whereas, said chapter one hundred fifty-three of the acts of the thirty-third general assembly and the sections of the code and code supplement sought to be amended thereby were further amended by chapters two hundred three, two hundred four and two hundred five of the acts of the thirty-fifth general assembly, now, therefore, and for the purpose of giving effect to the law thus sought to be amended,</p> <p>Approved by Governor April 17, A. D. 1915. Took effect by publication from and after May 8, 1915.</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12</p>	<p>2540 2540-a 2544 2551 2552 2554 2555 2556 2559 2562 2562-1a 2562-a Pub. clause</p>
S. F. 448	<p>AN ACT to amend section four hundred ten, supplement to the code, 1913, relating to the number of members of the board of supervisors. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.</p>	1	410
S. F. 452	<p>AN ACT to amend section one thousand eight hundred six, supplement to the code, 1913, relating to the approval of securities to be deposited with the commissioner of insurance. Approved by Governor April 17, A. D. 1915. Took effect by publication from and after May 5, 1915.</p>	<p>1 2</p>	<p>1806 Pub. clause</p>
S. F. 460	<p>AN ACT to authorize soldiers' relief commissions to procure and furnish metal markers for the graves of soldiers, sailors or marines, and to pay for the same out of the soldiers' relief funds. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.</p>	1	434-a
S. F. 465	<p>AN ACT to repeal the law as the same appears in section twenty-six hundred thirty-four-b-six, supplement to the code, 1913, and to enact a substitute therefor, relating to the examination of candidates for graduation from the normal training course. Approved by Governor April 8, A. D. 1915. To take effect July 4, 1915.</p>	1	2634-b6
S. F. 469	<p>AN ACT amending section one thousand two hundred and fifty-eight of the code, relating to removal of municipal officers. Approved by Governor April 20, 1915. Took effect by publication from and after May 1, 1915.</p>	<p>1 2</p>	<p>1258 Pub. clause</p>

XXVIII

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 477	AN ACT to amend the law as it appears in section twenty-four hundred eighty-nine-twelve-a, supplement to the code, 1913, requiring the owner lessee, operator or person in charge of a mine to file annual reports of coal mined, number of employes, accidents and other information. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	2489-12a
S. F. 479	AN ACT to amend the law relating to the powers of banks and trust companies, as the same appears in section eighteen hundred eighty-nine-d, supplement to the code, 1913. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	1889-d par. 9
S. F. 483	AN ACT to amend the law as it appears in section four hundred forty-eight supplement to the code, 1913, relating to the rate of tax for the erection of public buildings. Approved by Governor April 15, A. D. 1915. To take effect July 4, 1915.	1	448
S. F. 488	AN ACT to amend paragraph nine of section four hundred twenty-two, supplement to the code, 1913, relating to the powers of boards of supervisors. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	422 par. 9
S. F. 491	AN ACT regulating the appointment of receiver for a fraternal beneficiary society. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3	1839-m 1839-n 1839-o
S. F. 492	AN ACT to amend section seventeen hundred ninety-eight-b, supplement to the code, 1913, relating to fraternal beneficiary societies. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	1798-b
S. F. 514	AN ACT to repeal section twenty-seven hundred twenty-seven-a44, supplement to the code, 1913, and to enact a substitute therefor, relating to contingent funds at state institutions under the board of control. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	2727-a44
S. F. 527	AN ACT to punish loan agents and others for receiving a greater rate than two per cent per month, and to provide a penalty therefor. Approved by Governor May 13, A. D. 1915. To take effect July 4, 1915.	1	3041-a
S. F. 532	AN ACT to amend the law fixing the highest amount of indebtedness to which corporations may become subject, as it appears in section sixteen hundred eleven of the code. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	1611
S. F. 533	AN ACT to repeal the law as it appears in section four hundred thirty, supplement to the code, 1913, and to enact a substitute therefor, relating to the levying of a tax for relief of indigent soldiers, sailors and marines, and their indigent wives, widows, and their minor children, and the erection or maintenance of monuments or memorial halls for soldiers and sailors. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	430

XXIX

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 555	AN ACT to repeal the law as it appears in section fourteen hundred-r, section fourteen hundred-r one, and section fourteen hundred-r two, supplement to the code, 1913, and to enact a substitute therefor making appropriation for the erection, repair and improvement of buildings, for appurtenances and connections thereto, for furniture, fixtures and furnishings, for the purchase of land, for the purchase of livestock, farm machinery and equipment, for establishing and maintaining industries, and for improvements, equipment and appliances needed in any or all of the institutions hereinafter named, to wit: Iowa soldiers' home, Iowa soldiers' orphans' home, school for the deaf, institution for feeble-minded children, state sanatorium for the treatment of tuberculosis, state industrial schools, state hospitals, state penitentiary, reformatory, Iowa industrial reformatory for females, and state colony for epileptics. Approved by Governor April 20, A. D. 1915. Took effect by publication from and after May 3, 1915.	1 2-14 inc. 15	1400-r 1400-r1 1400-r2 Appropriations Pub. clause
S. F. 559	AN ACT granting to cities of all classes, and towns, power to license and regulate so-called "jitney" busses, and all motor vehicles, operated upon the streets and avenues of such cities and towns, doing a business similar to that transacted by street railway companies. Approved by Governor April 16, A. D. 1915. Took effect by publication from and after April 22, 1915.	1 2	754-a Pub. clause
S. F. 560	AN ACT to amend the law as it appears in chapter five-B, title three of the supplement to the code, 1913, and amendments thereto, relating to the establishment of juvenile courts, the jurisdiction thereof, the manner of dealing with dependent and delinquent children, mode of procedure, trial, commitment, appointment of guardians, appointment of probation officers, and supervision of institutions and associations having charge of juveniles under this act. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2	254-a15 254-a16
S. F. 563	AN ACT to amend the law as it appears in section two thousand seven hundred and thirty-four-c, supplement to the code, 1913, providing for an examination for teachers' certificates at the close of summer schools approved for twelve weeks of normal training. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	2734-c
S. F. 565	AN ACT to amend the law as it appears in section nineteen hundred eighty-nine-a twelve, supplement to the code, 1913, relating to the assessment of costs and damages for the construction of levees, ditches, drains and drainage districts. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	1989-a12

XXX

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 567	AN ACT to repeal sections fifteen hundred twenty-sevens three, fifteen hundred twenty-sevens eight, fifteen hundred twenty-sevens nine, fifteen hundred twenty-sevens eleven, fifteen hundred twenty-sevens thirteen, fifteen hundred twenty-sevens sixteen, and fifteen hundred seventy-one-m thirty-two, supplement to the code, 1913, and to enact substitutes in lieu thereof, and to amend sections fifteen hundred twenty-sevens, fifteen hundred twenty-sevens two, fifteen hundred twenty-sevens five, fifteen hundred twenty-sevens ten, fifteen hundred twenty-sevens fourteen, supplement to the code, 1913, and to repeal section fifteen hundred twenty-sevens twelve, supplement to the code, 1913, relating to the duties of the highway commission, the creation of a system of county and township road, bridge and culvert construction and maintenance, and the rights, duties and powers of county, township and other officers and employees with reference thereto, and to regulate the apportionment and expenditure of certain moneys for highway purposes. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after May 8, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	1527-s 1527-s1 1527-s2 1527-s3 1527-s5 1527-s8 1527-s9 1527-s11 1527-s12 1527-s13 1527-s14 1527-s16 1571-m32 1527-s10 1527-s21a 1527-s13a Pub. clause
S. F. 570	AN ACT to amend the law as it appears in section eight hundred eighty of the code, relating to condemnation and purchase of land by cities and towns, and levying a tax to pay therefor. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	880 par. 4
S. F. 576	AN ACT to repeal sections four thousand nine hundred ninety-nine-a six, four thousand nine hundred ninety-nine-a seven, four thousand nine hundred ninety-nine-a eight, four thousand nine hundred ninety-nine-a nine, four thousand nine hundred ninety-nine-a ten, and four thousand nine hundred ninety-nine-a eleven of the supplement to the code, 1913, and enacting a substitute therefor and amending sections two thousand five hundred fourteen-i, and repealing sections two thousand five hundred fourteen-n and two thousand five hundred fourteen-o of the supplement to the code, 1913, and enacting substitutes therefor and all relating to fire escapes, stairways and means of escape from buildings, structures or enclosures and protection against fire and providing for the inspection of such means of protection of buildings, and the duties of commissioner of labor and other officers in relation thereto. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10	4999-a6 4999-a7 4999-a8 4999-a9 4999-a9a 4999-a10 2514-j 2514-n 2514-o 4999-a11
S. F. 580	AN ACT to amend section twenty-five hundred sixty-two-b, supplement to the code, 1913, relative to the issuance of licenses permitting certain persons to engage in the business of raising and selling certain game birds, and fixing the ownership and title to such game. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	2562-b

XXXI

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 605	AN ACT to amend section twenty-five hundred eighty-four of the code; and to repeal sections twenty-five hundred eighty-seven and twenty-five hundred eighty-nine-a, supplement to the code, 1913, and to enact substitutes therefor, and to provide an appropriation for reciprocal arrangements, all relating to the practice of pharmacy. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3	2584 2587 2589-a
S. F. 606	AN ACT to amend sections fifteen hundred seventy-one-m-two, fifteen hundred seventy-one-m-five, fifteen hundred seventy-one-m-six, fifteen hundred seventy-one-m-fourteen, fifteen hundred seventy-one-m-fifteen, fifteen hundred seventy-one-m-seven, and to repeal section fifteen hundred seventy-one-m-twelve of the supplement to the code, 1913, relating to the registration of motor vehicles. Approved by Governor April 20, A. D. 1915. To take effect January 1, 1916, except that the secretary of state is required to give notices, provided in the act, during 1915, and to that extent this act shall take effect July 4, 1915.	1 2 3 4 5 6 7 8	1571-m2 1571-m5 1571-m7 1571-m12 1571-m12a 1571-m15 1571-m14 1571-m15a
S. F. 610	AN ACT providing for the reporting and taxation of electric transmission lines and properties. Approved by Governor April 20, A. D. 1915. Took effect by publication after April 29, 1915.	1 2 3 4 5 6 7 8 9 10 11	1346-k 1346-l 1346-m 1346-n 1346-o 1346-p 1346-q 1346-r 1346-s 1346-t Pub. clause
S. F. 620	AN ACT to amend the law as it appears in sections twenty-five hundred fourteen-p, twenty-five hundred fourteen-s and twenty-five hundred fourteen-t, supplement to the code, 1913, relative to the inspection of hotels. Approved by Governor April 21, A. D. 1915. To take effect July 4, 1915.	1 2 3	2514-p 2514-s 2514-t
S. F. 621	AN ACT to amend the law relating to the trapping and hunting of animals, birds and game, as the same appears in section twenty-five hundred fifty-three of the code and section twenty-five hundred sixty-three-a one, supplement to the code, 1913. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1 2	2553 2563-a1
S. F. 622	AN ACT to amend the law relating to the protection of game as the same appears in section twenty-five hundred sixty-three-u, supplement to the code, 1913, as re-enacted by senate file number four hundred forty-seven of the acts of the thirty-sixth general assembly. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	2563
S. F. 623	AN ACT to amend section twenty-five hundred sixty-three-a four, supplement to the code, 1913, relative to license fees for the issuance of licenses to hunt. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	2563-a4

XXXII

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
S. F. 624	AN ACT to amend the law relating to the care, protection and propagation of fish, birds and game, as the same appears in section twenty-five hundred forty-eight of the code, section twenty-five hundred forty, supplement to the code, 1913, as re-enacted by senate file number four hundred forty-seven of the acts of the thirty-six general assembly, section twenty-five hundred thirty-nine, supplement to the code, 1913, and section twenty-five hundred fifty-two, supplement to the code, 1913, as re-enacted by senate file number four hundred forty-seven of the acts of the thirty-sixth general assembly. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	2548 2540 2539 2552
S. F. 627	AN ACT legalizing assignments of mortgages and other recorded liens made upon the margin of the records and making such assignments admissible in evidence. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	2963-x2
S. F. 630	AN ACT to amend the law relating to the duration of school bonds, as the same appears in section twenty-eight hundred twelve-e, supplement to the code, 1913. Approved by Governor April 20, A. D. 1915. Took effect by publication from and after May 6, 1915.	1 2	2812-c Pub. clause
S. F. 637	AN ACT to amend the law as it appears in section twenty-five hundred seventy-five-a-seven and twenty-five hundred seventy-five-a-nine, chapter sixteen-A, supplement to the code, 1913, relating to the bacteriological laboratory. Approved by Governor April 21, A. D. 1915. Took effect by publication from and after May 6, 1915.	1 2 3	2575-a7 2575-a9 Pub. clause
S. F. 639	AN ACT amending section five thousand and seventy-seven-a twenty-four, supplement to the code, 1913, relating to standardization of agricultural seeds, and eliminating appropriation to the state food and dairy commission in connection therewith. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1	5077-a24
H.F. 6	AN ACT to amend the law relating to the qualifications of county superintendent of schools as the same appears in section twenty-seven hundred thirty-four-b supplement to the code, 1913. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1 2	2734-b 2734-b
H.F. 8	AN ACT to amend section ten hundred fifty-six-a-thirty-two of the supplement to the code, 1913, relating to the appointment, powers and duties of the civil service commissioners in certain cities. Approved by Governor April 6, 1915. To take effect July 4, 1915.	1 2	1056-a32 1056-a32
H.F. 11	AN ACT to amend section thirty-three hundred eight of the supplement to the code, 1913, relating to releasing liens by foreign administrators, executors, and guardians. Approved by Governor March 9, A. D. 1915. To take effect July 4, 1915.	1	3308

XXXIII

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 12	AN ACT to provide for municipal courts for certain cities and the adoption thereof by general state or municipal election or by special election; providing for jurisdiction thereof, mode and manner of procedure therein; providing for the election of the judges of such municipal courts and defining their powers and duties; providing for the abolition of the office of justice of the peace, constable and police judge; providing for the manner of preparing and who shall constitute the jury list, manner of drawing jury panels and jurors; also defining certain duties of other officials and providing penalties for the violation thereof. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52	694-c1 694-c2 694-c3 694-c4 694-c5 694-c6 694-c7 694-c8 694-c9 694-c10 694-c11 694-c12 694-c13 694-c14 694-c15 694-c16 694-c17 694-c18 694-c19 694-c20 694-c21 694-c22 694-c23 694-c24 694-c25 694-c28 694-c27 694-c28 694-c29 694-c30 694-c31 694-c32 694-c33 694-c34 694-c35 694-c36 694-c37 694-c38 694-c39 694-c40 694-c41 694-c42 694-c43 694-c44 694-c45 694-c46 694-c47 694-c48 694-c49 694-c50 1073 694-c51
H.F. 13	AN ACT to amend section one thousand sixty-one of the code providing for proclamation of general election by the governor of the state. Approved by Governor April 7, A. D. 1915. To take effect July 4, 1915.	1	1061
H.F. 27	AN ACT to amend the law as it appears in section twenty-seven hundred seventy-eight, supplement to the code, 1913, and to provide for the employment of school superintendents for a term of years. Approved by Governor March 16, A. D. 1915. Took effect by publication from and after March 17, 1915.	1 2	2778 Pub. clause

XXXIV

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 32	AN ACT to enable electors to vote at any general, special, primary, county, city or town election, when absent or anticipating being absent on the day of such election from the county in which they are electors, and providing penalties for violation of its provisions. Approved by Governor April 14, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14	1137-b 1137-c 1137-d 1137-e 1137-f 1137-g 1137-h 1137-i 1137-j 1137-k 1137-l 1137-m 1137-n 1137-o
H.F. 45	AN ACT to amend the law as it appears in section nine hundred and thirty-seven supplement to the code, 1913, relating to the filling of vacancies in the office of alderman of special charter cities. Approved by Governor February 5, A. D. 1915. Took effect by publication from and after February 6, 1915.	1 2 3 4	937 937-a 937-b Pub. clause
H.F. 48	AN ACT to permit state banks, savings banks and trust companies to subscribe for stock of federal reserve bank and to invest funds therein and incur liability therefor and become members thereof. Approved by Governor February 24, 1915. To take effect July 4, A. D. 1915.	1	1889-o
H.F. 49	AN ACT to amend the law as it appears in section fifteen hundred twenty-seven-b supplement to the code, 1913, relating to the laying of water mains in public highways. Approved by Governor March 16, A. D. 1915. Took effect by publication from and after March 18, 1915.	1 2	1527-b Pub. clause
H.F. 55	AN ACT to legalize decrees obtained prior to January fifteenth, nineteen hundred fifteen, in cases against unknown claimants, defendants, where the notice was entitled in the initial or initials of the plaintiff instead of his Christian or given name. Approved by Governor March 9, A. D. 1915. To take effect July 4, 1915.	1 2	3540-a 3540-b
H.F. 57	AN ACT to regulate common carriers and fix liability as common carriers. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	2074-f
H.F. 61	AN ACT to amend the law as it appears in section one thousand eight hundred sixty of the code relating to the reserve fund of savings banks. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1	1860
H.F. 64	AN ACT to amend section forty-nine hundred ninety-nine-a-thirty-two of the supplement to the code, 1913, relating to the sale of pure drugs. Approved by Governor March 12, A. D. 1915. To take effect July 4, 1915.	1	4999-a32

XXXV

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 72	AN ACT to amend section fifteen hundred sixty-five-a supplement to the code, 1913, relating to the destruction of weeds. Approved by Governor April 7, A. D. 1915. To take effect July 4, 1915.	1	1565-a
H.F. 79	AN ACT to amend the law as it appears in section five hundred eighty-six, supplement to the code, 1913, granting to townships the right of taxation for the necessary improvement and maintenance of public parks acquired by gift, devise or bequest. Approved by Governor February 27, A. D. 1915. To take effect July 4, 1915.	1	586
H.F. 85	AN ACT to amend sections one hundred seventy-one, one hundred seventy-two, one hundred seventy-three, one hundred seventy-four, and one hundred seventy-five-a of chapter eight, title two, supplement to the code, 1913, relating to the census. Approved by Governor February 19, A. D. 1915. Took effect by publication from and after February 23, 1915.	1 2 3 4 5 6	171 172 173 174 175-a Pub. clause
H.F. 86	AN ACT to amend section one thousand five hundred seventy-one-m-five, supplement to the code, 1913, relating to the price of duplicate plates for automobiles. Approved by Governor March 31, A. D. 1915. To take effect July 4, 1915.	1	1571-m5
H.F. 96	AN ACT to amend section two thousand seven hundred ninety-four of the supplement to the code, 1913, relating to the formation of independent school districts. Approved by Governor April 7, A. D. 1915. To take effect July 4, 1915.	1	2794
H.F. 98	AN ACT to authorize the appointment of special agents to aid in the detection, identification, capture and conviction of criminals, delinquents and defectives, and to require the co-operation and assistance of all sheriffs, police and peace officers and all other officers charged with the care, supervision and jurisdiction over criminals, delinquents or defectives. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	65-a 65-b 65-c 65-d
H.F. 110	AN ACT to fix and declare the duties of the reporter of the Supreme Court, to provide the method and manner of publishing and distributing the reports of the Supreme Court, to transfer the powers and rights in the present contract for publishing said reports to the judges of the Supreme Court; to authorize the publication of new editions of any volume of said reports and the terms and conditions thereof, to provide for the copyrights of said reports; to provide for the preparation, printing, binding and certification of the acts of the general assembly and the form and number thereof, to provide for the annotations of the laws of the state and the supplement embracing the same, to provide for the contents of the volumes containing said acts and laws, to provide for a revision of the laws of the state; to fix the salary of the reporter of the Supreme Court, to make annual appropriation for said work, and to repeal chapter four of title three, section thirty-eight, section thirty-nine, section forty, and section one hundred thirty-three, of the code. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after April 24, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	224-a 224-b 224-c 224-d 224-e 224-f 224-g 224-h 224-i 224-j 224-k 224-l 224-m 38 39 40 133 224-n Pub. clause

XXXVI

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 116	AN ACT to amend section seventeen hundred eighty-three-b, supplement to the code, 1913, relating to medical examination for life insurance. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1	1783-b
H.F. 118	AN ACT to require pawnbrokers, junk dealers or dealers in second hand goods to report to the police the purchase or receipt of certain classes of goods by such broker or dealers, and providing that certain classes of goods shall not be sold for a specified time and shall be kept where same can be seen or inspected, and providing a penalty for the violation of the provisions herein contained and providing that under certain conditions the person buying or receiving such goods shall be liable to the owner thereof for their full value. Approved by Governor March 9, A. D. 1915. To take effect July 4, 1915.	1 2	701-a 701-b
H.F. 122	AN ACT to amend section one thousand two hundred ninety-a of the supplement to the code, 1913, relating to the compensation of appraisers. Approved by Governor March 12, A. D. 1915. To take effect July 4, 1915.	1	1290-a
H.F. 124	<p>AN ACT to legalize certain proceedings for renewals of corporations for pecuniary profit.</p> <p>WHEREAS, in certain instances proceedings for renewal for corporations for pecuniary profit there has been failure to file the certificate showing the proceedings resulting in such renewal together with the articles of incorporation, in the office of the county recorder within five days from the time such action of the stockholders was taken; and</p> <p>WHEREAS, in certain cases there has been failure to file such certificate and articles of incorporation with the secretary of state within ten days from the date when such certificate and articles were filed in the office of the county recorder; and</p> <p>WHEREAS, doubt may have arisen as to the validity of such proceedings for renewal; now, therefore,</p> <p>Approved by Governor March 29, A. D. 1915. To take effect July 4, 1915.</p>	1 2	1618-1a 1618-1b
H.F. 127	<p>AN ACT giving legislative assent to the purposes of the congressional act of May 8, 1914, providing for co-operative extension work between the agricultural colleges in the several states receiving the benefits of the act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States department of agriculture.</p> <p>Whereas, the congress of the United States has passed an act approved by the president, May 8, 1914, entitled "An act to provide for co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act of congress approved July 2, 1862, and of acts supplementary thereto, and the United States department of agriculture", and,</p>	1 2	2682-y1 Pub. clause

XXXVII

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
	<p>Whereas, it is provided in section three of the acts aforesaid that the grants of money authorized by this act shall be paid annually "to each state which shall by action of its legislature assent to the provisions of this act", therefore,</p> <p>Approved by Governor April 16, A. D. 1915. Took effect by publication from and after April 23, 1915.</p>		
H.F. 136	AN ACT authorizing the board of health to isolate cases of whooping cough, measles, mumps or chicken-pox. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1 2 3	2571-1a 2571-2a 2571-3a
H.F. 139	AN ACT to amend section one thousand three hundred three, supplement to the code, 1913, relating to the levying of taxes for general county fund. Approved by Governor March 20, A. D. 1915. To take effect July 4, 1915.	1	1303
H.F. 142	AN ACT to amend section thirteen hundred ninety-one of the supplement to the code, 1913, relating to the collection of penalty or interest upon delinquent taxes. Approved by Governor April 6, A. D. 1915. To take effect July 4, 1915.	1	1391
H.F. 145	AN ACT limiting the time within which actions to set aside, cancel, annul, declare void or invalid, or to redeem from certain tax deeds, guardian deeds, executors deeds, administrators deeds, receivers deed, referees deed, assignees deed, or trustees deeds and declaring such deeds and all proceedings upon which they are based conclusively presumed to be in all things valid and unimpeachable and effective to convey title according to the purport thereof. Approved by Governor March 26, A. D. 1915. To take effect July 4, 1915.	1 2 3	3447-d 3447-e 3447-f
H.F. 147	AN ACT to provide information which shall serve as a basis for legislative appropriations. Approved by Governor April 6, A. D. 1915. To take effect July 4, 1915.	1 2	191-a 191-b
H.F. 152	AN ACT to repeal section nineteen hundred eighty-nine-a-fifty-two-a, supplement to the code, 1913, relating to levees, ditches and drains, and to enact a substitute therefor. Approved by Governor April 7, 1915. To take effect July 4, 1915.	1	1989-a52a
H.F. 161	AN ACT to amend paragraph five of section four hundred twenty-two of the supplement to the code, 1913, relating to the building or repair of county buildings, to require advertisements, bids, written contracts, bonds, and plans and specifications in certain cases, and to fix the requirements thereof. Approved by Governor March 9, A. D. 1915. Took effect by publication from and after March 13, 1915.	1 2	422 Pub. clause
H.F. 175	AN ACT for the relief of the blind. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8	2722-i 2722-j 2722-k 2722-l 2722-m 2722-n 2722-o 2722-p

XXXVIII

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 184	AN ACT to repeal section twenty-nine hundred sixty-three-a, supplement to the code, 1913, and to enact a substitute therefor, legalizing instruments and the record thereof affecting real estate titles recorded or spread upon the records of the recorder in the county in which the real estate described is located, prior to January 1, 1905, the acknowledgments of which are defective or which may not have been acknowledged. Approved by Governor March 26, A. D. 1915. To take effect July 4, 1915.	1 2	2963-a 2963-a1
H.F. 206	AN ACT to establish a board of accountancy, to provide for granting certificates to those public accountants who qualify under the provisions of this act, and to provide a penalty for violation thereof. Approved by Governor April 10, A. D. 1915. Took effect by publication upon April 19, 1915.	1 2 3 4 5 6 7 8 9 10 11 12	2620-a 2620-b 2620-c 2620-d 2620-e 2620-f 2620-g 2620-h 2620-i 2620-j 2620-k Pub. clause
H.F. 217	AN ACT to provide for the drainage of public highways by the creation of drainage districts, to provide for the repairs thereof, and to provide the procedure therefor, and to provide for the payment of the cost thereof. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14	1989-b 1989-b1 1989-b2 1989-b3 1989-b4 1989-b5 1989-b6 1989-b7 1989-b8 1989-b9 1989-b10 1989-b11 1989-b12 1989-b13
H.F. 218	AN ACT to amend section twenty-five hundred forty-seven-a, supplement to the code, 1913, relative to the taking of fish from the waters of the Big Sioux river and that part of the Des Moines river forming the part of the boundary between the state of Iowa and the state of Missouri. Approved by Governor April 14, A. D. 1915. Took effect by publication from and after April 26, 1915.	1 2	2547-a Pub. clause
H.F. 219	AN ACT to amend section three hundred sixty, supplement to the code, 1913, relating to the acceptance of a guaranty company as surety. Approved by Governor April 7, A. D. 1915. To take effect July 4, 1915.	1	360
H.F. 233	AN ACT to repeal paragraph two of section three hundred one of the supplement to the code, 1913, and to enact a substitute therefor relating to the duties of the county attorney. Approved by Governor April 6, A. D. 1915. To take effect July 4, 1915.	1	301 par. 2
H.F. 239	AN ACT to amend section four hundred forty-one, supplement to the code, 1913, relative to county official papers. Approved by Governor April 7, A. D. 1915. To take effect July 4, 1915.	1	441

XXXIX

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 248	AN ACT to repeal section fourteen hundred-q of the supplement to the code, 1913, and make an appropriation for the erection, repair, improvement and equipment of buildings for the State University of Iowa, the State College of Agriculture and Mechanic Arts, and the State Teachers College. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2	1400-q 1400-q1
H.F. 250	AN ACT to amend the law as it appears in section twenty-one hundred twenty-five, supplement to the code, 1913, relating to definition of switching service. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1	2125
H.F. 259	AN ACT to amend the law as it appears in chapter fourteen-B, sections twenty-five hundred thirty-eight-w, twenty-five hundred thirty-eight-w one, twenty-five hundred thirty-eight-w two, twenty-five hundred thirty-eight-w three, twenty-five hundred thirty-eight-w five, and twenty-five hundred thirty-eight-w eight, supplement to the code, 1913, and to add thereto section twenty-five hundred thirty-eight-w twelve, relative to the manufacture and distribution of hog cholera serum, toxines, vaccines and biological products. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3	2538-w *2538-w1 2538-w2 2538-w3 2538-w5 2538-w8 2538-w12
H.F. 267	AN ACT to amend section four hundred forty-one supplement to the code, 1913, relating to the selection of official newspapers. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1	441
H.F. 269	AN ACT to amend section one thousand six hundred sixty-one-a, supplement to the code, 1913, relating to state aid to district or county agricultural societies. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1	1661-a
H.F. 270	AN ACT to repeal section five hundred ten-a and five hundred ten-b, supplement to the code, 1913, and enacting a substitute therefor, relating to the compensation to be paid sheriffs and providing for the appointment of deputy sheriffs and for the fixing of the salary thereof. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3	510-a 510-b 510-c
H.F. 277	AN ACT to grant cities under special charter, now or hereafter having a population of twenty-five thousand or over, and organized under title five, chapter fourteen, of the code and amendments thereto, the right to place in the park commission in such cities the exclusive charge, custody and control of all property outside of the lot or property lines and inside the curb lines and upon the public streets, to determine the location of permanent sidewalks and to assume charge, custody and control of all trees, shrubbery, flowers and grass and the planting and maintenance thereof on the public streets; and to provide for the payment of the costs thereof. Additional to chapter fourteen, title five of the code. Approved by Governor April 7, A. D. 1915. Took effect by publication from and after April 12, 1915.	1 2 3 4	997-a 997-b 997-c Pub. clause

*3538 in enrolled bill.

XL

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 280	AN ACT to repeal the law as it appears in section eight hundred eighty-one, supplement to the code, 1913, and to enact a substitute therefor relative to the condemnation and purchase of land by cities and towns, including cities under special charter and cities acting under commission form of government necessary to control streams and surface water flowing into sewers, for sewer outlets, garbage disposal plant, sewage disposal plant and dump grounds. Approved by Governor April 17, A. D. 1915. Took effect by publication from and after April 24, 1915.	1 2	§81 Pub. clause
H.F. 283	AN ACT to amend sections twenty-six hundred ninety-one and twenty-six hundred ninety-two, supplement to the code, 1913, relating to the appropriation for the Iowa Soldiers' Orphans' Home. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2	2691 2692
H.F. 306	AN ACT to amend section two thousand nine hundred sixty-three of the supplement to the code, 1913, relating to the legalization of conveyances of real estate in certain cases. Approved by Governor March 20, A. D. 1915. To take effect July 4, 1915.	1	2963-1
H.F. 307	AN ACT to amend section one thousand three hundred four, supplement to the code, 1913, providing for the exemption of certain property from taxation. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	1304
H.F. 310	AN ACT providing for the transfer to the general revenue fund of the state at the end of each biennial period of all unexpended balances for which specific appropriations from the state funds have been made and which purposes have been fully carried out or abandoned. Approved by Governor April 12, A. D. 1915. Took effect by publication from and after April 17, 1915.	1 2	170-q Pub. clause
H.F. 315	AN ACT to repeal section three thousand five hundred thirty-nine of the code, relative to the bringing of actions against unknown defendants. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	3539
H.F. 327	AN ACT providing for the relocation of railroad tracks upon streets of certain cities so as to permit of the construction and operation of interurban railways on said streets, and for the use by interurban railways of said railroad tracks on said streets if the same are not relocated and the making of alterations in railroad tracks and the construction and maintenance of the connecting tracks, overhead trolley or other equipment of said interurban railways and for the payment of compensation for such relocation, use and other privileges, and giving to the board of railroad commissioners power to determine such alterations, relocation, use and other privileges and the terms and conditions thereof, and the amount to be paid therefor, and providing for appeals from the orders of said board of railroad commissioners. Approved by Governor March 24, 1915. Took effect by publication from and after March 29, 1915.	1 2 3 4 5 6	2033-g 2033-h 2033-i 2033-j 2033-k Pub. clause

XLI

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 329	AN ACT to amend section sixteen hundred sixty, supplement to the code, 1913, relating to the purchase of real estate by the board of supervisors for county fair purposes. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	1660
H.F. 330	AN ACT to amend section twenty-six hundred eighty-two-t, supplement to the code, 1913, relating to the powers and duties of the state board of education and the finance committee of said board of education. Approved by Governor April 10, A. D. 1915. Took effect by publication from and after April 19, 1915.	1 2	2682-t Pub. clause
H.F. 336	AN ACT to amend section seven hundred fifty-one, supplement to the code, 1913, relating to streets and public grounds. Approved by Governor April 10, A. D. 1915. To take effect July 4, 1915.	1	751
H.F. 339	AN ACT to amend the law relating to the government of the soldiers' home, as the same appears in section twenty-six hundred four, supplement to the code, 1913. Approved by Governor April 14, A. D. 1915. To take effect July 4, 1915.	1	2604
H.F. 341	AN ACT to appropriate money to reimburse certain persons for stock killed by order of the state and federal authorities for the purpose of preventing the spread of the disease known as the "foot and mouth" disease. Approved by Governor March 6, A. D. 1915. Took effect by publication from and after March 10, 1915. <small>Note: No Section "4" appears in this act. Reporter.</small>	1 2 3 5	2538-6a 2538-7a 2538-8a Pub. clause
H.F. 342	AN ACT to amend section seven hundred ninety-two-g, supplement to the code, 1913, relating to the assessment of property not abutting, for street improvements. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	792-g
H.F. 345	AN ACT to amend section three hundred eight, supplement to the code, 1913, relating to the compensation of county attorneys. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	308
H.F. 346	AN ACT to amend section thirty-five hundred thirty-eight, supplement to the code, 1913, relating to the manner of commencing actions against unknown defendants. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1	3538
H.F. 351	AN ACT to repeal the law as it appears in chapter (13-B) title IX, supplement to the code, 1913, and to enact a substitute therefor, to prevent fraud in the sale and disposition of stocks, bonds and other securities within this state, by requiring an inspection of such stocks, bonds and other securities, and an inspection of the business of such persons, firms, associations, companies or corporations, including their agents and representatives, and the payment of an inspection fee. Approved by Governor April	1 2 3 4 5 6 7 8 9 10	1920-u 1920-u1 1920-u2 1920-u3 1920-u4 1920-u5 1920-u6 1920-u7 1920-u8 1920-u9

XLII

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
	12, A. D. 1915. Took effect by publication from and after April 27, 1915.	11 12 13 14 15 16 17 18 19 20 21 22 23 24	1920-u10 1920-u11 1920-u12 1920-u13 1920-u14 1920-u15 1920-u16 1920-u17 1920-u18 1920-u19 1920-u20 1920-u21 1920-u22 Pub. clause
H.F. 352	AN ACT to repeal section four hundred nine-t, supplement to the code, 1913, and in lieu thereof to authorize the board of supervisors of each county to make provision for the segregation, care and support of indigent persons afflicted with tuberculosis. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	409-t2 409-t3 409-t4 409-t 409-t1
H.F. 353	AN ACT to amend the law relating to the inspection of petroleum as the same appears in chapter eleven, title twelve, supplement to the code, 1913, and making an annual appropriation for the oil inspection department. Approved April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6	2503 2505 2506 2507 2509-a 2510-4a
H.F. 354	AN ACT to amend the law relating to school corporations as the same appears in section twenty-seven hundred ninety-four-a, supplement to the code, 1913. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	2794-a Sub-div. (a)
H.F. 357	AN ACT to amend section eighteen hundred seventy, supplement to the code, 1913, in relation to the limit of liabilities to state and savings banks. Approved by Governor April 6, 1915. To take effect July 4, 1915.	1	1870
H.F. 361	AN ACT to amend the law relating to the powers of cities and towns to levy special taxes for gas, electric light, or power purposes, as the same appears in section eight hundred ninety-four, supplement to the code, 1913. Approved by Governor April 6, A. D. 1915. To take effect July 4, 1915.	1	894 par. 8.
H.F. 363	AN ACT to provide juvenile playgrounds in cities of this state, providing for submitting the proposition to the voters, providing for the purchase or condemnation of real estate for such playgrounds, providing for the issue of city bonds with which to purchase same, creating a fund by the levy of a millage tax for the establishment and maintenance of such playgrounds and providing for rules and regulations to govern the operation of such playgrounds. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6	879-r 879-s 879-t 879-u 879-v 879-w
H.F. 365	AN ACT to repeal the law as it appears in chapter nineteen-B of title twelve supplement to the code, 1913, and to enact a substitute therefor to prevent the procreation of the insane, idiots, imbeciles and feeble-minded. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	2600-s1 2600-s2 2600-s3 2600-s4 2600-s5

XLIII

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 366	AN ACT to establish an industrial reformatory for women, to make appropriation therefor, to provide for the commitment of females to said reformatory, to provide for the removal of female convicts at Anamosa to said reformatory, to provide for the transfer of inmates to and from the industrial school for girls and repealing the law as it appears in chapter eight-A of title thirteen, supplement to the code, 1913, relating to an industrial reformatory for females. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	2713-n1 2713-n2 2713-n3 2713-n4 2713-n5 2713-n6 2713-n7 2713-n8 2713-n9 2713-n10 2713-n11 2713-n12 2713-n13 2713-n14 2713-n15 2713-n16 2713-n17 2713-n18 2713-n19
H.F. 367	AN ACT to provide for the incorporation of co-operative associations, for the purpose of conducting any agricultural, dairy, mercantile, mining, manufacturing or mechanical business on the co-operative plan, and prescribing the terms and conditions on which such associations shall be permitted to do business within this state. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	1641-r1 1641-r2 1641-r3 1641-r4 1641-r5 1641-r6 1641-r7 1641-r8 1641-r9 1641-r10 1641-r11 1641-r12 1641-r13 1641-r14 1641-r15 1641-r16 1641-r17 1641-r18 1641-r19 1641-r20
H.F. 371	AN ACT to amend the law as it appears in section twenty-seven hundred thirteen, supplement to the code, 1913, relating to the support for the Industrial School for Boys at Eldora. Approved by Governor April 16, A. D. 1915. Took effect by publication from and after April 22, A. D. 1915.	1 2 3	2713 2713 Pub. clause
H.F. 372	AN ACT to amend the law as it appears in sections nine hundred seventy-two and nine hundred seventy-four of the code, relating to street improvements and sewers, applicable to cities acting under special charters. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2	972 974

XLIV

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 374	AN ACT authorizing cities and towns, including cities under special charter and cities operating under the commission form of government, to provide for the collection of garbage, the establishment of sanitary districts, districts for street sprinkling, oiling, flushing and cleaning and the establishment and maintenance of garbage disposal plants. Approved by Governor April 6, A. D. 1915. To take effect July 4, 1915.	1 2	696-b 696-c
H.F. 379	AN ACT to amend section eleven hundred seven of the code, relating to the printing of the official ballot, by limiting the cost of same per thousand. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	1107
H.F. 381	AN ACT to amend sections four hundred twenty-three, and twenty-two hundred forty-one, supplement to the code, 1913, relating to expenditures for county improvements. Approved by Governor April 12, A. D. 1915. Took effect by publication from and after April 19, 1915.	1 2 3	423 2241 Pub. clause
H.F. 383	AN ACT to amend the law relating to the allowance made for labor performed by dipsomaniacs and inebriates, as the same appears in section twenty-three hundred ten-a thirty-seven, supplement to the code, 1913. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1	2310-a37
H.F. 395	AN ACT to repeal section twenty-three hundred forty-one-h, supplement to the code, 1913, and to enact a substitute therefor and to amend section twenty-three hundred forty-one-g, twenty-three hundred forty-one-i, twenty-three hundred forty-one-k, twenty-three hundred forty-one-m, twenty-three hundred forty-one-o, and twenty-three hundred forty-one-q, all relating to the enrollment of stallions and jacks kept for public service. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7	2341-g 2341-h 2341-i 2341-k 2341-m 2341-o 2341-q
H.F. 396	AN ACT to amend section seven hundred forty-one-d, section seven hundred forty-one-e, section seven hundred forty-one-f, section seven hundred forty-one-g, and section seven hundred forty-one-h, supplement to the code, 1913, relating to the erection of city halls and the purchasing of ground therefor. Approved by Governor April 12, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5	741-d 741-e 741-f 741-g 741-h
H.F. 403	AN ACT to amend the law as it appears in section four hundred ninety-five, supplement to the code, 1913, relating to the salary of county recorders. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	495
H.F. 408	AN ACT providing for the government of cities and incorporated towns by a council and manager; for the adoption of such plan of government by special election, and for penalties for violation of the provisions hereof, this act being additional to title five, of the code, and all amendments thereto. Approved	1 2 3 4 5 6	1056-b 1056-b1 1056-b2 1056-b3 1056-b4 1056-b5

XLV

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
	by Governor April 16, A. D. 1915. To take effect July 4, 1915.	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27	1056-b6 1056-b7 1056-b8 1056-b9 1056-b10 1056-b11 1056-b12 1056-b13 1056-b14 1056-b15 1056-b16 1056-b17 1056-b18 1056-b19 1056-b20 1056-b21 1056-b22 1056-b23 1056-b24 1056-b25 1056-b26
H.F. 419	AN ACT to authorize the river front improvement commission to permit the erection of a soldiers' monument or memorial hall upon any ground, held in trust by such commission, under the provisions of chapter nine-A, title five, supplement to the code, 1913. Approved by Governor April 14, A. D. 1915. Took effect by publication from and after April 22, 1915.	1 2	879-o1 Pub. clause
H.F. 420	AN ACT authorizing cities and towns, and cities acting under special charter, to permit the erection of soldiers' monuments or memorial halls erected under the provisions of section four hundred thirty, supplement to the code, 1913, or section four hundred thirty-five of the code, to be located in the parks or public grounds of the city or town. Approved by Governor April 14, A. D. 1915. To take effect July 4, 1915.	1	850-o
H.F. 422	AN ACT to provide for the submission of a proposed amendment to the constitution of the state of Iowa relating to the right of suffrage to the people for their ratification and approval. WHEREAS, by house joint resolution number six of the resolutions of the thirty-fifth general assembly, which resolution was approved March 15, 1913, an amendment to the constitution of the state of Iowa was proposed, and, WHEREAS, the said proposed amendment was agreed to by a majority of the members elected to the house of representatives of the said thirty-fifth general assembly and entered upon its journal at page six hundred thirty-six thereof, and was agreed to by a majority of the members elected to the senate of said general assembly and entered upon its journal at page seven hundred nine thereof, and, WHEREAS, the said resolution has been published as provided by law and has been referred to this, the thirty-sixth general assembly, and,	1	1106-a

XLVI

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
	WHEREAS, by joint resolution number seven of the resolutions of the thirty-sixth general assembly the said amendment to the constitution proposed in and by joint resolution number six of the resolutions of the thirty-fifth general assembly has been agreed to by a majority of all of the members elected to each house, now, therefore, Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.		
H.F. 424	AN ACT to amend chapter eight-A, title five, of the 1913 supplement to the code, relating to protection of city property from floods. Approved by Governor April 17, A. D. 1915. Took effect by publication from and after April 27, 1915.	1 2 3 4 5	849-l 849-m 849-n 849-a Pub. clause
H.F. 429	AN ACT to amend the law as it appears in section seventeen hundred twenty-one, supplement to the code, 1913, relating to the requirements necessary to permit foreign insurance companies to do business in the state of Iowa. Approved by Governor April 16, 1915. To take effect July 4, 1915.	1	1721
H.F. 446	AN ACT to amend section five hundred seventy-eight of the code, relative to the posting of the statement of receipts and expenditures by the township clerk. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	578
H.F. 452	AN ACT to amend sections one thousand eighty-seven-a 5, one thousand seventy-six, and one thousand ninety-three, supplement to the code, 1913, relative to judges and clerks of election. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3	1087-a5 1076 1093
H.F. 458	AN ACT to repeal section two hundred ninety-eight supplement to the code, 1913, relating to compensation of deputy clerks of the district court and to enact a substitute therefor. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1 2	298 298-a
H.F. 459	AN ACT to repeal the law as it appears in section twenty-seven hundred twenty-seven-a eleven, supplement to the code, 1913, relating to the monthly visitation by the board of control of state institutions, or the secretary thereof, and providing for the appointment of a woman to make such visit, and to enact a substitute therefor. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1	2727-a11
H.F. 462	AN ACT relating to the equipment of street cars and maintenance of toilet facilities for street car employes, amendatory of section seven hundred sixty-eight, supplement to the code, 1913, and providing a penalty for failure to comply with its provisions. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	768-h 768-i 768-j
H.F. 464	AN ACT to create a free employment bureau in the office of commissioner of the bureau of labor statistics. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3	2477-g1 2477-g2 2477-g3

XLVII

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 475	AN ACT to amend section thirteen hundred four, supplement to the code, 1913, relating to the exemption of certain property from taxation. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2	1304 1304-1a
H.F. 478	AN ACT to amend title twenty-four, chapter eleven of the code, 1897, relating to offences against public policy. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	5020
H.F. 479	AN ACT to regulate political advertising and to provide penalties for the breach thereof. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	4931-a
H.F. 484	AN ACT to amend sections one thousand nine hundred eighty-nine-a-52-f and one thousand nine hundred eighty-nine-a-52-d supplement to the code, 1913 relating to the powers, duties, etc., of trustees in the matter of expenditure of funds for levees, ditches, drains, etc., and further relating to the filling of vacancies in office of trustees. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2	1989-a52f 1989-a52d
H.F. 485	AN ACT to amend section twenty-four hundred sixty-one-i, supplement to the code, 1913, relating to the limitation of the number of saloons in cities and towns acting under special charter. Approved by Governor April 16, A. D. 1915. Took effect by publication from and after April 23, 1915.	1 2	2461-j Pub. clause
H.F. 495	AN ACT relating to insurance, providing for the supervision and examination of insurance rating bureaus by the commissioner of insurance; providing for an inspection and survey by such bureaus of all insurance risks specifically rated; requiring insurance concerns to adopt insurance bureau ratings, or to maintain or co-operate in maintaining and operating insurance rate making bureaus; authorizing a hearing upon and review of the rates fixed by any such bureau for insurance upon property within the state of Iowa; prohibiting discrimination in fixing and collecting insurance rates, and also rebates of premiums paid under such rates, and fixing penalties for the violation of this act. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11	1758-i 1758-j 1758-k 1758-l 1758-m 1758-n 1758-o 1758-p 1758-q 1758-r 1758-s
H.F. 503	AN ACT to amend section three thousand five hundred fifty-eight of the code relating to copies of pleadings. Approved by Governor March 31, A. D. 1915. To take effect July 4, 1915.	1	3558
H.F. 504	AN ACT creating the state board of audit and defining its powers and duties. Approved by Governor April 16, A. D. 1915. Took effect by publication from and after April 23, 1915.	1 2 3 4 5 6 7	170-r 170-s 170-t 170-u 170-v 170-w Pub. clause

XLVIII

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 516	AN ACT relative to the issuance of policies of fire insurance, prohibiting false or misleading representations by advertisements, and providing a penalty for its violation. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	1758-e 1758-f 1758-g 1758-h
H.F. 517	AN ACT to amend the law relating to control of the bridge fund in cities, as the same appears in section seven hundred fifty-eight, of the code, sections seven hundred fifty-eight-a, seven hundred fifty-eight-d, and seven hundred fifty-eight-e, supplement to the code, 1913. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1 2 3 4	758 758-a 758-d 758-e
H.F. 524	AN ACT to empower school boards, under stated conditions, to purchase or lease for stated educational purposes comprised under the term park life tracts of land and to improve the same for the purpose of establishing thereon summer homes or school for children who desire to continue their studies in useful pursuits throughout the year, and to define the purposes, functions and objects of such schools. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1	2823-u7
H.F. 542	AN ACT to amend the law as it appears in section seven hundred twenty-six of the code relating to municipal bonds. Approved by Governor April 6, A. D. 1915. Took effect by publication from and after April 10, 1915.	1 2	726 Pub. clause
H.F. 543	AN ACT to repeal section eighteen hundred seventy-five, supplement to the code, 1913, relating to the appointment of bank examiners, their salaries, and fees of banks, and enacting a substitute therefor. Approved by Governor April 20, A. D. 1915. Took effect by publication from and after April 29, 1915.	1 2	1875 Pub. clause
H.F. 564	AN ACT to amend the law as it appears in section eight hundred thirty-six supplement to the code, 1913, relating to street improvements, sewers and special assessments, making said section applicable to cities under special charters. Approved by Governor April 16, A. D. 1915. Took effect by publication from and after April 23, 1915.	1 2	836 Pub. clause
H.F. 566	AN ACT to amend the law as it appears in section twenty-nine hundred sixty-three-l, supplement to the code, 1913, legalizing certain conveyances made by an executor, administrator, trustee, guardian, referee or commissioner, and including therein certain conveyances made by an assignee or receiver. Approved by Governor April 17, A. D. 1915. Took effect by publication from and after April 28, 1915.	1 2	2963-l Pub. clause
H.F. 572	AN ACT to repeal sections twenty-eight hundred eighty-one-j, twenty-eight hundred eighty-one-k, twenty-eight hundred eighty-one-l, twenty-eight hundred eighty-one-m, twenty-eight hundred eighty-one-n, supplement to the code, 1913, providing for the care and permanent preservation of the public archives and fixing and defining the authority and responsibilities of administration, care and custody thereof. Approved by Governor April 14, A. D. 1915. To take effect July 4, 1915.	1 1-a 1-b 1-c 1-d 1-e	2881-j 2881-k 2881-l 2881-m 2881-n 2881-o 2881-p 2881-q 2881-r 2881-s 2881-t

XLIX

ACTS OF THE THIRTY-SIXTH GENERAL ASSEMBLY

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 576	AN ACT to provide for joint action between the duly constituted authorities of this state having jurisdiction of drainage proceedings and like authorities of adjoining states, with a view to joint and equitable drainage of lands of both states, and to provide for the procedure in such cases. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3	1989-a77 1989-a78 1989-a79
H.F. 587	AN ACT to amend the law as it appears in section twenty-seven hundred thirty, supplement to the code, 1913, relative to the amount of tax that may be levied for the support of county high schools in the state of Iowa, and to amend section twenty-seven hundred thirty-three-1 a, supplement to the code, 1913, relative to the amount of tuition to be paid high schools in counties where county high schools are maintained. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2	2730 2733-1a
H.F. 594	AN ACT creating the office of state document editor, prescribing the method of selecting the state document editor, fixing his salary and defining his duties. Approved by Governor April 9, A. D. 1915. To take effect July 4, 1915.	1 2 3 4 5 6 7 8 9 10 11 12	144-e 144-f 144-g 144-h 144-i 144-j 144-k 144-l 144-m 144-n 144-o 144-p
H.F. 596	AN ACT to amend the law as it appears in section twenty-six hundred ninety-two-a, supplement to the code, 1913, and section twenty-six hundred ninety-two-c, supplement to the code, 1913, relating to the appointment of state agents and providing for compensation for same. Approved by Governor April 7, A. D. 1915. Took effect by publication from and after April 10, 1915.	1 2 3	2692-a 2692-c Pub. clause
H.F. 597	AN ACT to amend chapter eleven-D of title XIII of the supplement to the code, 1913, relating to the establishment, maintenance and management of the state hospital and colony for epileptics, and making an appropriation therefor. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after May 3, 1915.	1 2 3	2727-a93 2727-a96 par. 1-7 inc. Pub. clause
H.F. 600	AN ACT to amend chapter two-A of title ten, supplement to the code, 1913, by adding thereto the following provisions for transferring the care of certain drainage ditches to local boards of trustees. Approved by Governor March 26, A. D. 1915. Took effect by publication from and after April 3, 1915.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	1989-a61 1989-a62 1989-a63 1989-a64 1989-a65 1989-a66 1989-a67 1989-a68 1989-a69 1989-a70 1989-a71 1989-a72 1989-a73 1989-a74 1989-a75 1989-a76 Pub. clause

L

TABLE OF TITLES

Engrossed Bill	TITLE	Sections of the Act	Corresponding Section in this Volume
H.F. 603	AN ACT to appropriate money to reimburse certain persons for stock killed or to be killed by order of the state and federal authorities for the purpose of preventing the spread of the disease known as the "foot and mouth" disease; and to defray the expense of quarantine, care, destruction or burial of stock within any quarantined district. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after April 29, A. D. 1915.	1 2 3 4 5 6	2538-1a 2538-2a 2538-3a 2538-4a 2538-5a Pub. clause
H.F. 610	AN ACT to amend section one thousand eight hundred six, supplement to the code, 1913, in relation to the amount of insurance to be required on improvements included in loans made by insurance companies. Approved by Governor April 16, A. D. 1915. To take effect July 4, 1915.	1	1806
H.F. 626	AN ACT to amend section ten hundred fifty-six-a twenty-six, supplement to the code, 1913, relative to the appointment of police judges in cities of the first and second class. Approved by Governor April 17, A. D. 1915. Took effect by publication from and after April 26, 1915.	1 2	1056-a26 Pub. clause
H.F. 628	AN ACT to repeal the law relating to the employment of inmates of the state penitentiary and reformatory as the same appears in section fifty-seven hundred eighteen-a eleven, supplement to the code, 1913, and to enact a substitute therefor. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after May 5, 1915.	1 2 3 4 5	5718-a11 5718-a11a 5718-a11b 5718-a11c Pub. clause
H.F. 633	AN ACT to amend sections eleven hundred one, eleven hundred four, and eleven hundred five of the code, relating to the time of filing withdrawals, certificates, petitions and nominations of candidates for public offices. Approved by Governor April 17, A. D. 1915. To take effect July 4, 1915.	1 2 3	1101 1104 1105
H.F. 634	AN ACT relative to disposition of fees paid to the governor, additional to chapter one, title one of the code, and amendments thereto. Approved by Governor April 19, A. D. 1915. To take effect July 4, 1915.	1 2	4-c 4-f
H.F. 635	AN ACT amending the law as it appears in section two hundred twenty-seven, supplement to the code, 1913, relative to judicial districts and the number of judges therein and to provide for two judges in the eighth judicial district. Approved by Governor April 20, A. D. 1915. To take effect July 4, 1915.	1 2 3	227 227-8ab 227-8ac
H.F. 637	AN ACT to repeal sections one hundred thirty-eight and one hundred forty-one, supplement to the code, 1913, and enact a substitute therefor, relating to compensation for state printing and state binding. Approved by Governor April 19, A. D. 1915. Took effect by publication from and after May 8, 1915.	1 2 3	138 141 Pub. clause

PROVISIONS

RELATING TO THE SUPPLEMENT TO THE CODE, 1913.

[The following provisions are amendatory of chapter 1 of the acts of the thirty-fifth general assembly, as the same appears on pages nine, ten and eleven of the supplement to the code, 1913. REPORTER.]

SECTION 8. The committee shall cause the said supplement to the code to be well made of first-class material, printed in clear, legible type face, sewed and bound in legal buckram and in accordance with the best workmanship and methods of publishing law books. In size, type, catchwords, numbering, paper, binding and other materials, the same shall conform as near as may be to the statutes of the state. That of the nine thousand copies of the code supplement which shall be bound for immediate use as provided in section eleven of chapter one of the acts of the thirty-fifth general assembly, the index to four thousand five hundred volumes shall be in a separate volume in the same style and grade of binding as that of the supplement, but the index to the other four thousand five hundred shall be bound in the same volume with the supplement, and if the remaining three thousand are subsequently bound upon the order of the executive council, one-half of same shall have the index bound in a separate volume and one-half in the same volume with the code supplement. [36 G. A., (S. F. 14, § 1.)]

SEC. 9. The said supplement and index shall be distributed to persons, sold and accounted for, except as to price, in the manner provided in sections sixteen to twenty, inclusive, of an act of the twenty-sixth general assembly, extra session, entitled "An act to provide for the annotation, indexing, publication, distribution and sale of the code and statutes hereafter enacted, the appointing of a supervising committee and the election of an editor, and prescribing their duties," which took effect May fifth, eighteen hundred ninety-seven, as amended by chapter one of the acts of the thirty-first general assembly and chapter one of the acts of the thirty-third general assembly. The distribution to the members of the general assembly shall commence with the thirty-fifth general assembly. [36 G. A. (S. F. 14, § 2.)]

SEC. 10. The supplement to the code by this act provided to be published and distributed shall be the official edition and authoritative publication of the existing laws of the state, and no other publication of the laws of the state except the session laws and the code shall be used in the courts or referred to by title, chapter or section in the reports of the same. Said supplement shall be received in evidence in all courts and tribunals of the state as the official publication of such laws of the state. Neither said supplement nor any part thereof shall be published except in the manner now provided by law for the publication of the code and parts thereof. Said supplement shall be sold for four dollars per volume when bound without the index and for five dollars per volume when bound with the index. The index when bound in a separate volume shall be sold for one dollar and fifty cents per volume. [36 G. A. (S. F. 14, § 3.)]

SEC. 11. An edition of twelve thousand copies of the code supplement shall be printed, nine thousand of which shall be bound for immediate use and ready for distribution as soon as possible after the printing and binding of the same has been completed; the remaining three thousand shall be folded, gathered and stored away in the paper storage room to be bound upon the orders of the executive council. All of the provisions of this section respecting binding, folding, gathering and storing shall apply to such volumes of the index as are bound separate from the code supplement. [36 G. A. (S. F. 14, § 4.)]

NOTE: As further amendatory of ch. 1, 35 G. A., see § 224-j. REPORTER.

CONSTITUTION OF IOWA

Boundaries.

If by gradual and slow process the channel of a boundary stream be changed, the boundaries of the respective states will change accordingly. If there be some sudden avulsion of the stream whereby it suddenly changes its channel in such a way

as to cut off a body of land capable of being identified as such, then neither the boundary lines of the states nor of riparian owners are changed. *Kitteridge v. Ritter*, 151 N. W. 1097.

ARTICLE 1.—BILL OF RIGHTS.

Rights of persons. SECTION 1.

Section 2778-a, 2778-b, 2778-c and 2778-d, Code Supp. 1913, prohibiting and punishing the employment by any school officer of a teacher at less wages than the amount

fixed for the grade of certificate of such teacher, do not violate this section. *Bopp v. Clark*, 147 N. W. 172.

Religious test. SEC. 4.

The sole object of this provision as regards witnesses is to enable parties to avail themselves of all material evidence,

and does not even inferentially authorize a party to take the deposition of his adversary. *Meikle v. Hobson*, 149 N. W. 865.

Laws uniform. SEC. 6.

The county attorney information act authorizing arraignment, plea and judgment in vacation on information, whereas if the same defendant was charged by indictment, the same acts would be wholly in term time, is not violative of this section. *Jones v. McClaghry*, 151 N. W. 210.

Section 1056-a16, Code Supp. 1913, giving to honorably discharged civil war veterans a preferential right to any appointment to state, county or municipal office and providing that no honorably discharged

veteran of the Civil War who has been appointed to public office may be discharged therefrom except for misconduct or incompetency, does not violate this section. *Thurber v. Duckworth*, 147 N. W. 158.

Sections 2778-a, 2778-b, 2778-c and 2778-d, Code Supp. 1913, prohibiting and punishing the employment by any school officer of a teacher at less wages than the amount fixed for the grade of certificate of such teacher, do not violate this section. *Bopp v. Clark*, 147 N. W. 172.

Personal security. SEC. 8.

An order by a trial court for the production of books and papers, perhaps private in their nature, is not within the pro-

hibition of this section as to unreasonable searches and seizures. *Dalton v. Calhoun County Dist. Ct.*, 145 N. W. 498.

Trial by jury—due process of law. SEC. 9.

He who proceeds to trial to the court waives his right to a jury trial, if he ever had such right. *Bennett Bank v. Smith*, 152 N. W. —

An action to recover a money judgment unaccompanied by any equitable issue has no place on the equity side of the calendar. The defendant has an unqualified right to a jury trial. *Hanan v. Messenger*, 150 N. W. 673.

The provisions of Section 1989-a4 of the 1907 Supplement requiring that persons claiming damages on account of the construction of a drainage district be given at least five days' notice before hearing, and providing that failure to appear and show damage at such hearing will work a waiver, is not in violation of this section. *Tay-*

lor v. Drainage Dist., 148 N. W. 1040.

Sections 2091-b to 2091-f, inc., Code Supp. 1913, authorizing the levying, under certain conditions, of a five per cent tax on territory contiguous to any projected electric railway, is not unconstitutional under this section. *Mitchell v. Charles City Ry.*, 148 N. W. 975.

Sections 2600-p to 2600-s, inc., Code Supp. 1913, providing for the performance of the operation of vasectomy on criminals twice convicted of a felony, on an order of the state board of parole, after a private hearing before the board, and of which the prisoner is not advised until ordered to submit to the operation, is in violation of this section, and therefore unconstitutional. *Davis v. Berry*, 216 Fed. 413.

When indictment necessary. SEC. 11.

This section when construed with section 15, article 5, of the constitution has no other effect than to permit the assembly to require accused persons to be held to answer for the specified higher offenses (a)

solely by indictment, or (b) solely by information, or (c) in part by indictment and in part by information. *Jones v. McClaughry*, 151 N. W. 210.

Bail—punishments. SEC. 17.

Secs. 2600-p to 2600-s, inc., Code Supp. 1913, providing for the performance of the operation of vasectomy on criminals twice convicted of a felony, on an order of the state board of parole after a private

hearing before the board, and of which the prisoner is not advised until ordered to submit to the operation, is in violation of this section, and therefore unconstitutional. *Davis v. Berry*, 216 Fed. 413.

Eminent domain. SEC. 18.

This section does not require a separate organization independent of the county government, for each drainage district, nor need the officers of the drainage district be a part of, and chosen by, the people of the affected area and there is no direction in this section as to methods or nature of the organization. *Hatcher v. Board of Supervisors*, 145 N. W. 12.

1913 Supplement requiring that persons claiming damages on account of the construction of a drainage district be given at least five days' notice before hearing, and providing that their failure to appear and show their damage at such hearing will work a waiver, are not in violation of this section. *Taylor v. Drainage Dist.*, 148 N. W. 1040.

The provisions of section 1989-a4, of the

Attainder—ex post facto law—obligation of contract. SEC. 21.

Secs. 2600-p to 2600-s, inc., Code Supp. 1913, providing for the performance of the operation of vasectomy on criminals twice convicted of a felony, on an order of the state board of parole after a private

hearing before the board, and of which the prisoner is not advised until ordered to submit to the operation, is in violation of this section, and therefore unconstitutional. *Davis v. Berry*, 216 Fed. 413.

ARTICLE 3.—OF THE DISTRIBUTION OF POWERS.**Departments of governments. SECTION 1.**

The functions of the judges appointed by the Supreme Court to act as a condemnation court under Sec. 722-a of the Supp. to the Code, 1913, are judicial and not leg-

islative and hence such section is not repugnant to this provision. *Des Moines Water Works Co. v. City of Des Moines*, 206 Fed. 657.

LEGISLATIVE DEPARTMENT.**Bills. SECTION 15.**

The final, conclusive, ultimate and only evidence of the passage of a "bill" of both houses of the legislature is the enrolled bill signed by *both* the president of the

senate and the speaker of the house. The provisions of this section are necessarily mandatory. *State v. Lynch*, 151 N. W. 81.

Divorce. SEC. 27.

As the legislature is denied the power of granting divorces, Sec. 3171 of the Code is construed as alone conferring jurisdic-

tion of the subject matter on the courts. *Gelwicks v. Gelwicks*, 160-675.

Acts—one subject—expressed in title. SEC. 29.

Section 2793-a, Code Supp. 1913, empowering the board of directors of a school district to change boundary lines is not unconstitutional under the provisions of this section. *Wise v. Palmer*, 147 N. W. 167.

out in the title, it being sufficient if it refers generally to the subject matter and is reasonably germane, and liberal construction should be given, to avoid unconstitutionality. *State v. Hutchison Ice Cream Co.*, 147 N. W. 195.

This article does not require details of the subject matter of the statute to be set

Local or special laws. SEC. 30.

The county attorney information act authorizing arraignment, plea and judgment in vacation on information, whereas if the same defendant was charged by in-

dictment, the same acts would be wholly in term time, is not violative of this section. *Jones v. McClaughry*, 151 N. W. 210.

ARTICLE 5.—JUDICIAL DEPARTMENT.

Jurisdiction. SECTION 4.

This section does not authorize the issuance of a writ of certiorari, because there

is no appeal from a certain order. *Jewett v. Ayres*, 149 N. W. 529.

District court and judge. SEC. 5.

The temporary position of the judges appointed by the Supreme Court to act as a condemnation court under Sec. 722-a of the Supp. to the Code, 1913, is not an "of-

fice" within the meaning of this section. *Des Moines Water Works Co. v. City of Des Moines*, 206 Fed. 657.

Jurisdiction. SEC. 6.

Unless authorized by statute the district court acquires no jurisdiction upon an appeal by the state from a judgment in favor

of a defendant in a police or justice court. *State v. Ford*, 161-323.

The grand jury. SEC. 15.

This section when construed with section 11, article 1, of the constitution, has no other effect than to permit the assembly to require accused persons to be held to answer for the specified higher offenses (a) solely by indictment, or (b) solely by information, or (c) in part by indictment

and in part by information. *Jones v. McCloughry*, 151 N. W. 210.

This amendment was adopted thirty years ago and the long-continued recognition of it by all departments of the government is persuasive as to its validity. *Ibid.*

ARTICLE 7.—STATE DEBTS.

Limitation. SECTION 2.

Certificates or warrants issued by the state in anticipation of a tax to be spread over a period of ten years for extension and improvement of the capitol grounds under 35 G. A., ch. 14, were not intended to supply casual deficits or failure in revenues. Any deficiency in the revenues collectible for such extension and improvement would be an expense not otherwise provided for, to meet which a debt against the state not exceeding \$250,000 could be incurred without submitting the question to the people. Certificates or warrants issued in anticipation of revenues collectible within the biennial period succeeding the convening of the legislature authorizing

the same do not create a debt within the meaning of this section; anticipation of revenues beyond the revenues collectible within such biennial period and \$250,000, unless authorized by a vote of the people, would be the creation of a debt repugnant to this section. But under such act providing that for the earliest possible completion of the work of extension and improvement the executive council might issue certificates or warrants not running over ten years it would not be assumed that it would issue certificates exceeding the legal limit. *Rowley v. Clarke*, 162-732, 144 N. W. 908.

Question of incurring debt submitted. SEC. 5.

Certificates or warrants issued by the state in anticipation of revenues collectible within the biennial period succeeding the convening of the legislature authorizing the same do not create a debt within the meaning of this section. Certificates or warrants issued in excess of such revenues and \$250,000, unless authorized by a vote of the people, would create a debt repugnant to this section but under an act providing for the levying of tax over a period of ten years for extension and improvement

of the capitol grounds and authorizing the executive council, for the earliest possible completion of the work, to issue certificates or warrants in anticipation of revenues, it would not be presumed that it would exceed the constitutional limitation but would issue such certificates and warrants from time to time so as not to exceed \$250,000 and the revenues collectible within the biennial period during which they were issued. *Rowley v. Clarke*, 162-732, 144 N. W. 908.

ARTICLE 10.—AMENDMENTS TO THE CONSTITUTION.

How proposed—submission. SECTION 1.

The proposed amendment need not be entered on the journal immediately preceding the taking and entry of the yeas and nays thereon. It is sufficient if the proposal appears somewhere in the journal. It is sufficient when the yeas and nays are taken and entered that the journal shows that the particular "house" was voting up-

on the proposal in question. *Jones v. McClaughry*, 151 N. W. 210.

Several proposals to amend the constitution may be agreed to in the same resolution, and a separate calling and entry of the yeas and nays on each separate proposal is not required. *Ibid.*

More than one. SEC. 2.

Two distinct "objects" must not be so intermingled in a proposed amendment that the voter is unable to freely express his choice on each without reference to the other. The proposal to amend must be con-

finied to one general related scheme, but the object is of the essence of the proposition, and the assembly has fair discretion in shaping the proposals. *Jones v. McClaughry*, 151 N. W. 210.

ARTICLE 11.—MISCELLANEOUS.

Jurisdiction of justice of the peace. SECTION 1.

Where a consent to the jurisdiction of a justice of the peace, the amount in controversy exceeding \$100.00, is in fact given, the justice's judgment in favor of plaintiff

for more than \$100.00 is valid though no record of the consent is made in the justice's docket. *Christensen v. Esbeck*, 149 N. W. 76.

SUPPLEMENTAL SUPPLEMENT
TO
The Code of Iowa
1915

As Authorized by the Thirty-sixth General Assembly.
(H. F. No. 110)

PART FIRST.

PUBLIC LAW.

TITLE I.

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

CHAPTER 1.

OF THE SOVEREIGNTY AND JURISDICTION OF THE STATE.

SECTION 4-e. Governor to account for fees. That all fees paid to the governor shall be turned over to the treasurer of state. [36 G. A. (H. F. 634, § 1.)]

SEC. 4-f. Code title designated. This act shall be additional to chapter one, title one of the code, and amendments thereto. [36 G. A. (H. F. 634, § 2.)]

CHAPTER 3.

OF THE STATUTES.

SECTION 36-a. Certified copies on file with clerk of district court. That section thirty-six-a, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“Whenever an act of the general assembly of a general nature shall take effect by publication the secretary of state shall forthwith send by mail to each clerk of the district court a certified copy thereof. Upon the receipt of such copies of such laws the clerk shall file the same in his office and preserve same for a period of not less than six months. All persons shall have access to such copies of laws when so filed and the clerk shall furnish copies thereof on request and may charge and receive therefor ten cents for every one hundred words.” [36 G. A. (S. F. 149, § 1.)] [33 G. A., ch. 2, § 1.]

SEC. 38. Secretary of state to publish laws—repealed. [36 G. A. (H. F. 110, § 14.)]

NOTE: See Title III, ch. 4-A. REPORTER.

SEC. 39. Style of publication—repealed. [36 G. A. (H. F. 110, § 14.)]

NOTE: See Title III, ch. 4-A. REPORTER.

SEC. 40. Superintendence of publication—copies—time—repealed. [36 G. A. (H. F. 110, § 14.)]

NOTE: See Title III, ch. 4-A. REPORTER.

SEC. 48. Par. 23. Construction.

Under the rule provided in this section where the last day for filing a pleading falls on Sunday the pleading may properly be filed on the following Monday. *Ronayne v. Hawkeye Commercial Mens Assn.*, 162-615, 144 N. W. 319.

The method of computing time provided in this section applies as well to criminal

as to civil action. *State v. Smith*, 162-336, 144 N. W. 32.

Notices posted on March 18th for a school meeting on March 28th constitute a ten-day notice and complies with § 2746 of the Code. *Consolidated School Dist. v. Martin*, 152 N. W. 623.

TITLE II.

OF THE EXECUTIVE DEPARTMENT.

CHAPTER 1.

OF THE GOVERNOR.

SECTION 65-a. Governor to appoint special agents—number. The governor is hereby authorized to appoint not more than four special agents, whose duty it shall be, under the direction of the governor, to aid in the capture, detention, arrest and prosecution of persons committing crime or violating the laws of this state. [36 G. A. (H. F. 98, § 1.)]

SEC. 65-b. Power of special agent—to be assisted by other officers. Said special agent or agents shall have the same power in any part of the state to make arrests and file information, and otherwise enforce the law of the state, as any county attorney, sheriff, marshal, constable, police officer or other peace officer in each county, and in the performance of his duty he may call to his aid any county attorney, sheriff, marshal, constable, or other police or peace officer. [36 G. A. (H. F. 98, § 2.)]

SEC. 65-c. Salary—by whom fixed—expenses—tenure of office. Such special agent or agents shall receive such salary as shall be fixed by the governor by and with the approval of the executive council, to be paid from any moneys in the general fund not otherwise appropriated, and shall also receive his or their actual expenses incurred in the discharge of his or their duties, the same to be audited and paid by the executive council in the same manner as expenses of state officers; provided, however, that not more than one special agent may be employed for a period in excess of thirty days without receiving the consent of the executive council. [36 G. A. (H. F. 98, § 3.)]

SEC. 65-d. Regular officers not relieved of any duty. Nothing in this act shall be construed to relieve any county attorney, sheriff, marshal, constable, police officer or other peace officer from any duty now or hereafter enjoined upon him by law. [36 G. A. (H. F. 98, § 4.)]

CHAPTER 5.

OF THE PUBLIC PRINTING AND BINDING.

SECTION 132-a. Public distribution—sale—extra copies ordered. That the secretary of state cause to be printed for public distribution the senate journal and the house journal during each session of the general assembly in sufficient numbers to supply public demand, and shall cause to be forwarded, by mail, as soon as practicable after the same are printed, such journals upon payment of the subscription price of one dollar for either the senate or the house journal for each legislative session, or that portion thereof after the subscription is received; and the proceeds received by the secretary of state shall be by him covered into the treasury of the state of Iowa.

Provided, that the secretary of state may at each regular session of the general assembly reasonably anticipate this public demand by ordering of the public printer and binder daily in advance of the printing of the copies of the journals of each house regularly supplied for the use of the general assembly such additional copies in excess of the paid subscriptions in hand as he may estimate to be necessary to meet the provisions of this act, not to exceed five hundred copies of each on any day. [36 G. A. (S. S. F. 112, § 1.)]

SEC. 132-b. Only corrected copies ordered—price for printing and binding. That all copies of said journals ordered by the secretary of state for the purposes herein specified shall be the corrected copies shall be charged for by the state printer and state binder at the rates allowed by law for printing and binding the copies thereof furnished to the members of the general assembly. [36 G. A. (S. S. F. 112, § 2.)]

SEC. 132-c. Title page—how printed. The front page of the journal of each house of the general assembly shall hereafter have printed thereon substantially the following:

IOWA STATE
SENATE JOURNAL
(or house)

Blank day and date.

Printed daily by the state of Iowa, during the sessions of the general assembly.

Subscription price per session for the journal of either house, one dollar.
Secretary of State, Des Moines, Iowa.

[36 G. A. (S. S. F. 112, § 3.)]

SEC. 132-d. Admission to United States mail—application—subscription price. The secretary of state is directed to make application to the post office department for the admission of these journals to the United States mail as second class matter and when so admitted, these additional words shall be printed on the front page of each journal and the subscription price fixed accordingly.

“Both journals to one address one dollar and fifty cents.” [36 G. A. (S. S. F. 112, § 4.)]

SEC. 133. Session laws to be printed—repealed. [36 G. A. (H. F. 110, § 14.)]

NOTE: See Title III, ch. 4-A. REPORTER.

SEC. 136. Report of academy of sciences—distribution. There shall be published, with necessary illustrations and bound in boards, in the same form as the acts of the general assembly are, by the state and under the supervision of the Iowa academy of sciences, one thousand copies of its annual report, to be distributed as follows: To the governor, lieutenant governor, secretary of state, auditor of state, state treasurer, each member of the general assembly, horticultural society, agricultural society, state library, university, agricultural college and the normal school, one copy each; to each public library and each incorporated college of the state, one copy; the remainder to be distributed by the secretary of state as directed by the secretary of said academy, for exchange and such other purposes as the academy may specify, the exchanges and reports received to be preserved in the state library for the benefit of the state at large. [36 G. A. (S. F. 439, § 1.)] [32 G. A., ch. 4.] [29 G. A., ch. 7, § 1.] [28 G. A., ch. 5, § 1.] [25 G. A., ch. 86.]

SEC. 138. Prices for state printing. That section one hundred thirty-eight, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

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

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

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

3. For printing blanks, including composition and press work, on a sheet of folio post or larger paper, three dollars and fifty cents for the first one hundred copies; for the next four hundred copies, forty cents for each hundred; for each one hundred copies above five hundred and up to one thousand copies, twenty cents and for all above one thousand copies from the same form ten cents per hundred. For blanks on paper smaller than folio post and for circulars of a single page not larger than eight and one half by eleven inches, including composition and press work, three dollars for the first one hundred copies for the next four hundred copies thirty cents for each hundred, for each one hundred copies above five hundred and up to one thousand fifteen cents, and for all above one thousand copies from the same form nine cents per hundred. Only when it is impracticable to print both sides at one impression on the press shall double rate be allowed for blanks printed on two sides. Provided that for blanks in excess of ten thousand copies of any single job the officer auditing the printing bills shall allow only such amount as he shall deem equitable, subject to the approval of the state board of audit, and in no case in excess of the rates herein provided. Composition and press work on circulars and bulletins consisting of more than one page, or if only one page and larger than eight and a half by eleven inches, shall be paid for the same as for book work as provided by subdivisions one and two of this section.

4. For printing twelve hundred copies or less of the docket for the supreme court, including press work and composition, the docket page to conform in size and form with the dockets of nineteen hundred fourteen, two dollars for each printed page contained in a single volume thereof. For briefs to the supreme court, fifty copies, or less, of a size and form prescribed by the rules of the supreme court, eighty cents per printed page contained in a single volume. For letter heads, including composition and press work one dollar and fifty cents for the first one thousand impressions or less, for each additional one thousand up to five thousand one dollar per thousand, all over five thousand seventy-five cents for each thousand.

For envelopes and labels, including composition and press work one dollar for the first one thousand impressions or less, and for each additional one thousand or less seventy-five cents, provided that where more than

five thousand labels, printed forms, cards or schedules are desired the price shall be fixed by the document editor.

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

5. All senate and house bills shall be printed on the lightest possible paper suitable for such purpose, to be determined by the state document editor. The size of the paper shall be eight inches by ten inches. The type used shall be ten point and of the largest face practicable as directed by the document editor. The lines shall be leaded with pica slugs and, including the line numbers, shall be of a length of six inches. For printing house and senate bills, five hundred or less, the state printer may charge one dollar and twenty-five cents per page, said charge to include composition and press work, and twenty cents for each additional one hundred copies for each form of eight pages or less. When the state printer is advised by the document editor that a bill issuing from one house of the general assembly may also issue from the other, he shall keep the type standing for a period of three days after the printing of the same is completed, and the second order for copies thereof shall be treated as additional copies and charged for accordingly, save that for each form of four pages or less a re-imposition fee of forty cents shall be allowed. No temporarily bound copies of either the journal or of the bills shall be furnished except to the members of the general assembly, the governor, the lieutenant governor, the law librarian, the curator of the historical building, the attorney general and the law reporter.

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

7. For making alterations from original copy after matter has been put into type, the compensation shall be for machine work one dollar per hour and for hand work sixty cents per hour for actual time employed. [36 G. A. (H. F. 637, § 1.)] [33 G. A., ch. 5, § 1.] [31 G. A., ch. 7.] [22 G. A., ch. 82, § 23.]

SEC. 141. Compensation of state binder. That section one hundred forty-one, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

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

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

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

3. For folding, saddle stitching and binding in paper covers, bulletins, messages, reports and other documents forty cents per one hundred copies of the first form of sixteen pages or less, and twelve cents per one hundred copies for each additional sixteen pages or less, the cover not to be counted.

4. For folding, side stitching and binding in paper covers, bulletins, messages, reports and other documents, sixty cents per one hundred copies of the first form of sixteen pages or less, and twelve cents per one hundred copies of each additional form of sixteen pages or less, the cover not to be counted.

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

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

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

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

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

10. For folding, sewing and binding the Iowa official register in cloth or cases, regular document size, with gilt letters on the back thereof, the kind and quality of the cloth and style of lettering to be directed by the secretary of state, sixteen and one-half cents per copy for a book of six hundred pages or less, and two cents additional per copy for each additional one hundred pages or fraction thereof.

11. For folding, sewing and binding in cloth or cases, with head bands and beveled edges, with gilt lettering on the back, the annual reports of the geological survey and other similar publications, twenty-five cents per copy for a book of four hundred pages or less and three cents additional per copy for each additional one hundred pages or fraction thereof. [36 G. A. (H. F. 637, § 2.)] [31 G. A., ch. 3, § 5.] [24 G. A., ch. 64, § 3.] [22 G. A., ch. 82, § 25.]

SEC. 144-e. Document editor—appointment—approval by Senate. The governor shall appoint, on or before the first day of July, nineteen hundred fifteen, and every two years thereafter, a document editor whose term of office shall begin on the first day of July, nineteen hundred fifteen, and continue for two years and until his successor is elected and qualified. All appointments for said office subsequent to the one first appointed must be approved by the members of the state senate in executive session, by two-thirds vote, before it shall become effective. [36 G. A. (H. F. 594, § 1.)]

SEC. 144-f. Place of office—office supplies. The state document editor shall have an office in the city of Des Moines, to be provided by the executive council and shall be supplied by the executive council with the necessary office equipment and supplies. [36 G. A. (H. F. 594, § 2.)]

SEC. 144-g. Salary—oath—bond. The state document editor shall receive a salary of two thousand dollars per year. He shall subscribe to the constitutional oath of office, and shall execute a bond in the sum of five thousand dollars said bond to be approved by the executive council. [36 G. A. (H. F. 594, § 3.)]

SEC. 144-h. Duties. It shall be the duty of the state document editor to receive and receipt for all reports, documents and publications received from the state binder or those having such printing and binding in charge; to examine and certify all bills for the same to the executive council. [36 G. A. (H. F. 594, § 4.)]

SEC. 144-i. Heads of departments to furnish manuscript—editor to revise—notice—approval of governor. The heads of all departments of the state government and societies, associations and institutions required to make reports shall deliver to the state document editor the completed manuscripts for all reports, documents and publications of whatever kind to be issued. It shall be the duty of the state document editor to edit, revise and prepare such manuscripts for the printer's use; he shall have the authority, and it shall be his duty, to condense said reports or publications, to eliminate duplications and to simplify the typographical arrangement of the same; when such condensation, elimination or simplification will not, in his judgment, lessen the public value of such document, report or publication; notice of any elimination or condensation to be given the head of the department making the report; his acts in such cases to be at all times subject to the approval of the governor should written objection be filed by the head of the department concerned.

The right here given to edit, revise, condense and eliminate portions of reports published by the state or at state expense shall apply notwithstanding the existence of any statute specifying that such report shall contain certain definite matters, and where tables or other matters are once printed in any report of any department, it shall be sufficient to refer to such table or other matters as it appears in the previously published state document. [36 G. A. (H. F. 594, § 5.)]

SEC. 144-j. Editor to supervise printing, etc.—number of documents issued—indexing journals. It shall be the duty of the state document editor to supervise the printing, binding and distribution of all reports, documents and publications, and for the purpose of distribution he shall maintain a classified mailing list; he shall fix the number of each report, document or publication to be issued, consideration being given to the needs and demands for the same, and allowance being made for reasonable reserve supply; notice of any changes in the number to be issued to be given the head of the department concerned previous to placing the order with the state printer; his orders fixing such number to be issued to be subject to approval by the governor, should written objection be filed by the head of the department concerned; he shall supervise the publication of the senate journal, house journal, senate files and house files during and following the sessions of the general assembly, and shall prepare indexes of the journals of the senate and the house. [36 G. A. (H. F. 594, § 6.)]

SEC. 144-k. Documents to be delivered to editor. The state binder, or those having such printing and binding in charge, shall deliver all completed reports, documents and publications to the state document editor and shall receive his receipt therefor. [36 G. A. (H. F. 594, § 7.)]

SEC. 144-l. Biennial reports. The state document editor shall file biennially with the governor, a report showing the number and kind of each report, document or publication issued, the number remaining on hand, the number distributed and the number otherwise disposed of, and shall recommend such changes as he shall deem advisable in the statutes relating to the various reports, documents or publications to be issued; methods of economy in the issuance of publications, and make such other recommendations as he may deem advisable. [36 G. A. (H. F. 594, § 8.)]

SEC. 144-m. Document department transferred to document editor. The printing and binding document department now under the direction of the secretary of state is hereby discontinued and all the duties and requirements pertaining thereto are made a part of the duties of the state document editor, except that the secretary of state shall remain custodian of documents and other publications the same as of the laws. [36 G. A. (H. F. 594, § 9.)]

SEC. 144-n. Distribution of documents. The document editor shall biennially require the several state officers, boards, commissions, departments, institutions and societies required to make reports for publication to prepare and submit to him for approval and use a mailing list for the several reports, which list shall include such libraries, institutions, companies, public officers and persons as have actual use for the report or that request the same. To this list the state document editor shall add such names as he finds proper, and to determine who has actual need of the state reports, documents and publications he shall take such steps as will advise the public generally of the reports published by the state and the nature of the material therein made available. [36 G. A. (H. F. 594, § 10.)]

SEC. 144-o. Executive council may furnish assistance. The executive council shall have authority to supply the state document editor with such assistance as in its opinion may be necessary from time to time. [36 G. A. (H. F. 594, § 11.)]

SEC. 144-p. Conflicting acts repealed. All acts or parts of any act in conflict with this act are hereby repealed in so far as they conflict with this act. [36 G. A. (H. F. 594, § 12.)]

CHAPTER 6.

OF THE CUSTODIAN OF PUBLIC BUILDINGS.

SECTION 145. Appointment—qualification—duties—repealed. [36 G. A. (S. F. 436, § 1.)]

NOTE: See Sec. 154-a. REPORTER.

SEC. 146. Term of office—vacancies—repealed. [36 G. A. (S. F. 436, § 1.)]

NOTE: See Sec. 154-a. REPORTER.

SEC. 147. Duties specified. It shall be the duty of the adjutant general to take charge of and protect the capitol building, together with all the grounds and premises appurtenant thereto and all other state buildings, now or hereafter erected thereon except the Iowa historical, memorial and art building and grounds, and all furniture and other property connected therewith; to preserve the same from injury; at all proper times to open and ventilate the several apartments, and constantly to keep every part thereof cleansed and in proper order, and at all suitable hours to personally or by proper escort attend visitors who may wish to view the same, or any part thereof entrusted to his care, free of expense; to control and take care of the capitol grounds, walks, fences, trees, shrubbery, statuary and other property of the state on or about the capitol grounds or premises, and to keep the same clean and in good order; to have charge and control of all buildings and grounds belonging to the state at the seat of government, not by law placed in charge of some other person,

and to protect and care for the same. Before entering upon the discharge of his duties he shall execute and file with the secretary of state a bond in the penal sum of one thousand dollars conditioned on the faithful discharge of his duties with sureties thereto to be approved by the governor. And shall appoint from among his subordinates and employes the required number of policemen including a chief of police. [36 G. A. (S. F. 436, § 2.)] [21 G. A., ch. 148, § 4.] [16 G. A., ch. 142, § 8.] [C. '73, § 120.]

SEC. 154. Salary—repealed. [36 G. A. (S. F. 436, § 1.)]

NOTE: See Sec. 154-a. REPORTER.

SEC. 154-a. Repeal. That the law as it appears in sections one hundred forty-five and one hundred fifty-four of the code and one hundred forty-six, supplement to the code, 1913, be and the same is hereby repealed. [36 G. A. (S. F. 436, § 1.)]

CHAPTER 7.

OF THE EXECUTIVE COUNCIL.

SECTION 170-q. Executive council may transfer unexpended balances. That from and after the taking effect of this act all commissions, boards, officers or persons placed in charge, by statute, of special work for which a specific appropriation of state funds has been made, shall on July first, nineteen hundred fifteen, and biennially thereafter report to the executive council of the state the progress of such special work, the balance still on hand in such fund, a list of all unpaid bills then outstanding, together with the amount of each, and shall furnish said executive council with such other information as it shall from time to time require; and whenever the said executive council is satisfied that the work for which such special fund was created has been completed, or abandoned, it shall fix a day for hearing upon the question of whether the unexpended balance then on hand in said fund should be transferred to the general revenue fund of the state, and shall cause a ten days' notice of such hearing to be given such commission, board, officer, or person, having charge of such work, at which hearing the said commission, board, officer, or person, may show cause, if any there be, why such unexpended balance should not be so transferred to the general revenue fund, and if after such hearing the executive council shall find that said special work has been completed, or abandoned, and that there is no good reason why such transfer should not then be made, such findings shall be made a matter of record in the minutes of its proceedings, and the secretary of such executive council shall notify the treasurer of the state of Iowa and the auditor of the state of Iowa in writing of such finding, accompanying such notice with a copy of the minutes of such proceeding, and the said treasurer shall thereupon transfer such unexpended balance to the general revenue fund of the state, and the auditor shall make the necessary changes upon his books to show such transfer. [36 G. A. (H. F. 310, § 1.)]

CHAPTER 7-A.

OF THE STATE BOARD OF AUDIT.

SECTION 170-r. State board of audit created—how constituted—duties. There is hereby created the state board of audit to consist of

the auditor of state, the attorney general or one of his authorized assistants to be designated by him for this service and the secretary of the executive council or his first assistant, who shall also be secretary of this board and who shall make a record of all claims approved in the executive council record and in the claim register required to be kept by the secretary of the executive council. [36 G. A. (H. F. 504, § 1.)]

SEC. 170-s. Board of audit to audit all claims—salaries. All bills and claims for money due from the state of Iowa, to be paid from the state treasury, for expenses incurred, services rendered or for things furnished for or purchased by any state employee, officer, commissioner, board or department, on account of any state department, except the salaries of the various officers whose salaries are fixed by law, shall be approved and certified by the state board of audit before warrants in payment of the same are drawn by the auditor of state. The power existing in or conferred upon the executive council, the board of trustees of the state library and the historical department of Iowa, or upon other state officers, boards or commissions, to approve or certify claims or vouchers for any state department or purpose is hereby transferred to the state board of audit, but nothing herein contained shall be so interpreted as to relieve the executive council of any duty imposed upon it by law, except that of auditing and passing upon claims as provided in this act. [36 G. A. (H. F. 504, § 2.)]

SEC. 170-t. Duties of board in auditing claims. Before approving a claim or voucher the state board of audit shall determine that the following conditions exist, to wit: (1) that the creation of the claim is fully and clearly authorized in law; (2) that the officer, board, commission, department or executive council empowered to authorize the creation of the claim has granted or authorized the same and has certified the fact to the board of audit; (3) that all the legal requirements have been observed, including notice and competition, if required by law; (4) that the claim is in proper form and duly verified; and (5) that the charges are reasonable, proper and correct. The state board of audit shall have no authority to authorize the creation of a bill against the state. [36 G. A. (H. F. 504, § 3.)]

SEC. 170-u. To establish rules. The board of audit is hereby authorized and directed to formulate and publish such rules and regulations as it may deem necessary and which will enable it to determine whether any service for which claim is made was actually performed, the time necessarily devoted to such service and the exact and necessary expenses incurred in the performance of said service. And requiring information relative to any and all other matters which will aid said board in performing its duties and protecting the interests of the state, and the board may require a strict compliance with these rules before auditing any claim. [36 G. A. (H. F. 504, § 4.)]

SEC. 170-v. Members of board to qualify. Before entering upon his official duties each member of said state board of audit shall take and sign the usual official oath and file the same with the secretary of state. [36 G. A. (H. F. 504, § 5.)]

SEC. 170-w. Conflicting acts repealed. All acts or parts of acts in conflict with this act are hereby repealed, in so far as they are in conflict with this act. [36 G. A. (H. F. 504, § 6.)]

CHAPTER 8.

OF THE CENSUS.

SECTION 171. Executive council to provide blank forms—schedules. That chapter eight of title two of the code be, and the same is hereby repealed, and there is hereby enacted in lieu thereof, the following:

The executive council shall cause to be prepared and printed, blank forms, suitable for the purpose of taking the census, to enable the assessors to make uniform returns of population and agriculture for the census. The schedules relating to the population shall comprehend, for each inhabitant, the name, age, color, sex, conjugal condition, place of birth, and place of birth of parents, whether alien or naturalized, number of years in the United States and in the state of Iowa, occupation, months unemployed, literacy, school attendance, and ownership of farms and homes; and the executive council may use its discretion as to the construction and form and number of inquiries necessary to secure information under the topics aforesaid. The schedules relating to agriculture shall comprehend the following topics: Name of occupant of each farm, color of occupant, tenure, acreage, value of farm and improvements, acreage of different products, quantity and value of products and number and value of live stock. All questions as to quantity and value of crops shall relate to the year ending December thirty-first next preceding the enumeration. The specific form and division of inquiries necessary to secure information under the foregoing topics, shall be in the discretion of the executive council. Such blanks must be furnished to the respective county auditors, and by them to the township assessors, on or before the first Monday in January of the year in which the census is to be taken. In addition to the matters specified to be enumerated in this bill, there shall be blanks for the ex-soldiers of the United States living in Iowa, which shall contain the name, company and regiment to which the soldier belonged, and his present place of residence. [36 G. A. (H. F. 85, § 1.)] [30 G. A., ch. 8, § 1.] [C. '73, §§ 112-115.] [R., §§ 991-994.]

SEC. 172. Assessor to fill and return blanks—census in cities of first class—enumerators—compensation—checking clerks—refusal to answer—procedure. The assessor shall in the year nineteen hundred and five, and every ten years thereafter, take such census in his township, municipality, or division thereof, and make entry upon such blanks of all matters therein required to be enumerated or returned, and return the same to the county auditor on or before the first day of June of the census year. Provided, however, that in cities of the first class the assessor shall, in addition to his other duties, act as supervisor of the census and may appoint one enumerator for each two thousand population as shown by the last preceding federal census. Such enumerators shall qualify in the same manner as assessors and be subject to the same provisions as assessors in so far as the same relates to the census. They shall receive pay at not to exceed three dollars and fifty cents per day for each full day of eight hours actually employed in such work, but shall not be so employed for a longer period than sixty days. The assessor in such cities shall also have authority to appoint not more than three clerks who shall be employed in checking the daily work of the enumerators. Said clerks shall receive pay at not to exceed three dollars and fifty cents per day and shall not be employed for a longer period than thirty days. Said enumerators and clerks shall be chosen upon competitive civil service examinations; the rules, blanks and questions for said examination to be provided by the executive council and said enumerators and clerks when

selected shall only be removed for cause. If any assessor, enumerator or clerk shall be found guilty of making false returns of any character, he shall forfeit any and all compensation which shall have accrued to his credit and be immediately discharged. If any person shall refuse to make answer to any of the questions appearing on the blanks furnished the assessors and enumerators, such person shall be warned that he is acting in contravention of law and upon further refusal it shall be the duty of the assessor or enumerator to file an information, under oath, against such person before any magistrate in the county, who shall thereupon issue a warrant for the arrest of the accused. If the person complained against upon hearing shall answer the questions required by law to be propounded by the assessor, the action shall be dismissed by the magistrate at the costs of the accused. If the accused be found guilty as charged, he shall be fined not less than five dollars and not more than one hundred dollars, and in default of payment of such fine shall be imprisoned in the county jail for not to exceed thirty days. Every such refusal to answer shall be deemed a separate offense. [36 G. A. (H. F. 85, § 2.) [30 G. A., ch. 8, § 2.] [C., '73, § 114.] [R., § 992.]

SEC. 173. When assessor fails. When any assessor fails to perform the duties required in this chapter by June first in a satisfactory manner such auditor shall appoint some suitable person to take the census, as provided herein, at as early a day as practicable, at the expense of the county. [36 G. A. (H. F. 85, § 3.) [30 G. A., ch. 8, § 3.] [C., '73, § 117.] [R., § 997.]

SEC. 174. Returns to be forwarded—provision for failure. The county auditor shall forward such return to the executive council as soon as possible, and not later than the first day of July following. If such returns or any of them are not received by the fifteenth day of July, the executive council may cause such census to be made in said county, or any township, municipality, or division thereof, or the returns brought up, at the expense of the delinquent county. All of such returns shall be filed and preserved by the secretary of state. [36 G. A. (H. F. 85, § 4.) [30 G. A., ch. 8, § 4.] [C., '73, §§ 114, 116, 118.] [R., §§ 992, 996, 998.]

SEC. 175-a. Stenographers and accountants. In preparing said abstracts, the executive council shall employ only such persons as are fully qualified by their education and skill to rapidly and accurately perform the duties assigned them. All employees shall be selected on their merits, after competitive examinations and shall be subject to removal at the pleasure of the executive council. [36 G. A. (H. F. 85, § 5.) [30 G. A., ch. 8, § 6.]

CHAPTER 9.

OF DUTIES ASSIGNED TO TWO OR MORE OFFICERS, AND GENERAL REGULATIONS.

SECTION 191-a. Officers and boards to report appropriations and expenditures and file estimates. Every officer, board, commission or committee having charge of any department, institution or undertaking which receives an annual appropriation of money, from the treasury of the state, including appropriations to be made by assessment, shall, biennially, on or before the fifteenth day of November, immediately prior to the convening of the general assembly, in regular session, submit to the governor, statements showing in detail the amounts appropriated for the current biennial period, estimates of the amounts required for the ensu-

ing biennial period, with an explanation of the reason for any increased appropriation, and all receipts (giving the source thereof) and expenditures for the current biennial period tabulated. [36 G. A. (H. F. 147, § 1.)]

SEC. 191-b. Governor to submit budget. On the day fixed by law for the governor to present to the general assembly his official message, he shall at the same time submit to the general assembly a budget which shall contain in detail general information and in general form his recommendations to the general assembly for appropriations for all the different departments and boards and state officials, together with such explanation thereof as he may desire to present. The governor shall not be required to read this but it shall be printed in the journal as a part of his message to the general assembly and shall be officially known as the budget. [36 G. A. (H. F. 147, § 2.)]

TITLE III.

OF THE JUDICIAL DEPARTMENT.

CHAPTER 2.

OF THE CLERK OF THE SUPREME COURT.

SECTION 207. Deputy—qualification—duties. The clerk of the supreme court may appoint, in writing, any person, except one holding a state office, as deputy, which appointment must be approved by the officer having the approval of the principal's bond, and such appointment may be revoked in the same manner,—both the appointment and the revocation to be filed and kept in the office of the secretary of state. The deputy shall qualify by taking the oath of the principal, to be indorsed upon and filed with the certificate of appointment, and, when so qualified, he shall, in the absence or disability of the clerk, perform all of the duties of such clerk pertaining to his office. [36 G. A. (S. F. 144, § 1.)] [19 G. A., ch. 117.] [C. '73, § 766.] [R., § 643.]

CHAPTER 4.

OF THE SUPREME COURT REPORTER AND REPORTS.

[This entire chapter, comprising sections 213 to 224, inclusive, code, was repealed by 36 G. A. (H. F. 110.) See chapter 4-A. REPORTER.]

CHAPTER 4-A.

OF THE REPORTER OF THE SUPREME COURT, REPORTS AND EDITORSHIP OF THE CODE.

SECTION 224-a. Office at seat of government—supplies—use of law library. The reporter of the supreme court shall keep his office at the seat of government in rooms to be provided by the state, and shall devote his entire time to the discharge of the duties hereinafter prescribed. He shall be provided by the executive council with suitable room or rooms convenient to the state law library, necessary office furniture, supplies, stationery, books, periodicals, and postage, and in the use of the state law library he shall be subject to the general control of the trustees and the librarian. [36 G. A. (H. F. 110, § 1.)] [C. '97, § 213.] [C. '73, § 154.]

SEC. 224-b. May take opinions. When the opinions of the supreme court are filed, recorded by the clerk, and released, he may take and retain the same for a period not to exceed four months, to prepare a report therefrom, but within said time shall return the same to the clerk of said court in whose office they shall remain. [36 G. A. (H. F. 110, § 2.)] [C., '97, § 213.] [C., '73, § 154.]

SEC. 224-c. Preparation of reports—index—proof sheets—corrections. Whenever such opinions are sufficient to make a volume he shall forthwith deliver at his office, to the person, persons or corporation having the contract with the state for publishing the same, copies of such opinions, and with each opinion, a syllabus, and a brief statement of the facts involved. Within twenty days after the proof sheets for a volume have been furnished to him by the publishers at his office, he shall furnish to such publishers an index and table of cases to such volume. The publishers shall furnish to the reporter without delay, as soon as they shall be issued, ten copies of the revised proof-sheets of the opinions, head notes, index and table of cases of each volume for correction and approval by the reporter and judges of the supreme court, and shall cause such corrections to be made therein as shall be indicated by the reporter or said judges. The reporter shall have no pecuniary interest in said reports. [36 G. A. (H. F. 110, § 3.)] [C. '97, § 216.]

SEC. 224-d. Publishing reports—contract—judges to control. The supreme court reports shall be published under contract entered into in the name of the state of Iowa under such terms, stipulations and conditions as a majority of the judges of the supreme court, acting through the chief justice, shall prescribe, provided that every such contract shall provide that the three hundred fifty copies first issued shall be delivered by the publisher to the secretary of state free of all cost to the state. The present contract for the printing and publication of the reports of the supreme court is hereby transferred to the jurisdiction of said judges for the sole use and benefit of the state which shall have the same power and rights in reference thereto as now possessed by the executive council. Provided that a majority of the judges of the supreme court may, if they deem it advisable, make the state its own publisher of the reports, causing the same to be printed and bound by the state printer and binder in the same manner and for the same compensation as is provided by law for other state printing and binding and in event the state becomes its own publisher such reports shall be sold and distributed through the office of the secretary of state. [36 G. A. (H. F. 110, § 4.)] [C. '97, §§ 218-224.]

SEC. 224-e. Distribution of reports. The copies received by the secretary of state shall be disposed of by him as follows: Two copies of each volume to the library of Congress and the library of the supreme court of the United States; one copy to each judge of the supreme, district and superior courts, including United States district judges whose districts lie within this state, the clerk of the supreme court and attorney general; one hundred copies to the state library, one copy to each county in the state, two copies to each county where the district court is held in more than one place; one copy to the supreme court reporter; twenty copies to the law department of the state university; twenty copies to the state historical society for exchange in such manner as the proper officers thereof think advisable. The remaining copies shall be used by the trustees of the state library in exchange for such books on law or equity or reports of other states as they may select. All books received by such exchange shall be deposited in and become a part of the state library.

In the event the state becomes its own publisher of the reports the distribution and exchange provided for in this section shall be held to apply. [36 G. A. (H. F. 110, § 5.)] [C. '97, § 215.] [C. '73, § 159.]

SEC. 224-f. New edition of reports. The supreme court may order the publication of a new edition of any volume of its reports of which the copyright is owned by the reporter, when the public interest requires it, and may require compliance therewith within six months by an order

entered of record; and if the reporter neglects or refuses to comply with said order, then such copyright shall be forfeited to the state. [36 G. A. (H. F. 110, § 6.)] [C., '97, § 214.] [C., '73, § 158.]

SEC. 224-g. Copyrights secured—rights of contractor. The copyrights of all the supreme court reports hereafter published shall be taken out by and vest in the secretary of the state for the benefit of the people of the state; but this shall not be construed to prevent the contractor by whom any volume is published, his representatives, or assigns, from continuing the exclusive publication and sale of such volume so long as he or they shall, in all respects, comply with the requirements of this chapter in respect to the character, sale, and price of such volume. [36 G. A. (H. F. 110, § 7.)] [C. '97, § 217.]

SEC. 224-h. Ex-officio editor code—duty to classify statutes—to furnish copies. The reporter of the supreme court shall be *ex officio* editor of the code and his duties shall be:

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

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

To place beneath the material called for in the preceding subdivision of this section such other annotations as may be required by the supreme court.

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

The law reporter shall be required to furnish a copy of any section of Iowa law with all matter relating thereto to any state or county officer upon request and to all other parties upon payment of a fee of seventy-five cents. [36 G. A. (H. F. 110, § 8.)]

SEC. 224-i. To prepare supplement to code—how prepared—annotations. Immediately upon the taking effect of this act, and at the beginning of each legislative session thereafter, he shall commence and continue throughout said session, the preparation, with all due diligence, of what shall be known as a supplement to the code, treating the present code and present supplement thereto as a code in two volumes. Said supplement shall be prepared substantially in the following manner: All sections of the constitution and laws of said code (treated as in two volumes) not changed or modified, shall be inserted in said supplement by section number only and immediately following shall be noted all annotations of all decisions not appearing under said section in the then existing code and supplement, stating the pertinent points decided under said section, said annotations to include not only those of the supreme court of Iowa but of the supreme court of the United States, the United States circuit court of appeals, and as far as practicable the United States

district court, construing said section. All sections of the constitution and laws of said code which shall have been changed shall appear in said supplement in their complete revised form with appropriate headings and sectional catchwords, and followed by the annotations of decisions as aforesaid. All new constitutional provisions and new sections of law shall be inserted in logical order, all new and original sections to be given such chapter and number as will be logical and not destroy or confuse the numbering of the sections already existing. The supplement first following the thirty-seventh general assembly, and all subsequent supplements, shall be so prepared as to supplant the supplement last preceding. [36 G. A. (H. F. 110, § 9.)]

SEC. 224-j. Printing and binding of supplemental supplement—index—how bound—former editor to assist—linotype slugs preserved—acts to be omitted—acts published by secretary of state. The copy for such supplement shall, at the earliest possible time after the adjournment of the assembly, be delivered to the state printer, who shall print the same with equal dispatch in the same size and in the same style, type and appearance with the official edition of the code, and deliver a copy of the final corrected volume to the said reporter, who shall prepare an index thereto with proper tables of contents, and deliver the same to the state printer who shall print the same and deliver the completed volume to the state binder, who shall bind the same in such manner and number, and within such time as the aforesaid supreme court shall order, unless the general assembly shall otherwise direct.

The secretary of state shall deliver to the supreme court reporter the enrolled bills for use in proof reading in the preparation of such supplement, said bills to be receipted for and returned by said supreme court reporter when said work is completed and said reporter may obtain from the state the necessary codes, code supplements, session laws, printing, postage and supplies required in said work upon requisition therefor. Said supplement when so published shall be and become the legal publication of the laws of Iowa not contained in the code and supplement to the code, nineteen hundred thirteen. The supplemental supplement here provided for shall be completed and ready for distribution by July fourth, nineteen hundred fifteen, and July fourth following each legislative session thereafter. The supreme court shall be substituted for the code supplement supervising committee appointed under the authority of chapter one of the acts of the thirty-fifth general assembly and the editor therein chosen as provided therein, shall under supervision of said court, aid the supreme court reporter in the preparation of said supplemental supplement for nineteen hundred fifteen, and said editor shall deliver to the supreme court reporter for his use all classified matter, card indexes, compilations, annotations and other material in his possession relating to the code, the code supplement or the statutory law and said editor shall receive therefor and for the services so rendered in assisting in the compilation of the supplemental supplement nineteen hundred fifteen, the sum of twenty-five hundred dollars payable two hundred dollars per month until July first, nineteen hundred fifteen, and balance upon completion of said supplemental supplement and the said sum of twenty-five hundred dollars shall be additional to the sum provided for in section thirteen hereof, and same is hereby appropriated. The said supplemental supplement shall include by revision of the index made in connection with the supplement to the code, nineteen hundred thirteen, an index of the acts of the thirty-sixth general assembly except legalizing and appropriation acts and forty-five hundred volumes thereof shall be bound contain-

ing said index, session laws and annotations and sold for two dollars and fifty cents per volume and the contents of said volume shall be bound with the supplement to the code, nineteen hundred thirteen, as published in all volumes, over and above said forty-five hundred, and such combined volumes shall be sold for six dollars per volume.

The contents of the supplemental supplement herein provided for shall be set up in linotype and said linotype shall be used only for making the necessary plates for printing and the printer shall be allowed such reasonable compensation for preparing forms for the electrotype as may be approved by the supreme court and the linotype slugs from which the plates are made shall be purchased and owned by the state and shall be preserved and protected under authority of the supreme court and substituted from time to time in whole or in part as may be necessary in future publication of any supplements, supplemental supplements or codes and the judges of the supreme court are hereby given full authority to contract with reference to the publication thereof and in the matters above provided.

The supplemental supplement provided for under this act, including index, shall be furnished free immediately upon completion thereof to all members of the thirty-sixth general assembly. No appropriation acts, legalizing acts or joint resolutions of a private nature shall be printed in the code supplement, but said acts, except legalizing acts, shall be printed in a separate volume bound in paper covers and distributed as other laws and when sold shall be sold at fifty cents per volume and shall be published under authority of the secretary of state and not to exceed a total of three thousand volumes. [36 G. A. (H. F. 110, § 10.)]

SEC. 224-k. Reporter to certify to correctness of supplement. To such volume shall be attached the certificate of said reporter that the statutory and constitutional provisions therein contained have been prepared from the original rolls and are correct, which certificate shall be presumptive evidence of their correctness. [36 G. A. (H. F. 110, § 11.)]

SEC. 224-l. List of state officers—secretary of state to prepare—condition of treasury. The secretary of state shall prepare and deliver to the said reporter for insertion in each of said supplements a correct list of state officers, judges of the supreme district and superior courts, members of the general assembly, and commissioners for this state in other states. There shall be also inserted therein the statement of the conditions of the state treasury as provided by the constitution and all other matters provided by law. [36 G. A. (H. F. 110, § 12.)]

SEC. 224-m. Salary of reporter—assistance—appropriation. The law reporter shall receive a salary of thirty-five hundred dollars per annum payable by the state. He may, by and with the consent of the supreme court, employ assistants and clerical help at such compensation as may be fixed by the supreme court, and there is appropriated out of the treasury of Iowa from moneys not otherwise appropriated the sum of eight thousand dollars per annum to be used for the purpose of carrying out the provisions of this act. [36 G. A. (H. F. 110, § 13.)] [C. '97, § 224.]

SEC. 224-n. Repeal of conflicting sections—provision for former reporter. Chapter four of title three of the code and sections thirty-eight, thirty-nine, forty and one hundred thirty-three of the code are hereby repealed, provided that the volumes of the supreme court reports in the process of preparation by the former reporter shall be paid for in the same amount and in the same manner as provided by the law existing at the date the work was undertaken. [36 G. A. (H. F. 110, § 14.)]

CHAPTER 5.

OF THE DISTRICT COURT.

SECTION 227. Judicial districts. For judicial purposes, the state is hereby divided into twenty-one judicial districts, as follows:

The first district shall consist of the county of Lee, and have two judges.

The second district shall consist of the counties of Lucas, Monroe, Wapello, Jefferson, Davis, Van Buren and Appanoose, and have four judges.

The third district shall consist of the counties of Wayne, Decatur, Clarke, Union, Ringgold, Taylor and Adams, and have two judges.

The fourth district shall consist of the counties of Woodbury and Monona, and have three judges.

The fifth district shall consist of the counties of Dallas, Guthrie, Adair, Madison, Warren and Marion, and have three judges.

The sixth district shall consist of the counties of Jasper, Poweshiek, Mahaska, Keokuk and Washington, and have three judges.

The seventh district shall consist of the counties of Muscatine, Scott, Clinton and Jackson, and have five judges.

The eighth district shall consist of the counties of Iowa and Johnson, and have two judges, who shall not be residents of the same county.

The ninth district shall consist of the county of Polk, and have five judges.

The tenth district shall consist of the counties of Delaware, Buchanan, Black Hawk and Grundy, and have three judges.

The eleventh district shall consist of the counties of Story, Boone, Webster, Hamilton, Hardin, Franklin and Wright, and have three judges.

The twelfth district shall consist of the counties of Bremer, Butler, Floyd, Mitchell, Worth, Cerro Gordo, Hancock and Winnebago, and have three judges.

The thirteenth district shall consist of the counties of Clayton, Allamakee, Fayette, Winneshiek, Howard and Chickasaw, and have two judges.

The fourteenth district shall consist of the counties of Buena Vista, Clay, Palo Alto, Kossuth, Emmet, Dickinson, Humboldt and Pocahontas, and have two judges.

The fifteenth district shall consist of the counties of Pottawattamie, Cass, Shelby, Audubon, Montgomery, Mills, Page, Fremont and Harrison, and shall have five judges.

The sixteenth district shall consist of the counties of Ida, Sac, Calhoun, Crawford, Carroll and Greene, and have two judges.

The seventeenth district shall consist of the counties of Tama, Benton and Marshall, and have two judges.

The eighteenth district shall consist of the counties of Linn, Jones and Cedar, and have three judges.

The nineteenth district shall consist of the county of Dubuque, and have two judges.

The twentieth district shall consist of the counties of Des Moines, Henry and Louisa, and shall have two judges.

The twenty-first district shall consist of the counties of Cherokee, O'Brien, Osceola, Lyon, Sioux and Plymouth, and shall have two judges.

The district judge shall be a resident of the district in which he is elected, and each judge shall hold office until the expiration of the term for which he has been heretofore elected. Each district judge hereafter elected, except to fill a vacancy, shall hold office four years and until his successor is elected and qualified. Each judge elected to fill a vacancy shall hold for the unexpired term and until his successor is elected and qualified. [36 G. A. (H. F. 635, § 1.)] [35 G. A., ch. 28, § 1.] [35 G. A., ch. 27, §§ 1, 2, 3.] [35 G. A., ch. 24, § 1.] [34 G. A., ch. 6, § 1.] [34 G. A., ch. 5, § 1.] [34 G. A., ch. 4, § 1.] [28 G. A., ch. 8, § 1.] [27 G. A., ch. 11, § 1.] [27 G. A., ch. 10, § 1.] [26 G. A., chs. 121, 122.] [25 G. A., chs. 66, 67, 68.] [24 G. A., chs. 53, 54, 55.] [21 G. A., ch. 134, §§ 3, 4.]

SEC. 227-8ab. Eighth district—judges to alternate in holding terms. The judges in said eighth judicial district shall as nearly as practicable alternate in holding terms at the places for holding court in said judicial district, and terms may be held simultaneously at both places. [36 G. A. (H. F. 635, § 2.)]

SEC. 227-8ac. Eighth district—nomination and election of additional judge. The judge herein provided for shall be nominated at the primary and elected at the general election in the year 1916 and at four-year periods thereafter. [36 G. A. (H. F. 635, § 3.)]

NOTE: The two last above sections are a part of H. F. 635, 36 G. A., section 1 of which act amended section 227, as heretofore shown. It being deemed inadvisable to insert the entire three sections of said act in the body of section 227, the two remaining sections, being sections 2 and 3, are inserted at this point. REPORTER.

SEC. 235. When special adjournment ordered.

The term of court continues from the legal convening thereof until (a) the commencement of the new term, or (b) adjournment *sine die*. An order declaring the court "in recess until further order"

does not terminate the term. A term of court may legally continue in one county even though the judge is holding a term in another county. *Jones v. McLaughry*, 151 N. W. 210.

SEC. 243. Court controls record.

A judgment entered by the court on a misapprehension as to the facts upon which the right to enter any judgment exists, may be set aside by the court during the term. So held where the court set aside an affirmation of a justice judgment, when the payment of the docket fee in advance had been waived by the clerk. *Miller v. Bryson*, 152 N. W. 568.

A court has the right, after receiving information that a divorce decree has been procured by fraud, mistake or perjury, upon its own motion after due notice to all parties interested, to reopen such case, in-

vestigate such questions, and set aside such decree and this right is not affected by reason of the information upon which it thus acts coming from a stranger to the record. *Todhunter v. Degraff*, 146 N. W. 66-69.

Even though a court at the conclusion of a hearing orally announces that he finds the defendant guilty of contempt of court, and fixes the fine, he may thereafter at the same term of court enter a judgment dismissing the action, if after reflection he concludes that his first holding was incorrect. *Fowler v. Vermillion*, 149 N. W. 444.

SEC. 244. Corrections.

Where a cause was taken under advisement by the court for decision and it was agreed by counsel that an exception should be noted to the judgment for the losing party, the court had the power at a later term to correct the entry and show the exception by a *nunc pro tunc* order. *Cable Co. v. Miller*, 162-351.

A mistake must be evident, not probable or possible, in order to authorize the correction of an entry made at a previous

term. *Hamill v. Schlitz Brewing Co.*, 143 N. W. 99.

Evident mistake is mistake that is noticeable, apparent to observation or that is clearly established by the evidence. Even if a proceeding to correct a record is a proceeding at law and the findings of the trial court have the effect of a jury verdict, the Supreme Court may inquire into the sufficiency of the evidence, the question of jurisdiction, and whether the trial court

erred in its rulings upon evidence introduced, and the authority of a trial court to remake an order properly entered is restricted. *Ibid.*

Nunc pro tunc entries, except where the alleged omission or mistake is evident upon the face of the record, are not favored in law. *Hamill v. Schlitz Brewing Co.*, 145 N. W. 511.

The court may, at a later term, correct an entry of a judgment so as to show an exception thereto where it had been stipulated that an exception would be entered when judgment was rendered. Or if the exception was taken at the time but the record failed to so show the entry could be made *nunc pro tunc*. *Cable Co. v. Miller*, 162-351, 143 N. W. 94.

SEC. 247. Decisions in vacation.

A judgment or order made by the judge in vacation without consent of the parties is void. *Hamill v. Schlitz Brewing Co.*, 143 N. W. 99.

A judgment or order made by the trial court not in term time, save as provided by

statute or in pursuance of an agreement of the parties, is of no effect and where the parties agree that the court's decision may be entered in vacation, that decision, once properly entered of record, cannot be changed by the court without notice. *Ibid.*

SEC. 250. Probate powers conferred on clerk.

An allowance of a claim by the clerk against an estate is not final until acted

upon by the court itself. *Ryan v. Hutchinson*, 161-575.

SEC. 253. Salary of judges—expenses. The salary of each judge of the district court shall be thirty-five hundred dollars per year. Where a judge of the district court is required, in the discharge of his official duties, to leave the county of his residence or leave the city or town of his residence to perform such duties, he shall be paid such actual and necessary hotel and living expenses not to exceed the sum of three dollars per day and transportation expenses as shall be incurred, not exceeding in all two hundred dollars per year. An itemized expense account shall be certified by the party entitled thereto to the auditor of state, which account shall be rendered quarterly and shall be paid in the same manner as the salary of such judge. [36 G. A. (S. S. F. 183, § 1.)] [29 G. A., ch. 13, § 1.] [21 G. A., ch. 134, § 12.]

SEC. 254-a2. Reporter—compensation. Shorthand reporters of the district courts shall be paid eight dollars per day for each day's attendance upon said court, under the direction of the judge, out of the county treasury where such court is held, upon the certificate of the judge holding the court; and in case the total per diem of each reporter and his substitute shall not amount to the sum of sixteen hundred dollars per year, the judge appointing him shall at the end of the year apportion the deficiency so remaining unpaid among the several counties of the district, if there be more than one county in such district, in proportion to the number of days of court actually held by said judge in such counties, which apportionment shall be by him certified to the several county auditors, who shall issue warrants therefor to said reporter, which warrants shall be paid by the county treasurers out of any funds in the treasury not otherwise appropriated. Shorthand reporters shall also receive eight cents per hundred words for transcribing their official notes, to be paid for in all cases by the party ordering the same. If a defendant in a criminal cause has perfected an appeal from a judgment against him and shall satisfy a judge of the district court from which the appeal is taken that he is unable to pay for a transcript of the evidence, such judge may order the same made at the expense of the county where said defendant was tried. Where a shorthand court reporter is required, in the discharge of his official duties, to leave the county of his residence or leave the city or town of his residence to perform such duties, he shall be paid his actual and necessary hotel and living expenses not to exceed the sum of three dollars per day and

transportation expenses as shall be incurred, not exceeding in all two hundred dollars per year, which account shall be itemized and approved by the presiding judge of the district court and certified to the county auditor of the county in which such expenses are incurred, and shall be paid in the same manner as the per diem of such reporter is paid. [36 G. A. (S. S. F. 183, § 2.)] [34 G. A., ch. 8, §§ 1, 2.] [33 G. A., ch. 12, § 1.] [29 G. A., ch. 14, § 2.] [18 G. A., ch. 195, § 2.] [C., '73, § 3777.]

CHAPTER 5-A.

OF APPOINTMENT OF TRUSTEES BY DISTRICT COURT TO MANAGE, CONTROL AND INVEST CEMETERY FUNDS.

SECTION 254-a12. County auditor to act as trustee—when—accounting. In case no trustee is appointed by said court, or if so appointed does not qualify as provided in this chapter, then such funds as are therein mentioned or any funds donated by any person or estate to improvement of cemeteries, unless otherwise provided by law, shall be placed in the hands of the county auditor who shall receipt for, loan, and make annual reports of such funds in manner as provided by the law as it appears in sections two hundred fifty-four-a five, two hundred fifty-four-a six and two hundred fifty-four-a ten, of the supplement to the code, 1913. The said auditor shall annually turn over the accrued interest in his hands to the cemetery association or other person having control of the cemetery entitled thereto, who shall use the same in carrying out the provisions of said trust, and who shall file a written report annually with the county auditor. [36 G. A. (S. F. 146, § 1.)] [35 G. A., ch. 30, § 1.] [30 G. A., ch. 12.]

CHAPTER 5-B.

OF JUVENILE COURTS, DETENTION HOMES AND SCHOOLS.

SECTION 254-a15. Petition in writing. Any reputable person being a resident of the county, having knowledge of a child in his county who appears to be either dependent, neglected or delinquent, may file with the clerk of the court having jurisdiction of the matter a petition in writing, setting forth the facts, verified by affidavit; it shall be sufficient if the affidavit is upon information and belief. [36 G. A. (S. F. 560, § 1.)] [30 G. A., ch. 11, § 3.]

SEC. 254-a16. Summons—trial—statutes applicable—costs—appeals. Upon the filing of the petition the court may cause a summons to issue requiring the person having custody or control of the child or with whom the child may be, to appear with the child at a time and place stated in the summons. The parents of the child, if living, and their residence is known, or its legal guardian, if one there be, or if there is neither parent nor guardian or if his or her residence is not known, then some relative, if there be one and his residence is known, shall be notified of the proceedings, and in any case the judge may appoint some suitable person to act in behalf of the child. If the person summoned as herein provided shall fail to appear or bring the child, without reasonable cause, and abide the

order of the court, he may be proceeded against as in case of contempt of court. In case the summons cannot be served or the party served fails to obey the same, and in any case when it shall be made to appear to the court that such summons will be ineffectual, a warrant may issue on the order of the court, either against the parent or guardian or the person having custody of the child or with whom the child may be, or against the child itself. On the return of the summons or other process, or as soon thereafter as may be, the court shall enter an order fixing the time and place for the hearing on the said petition, and at least ten days notice of such hearing shall be served in writing upon the parents, guardian, or other person having custody of the said child. There shall be attached to such notice a copy of the petition containing all of the charges and accusations against the said child, parent, guardian, or other person, and a continuance may be granted upon application of any party to the said proceeding, including the child, parent or parents, guardians, or other persons having the custody of said child; provided, however, that when in the opinion of the court, an emergency exists, temporary provision may be made for the custody of the child or children pending the further order of the court.

Such petition shall conform to and be subject to all the rules governing ordinary pleadings.

All such cases shall be tried to the court without a jury.

Upon appeal such cases shall be tried de novo in the supreme court.

Where the penalty for the offense committed exceeds a fine of one hundred dollars, or imprisonment for thirty days, the court shall make an examination and in conducting same shall be governed by the provisions of section fifty-two hundred sixteen, fifty-two hundred eighteen, fifty-two hundred nineteen, fifty-two hundred twenty-one, fifty-two hundred twenty-two, fifty-two hundred twenty-three, fifty-two hundred twenty-four, fifty-two hundred twenty-five, fifty-two hundred twenty-six, fifty-two hundred twenty-seven, and fifty-two hundred thirty-nine of the code, and shall make certificate, order of discharge or commitment, issue warrant, require undertakings of witnesses and security and commit witnesses as provided by sections fifty-two hundred twenty-eight to fifty-two hundred thirty-five of the code inclusive. If the child is unable to furnish the required bail, the child may, pending the final disposition of the case, be detained in the possession of the person having charge of the same, or may be kept in a suitable place provided by the city or county authorities. If the crime is not triable on indictment or if it appears on the examination that a public offense has been committed which is not triable on indictment the court may order any peace officer to file an information against the child before him and shall proceed to try the case before a jury of twelve men, selected as in a justice's court. The proceedings, costs and taxation thereof, shall be as provided for trials in the district court and the defendant shall be entitled to his exceptions and right of appeal. [36 G. A. (S. F. 560, § 2.)] [30 G. A., ch. 11, § 4.]

SEC. 254-a20. Commitment—financial aid for widowed mother.

A divorced woman, whose former husband is alive, is not a widow within the meaning of this section. A widow entitled to aid in supporting her minor children

hereunder is a woman who has lost her husband by death and not married again. *De Brot v. Marion County*, 145 N. W. 467.

SEC. 254-b. Medical and surgical treatment for indigent children—power of court—report. That any district or superior court of the state, or any judge thereof, sitting or acting as a juvenile court, as pro-

vided by law, may on his own motion, or on complaint filed by any probation officer, school teacher or officer, superintendent of the poor, or physician authorized to practice his profession in the state of Iowa, alleging that the child named therein is under sixteen years of age and is afflicted with some deformity or suffering from some malady that can probably be remedied, and that the parents or other persons legally chargeable with the support of such child are unable to provide means for the surgical and medical treatment and hospital care of such child, shall appoint some physician who shall personally examine said child with respect to its malady or deformation. Such physician shall make a written report to the court or judge giving such history of the case as will be likely to aid the medical or surgical treatment of such deformity or malady and describing the same, all in detail, and stating whether or not in his opinion the same can probably be remedied. Such report shall be made within such time as may be fixed by the court, and upon blanks to be furnished as hereinafter provided. The court or judge may also appoint some suitable person to investigate and report on the other matters charged in said complaint. [36 G. A. (S. F. 16, § 1.)]

SEC. 254-c. Hearing—duty of county attorney—order committing child to hospital—consent of parent. Upon the filing of such report or reports, the court or judge shall fix a day for the hearing upon the complaint and shall cause the parent or parents, guardian or other person having the legal custody of said child to be served with a notice of the hearing, and shall also notify the county attorney, who shall appear and conduct the proceedings, and upon the hearing of such complaint evidence may be introduced. And if the court or judge finds that the said child is suffering from a deformity or malady which can probably be remedied by medical or surgical treatment and hospital care, and that the parent or parents, guardian or other person legally chargeable with his support is unable to pay the expenses thereof, the court or judge, with the consent of the parent or parents, guardian or other person having the legal custody of such child, shall enter an order directing that the said child shall be taken or sent to the hospital of the medical college of the state university of Iowa for free medical and surgical treatment and hospital care. [36 G. A. (S. F. 16, § 2.)]

SEC. 254-d. Hospital treatment at state university. It shall be the duty of the person in charge of the hospital of the college of medicine of the state university, or other person designated by the authorities in control of said medical college, upon such child being received into the hospital to provide for such child, if available, a cot or bed, or room in the hospital, and such person shall also designate the clinic of the college of medicine at the state university hospital to which the patient shall be assigned for treatment of the deformity or malady in each particular case.

The said hospital shall not be required to receive any child into the hospital unless the physician or surgeon in charge of the department of said medical college in which such surgical or medical treatment is to be furnished shall be of the opinion that there is a reasonable probability that the child will be benefited by the proposed medical or surgical treatment.

If the physician or surgeon of the clinic to which such child has been assigned for treatment declines to treat such child, he shall make a report, in duplicate, of his examination of such child and state therein his reason or reasons for declining such treatment; and one of said duplicates shall be preserved in the records of said hospital and the other trans-

mitted to the clerk of the court of said county where said order committing said child to the hospital was entered.

When any patient has been admitted to the clinic for treatment the physician or surgeon in charge thereof shall proceed with all proper diligence to perform such operation and bestow such treatment upon such patient as in his judgment shall be proper, and such patient shall receive proper hospital care while therein. [36 G. A. (S. F. 16, § 3.)]

SEC. 254-e. Treatment gratuitous. No compensation shall be charged by or allowed to the physician or surgeon or nurse who shall treat such patient other than the compensation received from the university. [36 G. A. (S. F. 16, § 4.)]

SEC. 254-f. Record of treatment—expense—filing statement. The superintendent of the university hospital, or other person designated by the authorities in control of the university college of medicine shall keep a correct account of the medicine, treatment, nursing and maintenance furnished to said patient, and shall set forth therein the actual, reasonable and necessary cost thereof, and shall make and file with the secretary of the executive council of the state of Iowa an itemized, sworn statement, as far as possible, of the expense so incurred at said hospital other than the free medical and surgical treatment and nursing, as hereinbefore provided, and the said statement shall be made in conformity with rules prescribed by the executive council of the state of Iowa. [36 G. A. (S. F. 16, § 5.)]

SEC. 254-g. Expenses—how paid. The secretary of the executive council of the state of Iowa shall present the said statement to the executive council which, upon being satisfied that the same is correct and reasonable, shall approve the same, and shall direct that warrants be drawn by the auditor of state upon the treasurer of state for the amount of such bills as are allowed from time to time, and the said warrants shall be forwarded as drawn by the auditor of state to the treasurer of the state university of Iowa, and the same shall be by him placed to the credit of the university funds which are set aside for the support of the university hospital, and the treasurer of state shall pay said warrants from the general funds of the state not otherwise appropriated. [36 G. A. (S. F. 16, § 6.)]

SEC. 254-h. Attendant for child—compensation—compensation of physician. The court or judge may, in his discretion, appoint some person to accompany such child from the place where he may be to the hospital of the medical college of the state university at Iowa City, Iowa, or to accompany such child from the said hospital to such place as may be designated by the court, the parent or parents, guardians or person having legal custody of said child, consenting.

Any person appointed by the court or judge to accompany said child to or from the hospital, or to make an investigation and report on any of the questions involved in the complaint other than the physician making the examination, shall receive the sum of three dollars per day for the time actually spent in making such investigation (except in cases where the person appointed by the court is a parent or relative or where the officer appointed therefor receives a fixed salary or compensation, in which cases there shall be no compensation) and his actual necessary expenses incurred in making such investigation or trip. The physician appointed by the court to make the examination and report shall receive the sum of five dollars for each and every examination and report so made, and his actual necessary expenses incurred in making such investigation, in conformity to the requirements of this act. The person making claim to such compensation shall present to the court or judge an itemized sworn state-

ment thereof, and when such claim for compensation has been approved by the court or judge the same shall be filed in the office of the county auditor, and shall be allowed by the board of supervisors and paid out of the funds of the county collected for the relief of the poor. [36 G. A. (S. F. 16, § 7.)]

SEC. 254-i. Returning child—expense—how paid. The university hospital may in the discretion of the superintendent or other person designated by the authorities in control thereof, pay the actual, reasonable necessary expenses of returning the said patient to his home, and pay the attendant not to exceed three dollars per day for the time thus necessarily employed, unless said attendant be a parent or other relative or be an officer or employee receiving other compensation, and his actual, reasonable and necessary expenses incurred in accompanying such patient to his home, and such per diem and expenses shall be itemized and verified, and presented to and allowed by the executive council of the state of Iowa, in connection with the bills for hospital maintenance, as hereinbefore provided. [36 G. A. (S. F. 16, § 8.)]

SEC. 254-j. Faculty to prepare blanks—printing—distribution—report to accompany patient. The medical faculty of the university hospital shall immediately upon taking effect of this act prepare a blank or blanks containing such questions and requiring such information as may in its judgment be necessary and proper to be obtained by the physician who examines the patient under order of court; and such blanks shall be printed by the state printer and a supply thereof shall be sent to the clerk of each superior and district court of the state of Iowa; and the physician making such examination shall make his report to the court in duplicate on said blanks, answering the questions contained therein, and setting forth the information required thereby, and one of said duplicate reports shall be sent to the university hospital with the patient, together with a certified copy of the order of court. The executive council of the state of Iowa shall determine the number of such blanks to be printed and distributed to the clerks of the superior and district courts of the state of Iowa, and shall audit, allow and pay the bills of the state printer therefor, as other bills are allowed and paid for public printing. [36 G. A. (S. F. 16, § 9.)]

SEC. 254-k. Patients in state institutions—authority to send to state university hospital—authority to pay expense. The board of control of the state institutions of Iowa may in its discretion send any inmate of any of said institutions, or any person committed or applying for admission thereto, to the hospital of the medical college of the state university of Iowa for treatment and care as provided in this act without securing an order of court as provided in other cases, and the said patient so sent to the hospital of the medical college of the state university shall be accompanied by a report and history of the case made by the physician in charge of the institution to which said patient has been committed, or to which application has been made for his admission, containing a history of the case and information as required by said blanks, and the hospital expenses of such patient shall be paid as in other cases. State board of education for any such patient from the college for the blind and the board of control for any such patient from any institution under its control may pay the expenses of transporting such patient to and from the hospital out of any funds appropriated for the use of the institution from which such patient is sent, and may, when necessary, send an attendant with such patient, and pay his traveling expenses in like manner. [36 G. A. (S. F. 16, § 10.)]

SEC. 254-1. Treatment authorized—experimentation forbidden. It is expressly provided that no child under the terms of this act shall be treated for any ailment except such as is described by the order of the court, unless permission for such treatment is granted by the parents or guardians; and it is also expressly forbidden that any child shall be used for the purpose of experimentation. [36 G. A. (S. F. 16, § 11.)]

CHAPTER 7.

OF GENERAL PROVISIONS.

SECTION 284. When judge disqualified.

A judge is disqualified under this section from entering an order in a probate matter fixing a fee in which his son has an interest when the amount of the fee is

contingent and dependent on the amount to be fixed by the order. *Cavanagh v. District Court*, 144 N. W. 25.

CHAPTER 8.

OF THE CLERK OF THE DISTRICT COURT.

SECTION 288. Records—books to be kept.

The combination docket authorized by Paragraph 6 of this section does not include the record book required by Paragraph 1 and none of the books authorized other than the record book required by

Paragraph 1 is a record of the proceedings of the court admissible in evidence to show the rendition of a judgment. *Rudolph Hardware Co. v. Price*, 145 N. W. 910.

SEC. 298. Deputies—appointment—compensation—qualification. That section two hundred ninety-eight, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“Each clerk of the district court may, in writing, with the consent of the board of supervisors, appoint one or more deputies not holding a county office, for whose acts he shall be responsible, and from whom he shall require bond, which bond shall be approved by the officer who has the approval of the principal’s bond. Such appointment may be revoked in writing, which appointment and revocation shall be filed and kept in the auditor’s office. The person or persons thus appointed shall qualify by taking the same oath as his principal, endorsed upon the certificate of appointment. The deputy, in the absence or disability of his principal, may perform all the duties of the principal pertaining to his office. He shall receive a salary not exceeding nine hundred dollars a year, to be fixed by the board of supervisors, except that in counties having a population of thirty-five thousand or over, the salary of the first deputy shall be one-half that of the principal, and in case additional deputies or clerks are needed, the board of supervisors may make such allowance therefor as they may deem reasonable. [36 G. A. (H. F. 458, § 1.)] [35 G. A., ch. 35, § 1.] [33 G. A., ch. 16, § 1.] [27 G. A., ch. 12, § 1.] [22 G. A., ch. 36, §§ 1, 2.] [18 G. A., ch. 184, § 1.] [C. ’73, §§ 766-8, 770, 3784.] [R. §§ 642-3, 644-5, 647.] [C. ’51, §§ 411-14, 416.]

SEC. 298-a. Deputies—district court in two places—population over 45,000. In counties in which district court is held in two places

and in counties having a population of forty-five thousand and over first and second deputies shall each receive an amount equal to one half of the amount received by the clerk. [36 G. A. (H. F. 458, § 2.)]

SEC. 300. Other fees to be reported and paid over.

The clerk of the district court has no authority under this section to turn over to the county treasurer the amount collected on a private judgment and not called for by the judgment plaintiff. *Fowler v. Decatur County*, 150 N. W. 1061.

CHAPTER 9.

OF COUNTY ATTORNEYS AND THEIR DUTIES.

SECTION 301. Duties. It shall be the duty of the county attorney:

1. To diligently enforce, or cause to be enforced in his county, all of the laws of the state, actions for a violation of which may be commenced or prosecuted in the name of the state of Iowa, or by him as county attorney, except such laws, the enforcement of which is exclusively enjoined upon others by statute.

2. To appear for the state and county in all cases and proceedings in the courts of his county to which the state or county is a party, except cases brought on change of venue from another county. He shall appear in the supreme court in all cases in which the county is a party, and also in all cases transferred on change of venue to another county, in which his county or the state is a party.

3. To appear and prosecute all preliminary hearings before justices of the peace upon charges triable upon indictment.

4. To appear and prosecute misdemeanors before justices of the peace whenever he is not otherwise engaged in the performance of official duties.

5. To enforce all forfeited bonds and recognizances, and to prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the state or his county, or to any school district or road district in his county; also to prosecute all suits in his county against public service corporations which are brought in the name of the state of Iowa.

6. To commence and prosecute all actions and proceedings brought by any county officer in his official capacity.

7. To give advice or his opinion in writing, without compensation, to the board of supervisors and other county officers when requested so to do by such board or officer, upon all matters in which the state or county is interested, or relating to the duty of the board or officer in which the state or county may have an interest; but he shall not appear before the board of supervisors upon any hearing in which the state or county is not interested, or in applications to establish, vacate or alter highways.

8. To attend the grand jury whenever necessary for the purpose of examining witnesses before it, or of giving it legal advice, or to procure subpoenas or other process for witnesses, to prepare all bills of indictment; but he must not be present when an indictment is considered or found.

9. To give a receipt to all persons from whom he shall receive money in his official capacity, and file a duplicate thereof with the county auditor.

10. To promptly notify the attorney-general of every criminal case appealed from his county to the supreme court, and when the appeal is taken by the state, at least forty days prior to the term at which the cause is to

be heard, prepare and deliver to the attorney-general a typewritten manuscript of the abstract of the case; and when the appeal is taken by the defendant, he shall prepare and deliver to the attorney-general when necessary a typewritten manuscript of the amended abstract of the case in ample time to have the same printed and filed within the time prescribed by the rules of the supreme court; said manuscript of the abstract or amended abstract shall be in the form and manner prescribed by law, and the rules of the supreme court.

11. To make reports relating to the duties and the administration of his office to the governor or the attorney-general whenever called upon by the governor or the attorney-general so to do.

12. To perform such other and further duties as are now or may hereafter be enjoined upon him by law. [36 G. A. (H. F. 233, § 1.)] [33 G. A., ch. 17, §§ 1, 2.] [21 G. A., ch. 73, §§ 2, 3, 7, 8.]

SEC. 305. Prohibitions.

A county attorney is not prohibited from appearing as counsel in the trial of a case in another county, based on the same facts as a criminal case that had been theretofore prosecuted by him in his own county. *Snyder v. Tribune Co.*, 161-671, 143 N. W. 519.

attorney from appearing in a county other than the one in which he acts as prosecuting attorney, as one of the counsel for defendant in a libel suit based upon facts substantially the same as those upon which a prosecution has been commenced or prosecuted by him in his own county. *Ibid.*

This section does not prohibit a county

SEC. 308. Compensation. County attorneys shall be allowed an annual salary, in counties having a population less than fifteen thousand, nine hundred dollars; in counties of fifteen thousand and under twenty-five thousand, ten hundred dollars; in counties of twenty-five thousand and under thirty-five thousand, twelve hundred fifty dollars; in counties of thirty-five thousand and under forty-five thousand, fifteen hundred dollars; in counties of forty-five thousand and under fifty-five thousand, seventeen hundred fifty dollars; in counties of fifty-five thousand and under sixty-five thousand, two thousand dollars; and in all counties of sixty-five thousand and over, twenty-five hundred dollars; provided that in counties having a population exceeding thirty thousand and under thirty-five thousand the board of supervisors may pay not to exceed fifteen hundred dollars annually, and in counties having a population exceeding forty thousand and under forty-five thousand the board of supervisors may pay not to exceed seventeen hundred fifty dollars annually. Said salary shall be paid quarterly out of the general fund of the county, and shall be due at the end of each quarter, namely: March thirty-first, June thirtieth, September thirtieth and December thirty-first. In addition to the salary above provided, he shall receive the fees as now allowed to attorneys for suits upon written instruments where judgment is obtained, for all fines collected where he appears for the state, but not otherwise, and school fund mortgages foreclosed, and his necessary and actual expenses incurred in attending upon his official duties at a place other than his residence and the county seat, which shall be audited and allowed by the board of supervisors of the county. In counties where the district court is held at two places in the county, the board of supervisors shall allow to the county attorney, in addition to the salary above provided, the sum of five hundred dollars per annum. [36 G. A. (H. F. 345, § 1.)] [33 G. A., ch. 18, § 1.] [32 G. A., ch. 10, § 1.] [31 G. A., ch. 11.] [29 G. A., ch. 18, § 2.] [21 G. A., ch. 73, § 11.]

CHAPTER 10.

OF ATTORNEYS AND COUNSELORS.

SECTION 321. Attorney's lien—notice.

An attorney has a lien upon any money due his client in the hands of the adverse party and growing out of the action from the time of giving notice to the adverse party. The adverse party cannot defeat

this lien by satisfying the money demand through a conveyance of real property to the client of the attorney instead of paying the client in money. *Beckwith v. Corn Belt Land & Loan Co.*, 151 N. W. 433.

SEC. 324. Grounds for revocation.

Par. 3. An attorney who, from motives of revenge and without investigation, procures persons to institute proceedings entirely devoid of merit against members of the local bar who had served on a com-

mittee appointed by the court in proceedings formerly instituted against him, violates his duty as a lawyer and his license is properly revoked. *In re Condon*, 147 N. W. 769.

CHAPTER 11.

OF JURORS.

SECTION 335. Lists to be made biennially.

The provisions of this section are directory and a substantial compliance therewith is sufficient. It is not intended to protect the rights of accused persons but primarily to distribute the burden of serving on a jury equitably among the inhabitants

of the county. So where the statute was not strictly complied with but an accused had a trial before a jury the members of which were legally qualified, he could not complain. *State v. Wilson*, 144 N. W. 47.

CHAPTER 12.

OF SECURITIES AND INVESTMENTS.

SECTION 360. When guaranty company may be accepted as surety—premium—not applicable to criminal cases. Whenever any person who now or hereafter may be required or permitted to give a bond applies for the approval thereof, any officer or body who is now or shall hereafter be required to approve the sufficiency of such bond shall accept and approve the same, whenever its conditions are guaranteed by a company or corporation duly organized or incorporated under the laws of this state, or authorized to do business therein, and to guarantee the fidelity of persons holding positions of public or private trust, or secure any bond above referred to, and which company shall have the certificate of the commissioner of insurance authorizing it to do business therein, as provided in chapter four of title nine of this code, and the premium for any such guaranty or surety company bond as defined in this section, may, by the approval of the court, be paid out of the trust funds in the hands of the party of whom the bond is required. The certificate of the commissioner of insurance, to the effect that such company has complied with the requirements of said chapter and title and is authorized to do business in this state, shall be sufficient evidence to authorize the officer or body having the approval of such bond to accept and approve the same, but no such security shall be accepted on any bond for an amount in excess of

ten per cent. of the paid up cash capital of such company or corporation unless the excess shall be re-insured in some other company or corporation authorized to do business in the state and in no case to exceed ten per cent. of the capital of the reinsuring company and provided that a certificate of such reinsurance shall be furnished to the insured, but nothing herein contained shall apply to bonds in criminal cases. [36 G. A. (H. F. 219, § 1.)] [34 G. A., ch. 18, § 1.] [33 G. A., ch. 25, § 1.] [21 G. A., ch. 157, §§ 1, 5.]

TITLE IV.

OF COUNTY AND TOWNSHIP GOVERNMENT.

CHAPTER 1.

OF COUNTIES.

SECTION 409-t. Care of charity patients in advanced stages of tuberculosis—expenditure limited—repealed. [36 G. A. (H. F. 352, § 4.)]

NOTE: See Sec. 409-t1. REPORTER.

SEC. 409-t1. Repeal. Section four hundred nine-t, supplement to the code, 1913, is hereby repealed. [36 G. A. (H. F. 352, § 4.)]

SEC. 409-t2. Board of supervisors to provide care for indigent tubercular persons. That the board of supervisors of each county in this state shall provide for suitable care and treatment of persons suffering from tuberculosis and who are financially unable to provide for themselves and who have no relatives liable for their support. [36 G. A. (H. F. 352, § 1.)] [35 G. A., ch. 40, § 1.]

SEC. 409-t3. Same. That in compliance with the foregoing, boards of supervisors may construct or otherwise secure, equip and operate such suitable buildings for the proper segregation and maintenance of said designated persons, or the board of supervisors shall place such persons found to be indigent and suffering from tuberculosis in institutions where suitable care and treatment may be given. Provided, that the care and treatment of all persons found to be indigent and suffering from tuberculosis shall be approved by the state board of control. [36 G. A. (H. F. 352, § 2.)]

SEC. 409-t4. Allowance for support—appropriation for buildings—election authorizing greater expenditure. The board of supervisors shall allow for the care and support of each patient when in such designated institution, a sum not exceeding fifteen dollars per week from the poor fund, provided that in counties of sixty-seven thousand or over, population, a sum not to exceed fifteen thousand dollars, in counties of fifteen thousand or over population, and less than sixty-seven thousand, a sum not to exceed five thousand dollars, and in counties of less than fifteen thousand population, a sum not to exceed two thousand dollars may be appropriated out of county funds for constructing, acquiring and equipping buildings without submitting the same to a vote of the qualified electors. The board of supervisors may submit the question of expending a greater amount than above specified by a vote of the qualified electors of the county at any general election and may for such purposes expend the amount authorized by said vote. [36 G. A. (H. F. 352, § 3.)]

CHAPTER 2.

OF THE BOARD OF SUPERVISORS.

SECTION 410. How constituted—number—how determined. The board of supervisors in each county shall consist of three persons, except where the number may heretofore have been or hereafter be increased in the manner provided by this chapter. They shall be qualified electors, and be elected by the qualified voters of their respective counties, and shall hold their office for three years. The board of supervisors of any county may, and, when petitioned to do so by one fourth of the electors of said county, shall submit to the qualified voters of the county, at any regular election, one of the following propositions, as such board may elect in the absence of a petition, or as may be requested in said petition: "Shall the proposition to increase the number of supervisors to five be adopted?" or, "Shall the proposition to increase the number of supervisors to seven be adopted?" as the board shall elect in submitting the question. If the majority of the votes cast shall be for the proposition so submitted, then at the next ensuing election for a supervisor, the requisite additional supervisors shall be elected, whose terms of office shall be determined by lot, in such a manner that one half of the additional members shall hold their office for three years, and one half for two years. In any county where the number of supervisors has been increased to five or seven, the board of supervisors, on the petition of one fourth of the legal voters of the county, shall submit to the qualified voters of the county, at any regular election, one of the following propositions, as the same may be requested in such petition: "Shall the proposition to reduce the number of supervisors to five be adopted?" or, "Shall the proposition to reduce the number of supervisors to three be adopted?" If a majority of the votes cast shall be for the decrease, then the board of supervisors shall be reduced to the number indicated by such vote, and thereafter there shall be biennially elected the number requisite to keep the board full.

In any county where at the general election in nineteen hundred fourteen, and in any county where at a general election hereafter held a proposition has been or is submitted to the voters of the county to reduce the number of members of the board of supervisors and such proposition carries, the board shall consist of the same number of members as at the time the proposition to reduce was submitted until the second secular day in January following the next general election, at which time the terms of all members of the board shall expire. At the next general election following the one at which the proposition to reduce the number of members of the board was carried there shall be elected the number of members required by such proposition, and where such proposition reduces the board to five members, two persons shall be elected as members of the board for two years, and three persons shall be elected as members of the board for three years; and in counties where the proposition reduces the board to three members, one person shall be elected as member of the board for two years, and two persons shall be elected as members of the board for three years. [36 G. A. (S. F. 448, § 1.) [31 G. A., ch. 12, § 1.] [C., '73, §§ 294, 299.]

SEC. 411. Election—term of office. At the general election in the year nineteen hundred and six there shall be elected for a term of two years, members of the county board of supervisors to succeed those whose terms were extended one year by the biennial election amendment. At the general election in the year nineteen hundred and six, and biennially

thereafter, there shall be elected members of the board of supervisors for a term of three years to succeed those whose terms of office will expire on the second secular day in January following said election; there shall also be elected members for a term of three years to succeed those whose terms will expire on the second secular day in January one year later than the aforesaid date. It shall be specified on the ballot when each shall begin his term of office. No member shall be elected who is a resident of the same township with either of the members holding over (but a member-elect may be a resident of the same township as the member he is elected to succeed), except that, in counties having five or seven supervisors, and having therein a township embracing an entire city of thirty-five thousand inhabitants or over, he may be a resident of the same township; and in no case shall there be more than two supervisors from such township. [36 G. A. (S. F. 302, § 1.)] [31 G. A., ch. 12, § 2.] [C., '73, § 295.]

SEC. 422. Powers specified. The board of supervisors at any regular meeting shall have the following powers, to wit:

1. To appoint one of its number chairman in the absence of the regular chairman, and a clerk, in the absence of the auditor or his deputy;

2. To adjourn from time to time, as occasion shall require;

3. To make such orders concerning the corporate property of the county as it may deem expedient;

4. To examine and settle all accounts of the receipts and expenditures of the county, and to examine, settle and allow all claims against the county, unless otherwise provided for by law;

5. To build and keep in repair the necessary buildings for the use of the county and of the courts; provided that no such building shall be erected or repaired when the probable cost thereof shall exceed two thousand dollars, except under an express written contract and upon proposals therefor, invited by advertisement for four weeks in all the official papers of the county in which the work is to be done. The contracts shall be let to the lowest responsible bidder at a time and place which shall be distinctly stated in said advertisement. The board may on the day fixed for letting said contract adjourn the hearing to some later date and place, of which all parties shall take notice. The board may reject any and all bids and advertise for new ones. Bonds for the faithful performance of the contract shall be required, and every bond so given shall be construed as giving the county the right to withhold any payment provided for in the contract until all claims for which the county might be made liable under section three thousand one hundred two of the code, are receipted for or released, whether such right is inserted into the contract or not. The detailed plans and specifications for the erection or repair of such building shall be on file and open to public inspection in the office of the auditor of the county in which the work is to be done before advertisement for bids.

6. To cause the county buildings to be insured in the name of the county, or otherwise, for its benefit, and in case there are no county buildings, to provide suitable rooms for county purposes;

7. To set off, organize and change the boundaries of townships in the respective counties, designate and give names thereto, and define the place of holding the first election;

8. To grant licenses for keeping ferries in the respective counties, as provided by law;

9. To purchase, for the use of the county, any real estate necessary for the erection of buildings for county purposes; to remove the site of, or designate a new site for, any county buildings required to be at the county seat, when such site shall not be beyond the limits of the town, village or city at which the county seat is, at the time of such proposed change, located, and in case of such removal or change of site for county building to sell any interest the county may have in the real estate and the improvements thereon, which were theretofore used and occupied for that purpose, and to permit any person, persons, or corporation to use any portion of the lands owned by the county for ornamental or art purposes, or for the erection of any monument or fountain under such restrictions and regulations as the board of supervisors may from time to time enact, provided that such use does not interfere with the use for which such real estate was originally acquired by the county;

[See explanatory note for Par. 9 at end of this section. REPORTER.]

10. To require any county officer to make a report, under oath, to it on any subject connected with the duties of his office, and to require any such officer to give such bonds, or additional bonds, as shall be reasonable or necessary for the faithful performance of his duty; any such officer who shall neglect or refuse to make such report or give such bonds within twenty days after being so required, may be removed from office by the board by a vote of a majority of the members elected thereto;

11. To represent the respective counties, and to have the care and management of the property and business thereof, in all cases where no other provision shall be made;

12. To manage and control the school fund of the respective counties as shall be provided by law;

13. To appoint commissioners to act with similar commissioners duly appointed in any other county or counties, and to authorize them to lay out, alter or discontinue any highway extending through their own and one or more other counties, subject to the ratification of the board;

14. To fix the compensation of all services of county and township officers not otherwise provided for by law, and to provide for the payment of the same;

15. To authorize the taking of a vote of the people for the relocation of the county seat, as provided by law;

16. To alter, vacate or discontinue any state or territorial highway within their respective counties;

17. To lay out, establish, alter or discontinue any county highway heretofore laid out, or hereafter to be laid through or within the county, as may be provided by law;

18. To provide for the erection of all bridges which may be necessary, and which the public convenience may require, within their respective counties, and to keep the same in repair, except as is otherwise provided by law;

19. To determine what bounties, in addition to those already provided by law, if any, shall be offered and paid by the county on the scalps of such wild animals taken and killed within the county as it may deem it expedient to exterminate, but no such bounty shall exceed five dollars;

20. To purchase for the use of the county any real estate necessary for the erection of buildings for the support of the poor of the county, and for a farm to be used in connection therewith, and make appropriations not

exceeding three hundred dollars in any one year for the growing of experimental crops thereon under the direction of the board;

21. To have and exercise all the powers in relation to the poor given by law to the county authorities;

22. To make such rules and regulations, not inconsistent with law, as it may deem necessary for its own government, the transaction of business, and the preservation of order;

23. To purchase real estate for county fairs, the title of such real estate to be in the name of the county;

24. To employ a competent person who shall perform all of the duties now belonging to the office of county surveyor, and who may be employed by them for the purpose of making general specifications for the grading, repairing and building of roads, bridges and culverts, and to perform such other duties as the board of supervisors may determine;

25. To contract with any free public library in the county for the free use of the books thereof by the residents of the county outside of the cities and towns therein, as provided in section one of this act, which contract when made shall supersede all contracts made by townships or school corporations, and to levy annually on the taxable property of the county outside of cities and towns a tax of not more than one mill on the dollar to be used exclusively for that purpose. [36 G. A. (H. F. 161, § 1.)] [36 G. A. (S. F. 488, § 1.)] [35 G. A., ch. 70, § 4.] [34 G. A., ch. 24, § 2.] [34 G. A., ch. 23, § 1.] [32 G. A., ch. 17, § 1.] [32 G. A., ch. 15.] [31 G. A., ch. 14, § 2.] [31 G. A., ch. 13.] [18 G. A., ch. 46.] [16 G. A., ch. 80.] [C. '73, § 303.] [R. § 312.]

NOTE: Par. 9 of Sec. 422 was amended by S. F. 488, 36 G. A. Said act consisted of one section, as follows:

"Section 1. That paragraph nine of section four hundred twenty-two, supplement to the code, 1913, be and the same is hereby amended by inserting after the comma following the word 'located' and before the word 'and' in the sixth line of said paragraph nine, the following words:

'and in case of such removal or change of site for county building to sell any interest the county may have in the real estate and the improvements thereon, which were theretofore used and occupied for that purpose,'

Nothing in this act shall affect any pending litigation." REPORTER.

Par. 18. Prior to the enactment of chapters 122 and 123, 35 G. A. [§§ 1527-s-1527-s21, 1532, Sup. 1913] the board of supervisors had discretion as to the rebuilding of a bridge which had been washed out, and action would not lie to compel them to rebuild. *McCarl v. Clarke Co.*, 148 N. W. 1015.

SEC. 423. Expenditures for improvements—when vote necessary. The board of supervisors shall not order the erection of a court house or jail when the probable cost will exceed ten thousand dollars or a county home or other building, or bridge, except as provided in section four hundred twenty-four of the code, when the probable cost will exceed five thousand dollars, nor the purchase of real estate for county purposes exceeding two thousand dollars in value, until a proposition therefor shall have been first submitted to the legal voters of the county, and voted for by a majority of all persons voting for and against such proposition at a general or special election, notice of the same being given for thirty days previously, in a newspaper, if one be published in the county, and, if none be published therein, then by written notice posted in a public place in each township in the county. [36 G. A. (H. F. 381, § 1.)] [33 G. A., ch. 29, § 1.] [29 G. A., ch. 21, § 1.] [18 G. A., ch. 46.] [16 G. A., ch. 80.] [C. '73, § 303.] [R. § 312.]

The purchase of land at a cost of \$5,000 for a county home for the purpose of erecting suitable buildings thereon for the purposes of a county home, the existing buildings thereon being unsuitable for that purpose, without submitting the question

of the purchase to a vote of the electors, is *ultra vires* and void, and any payment or authorization of payment in furtherance of such purchase is also *ultra vires*. *Harrison County v. Ogden*, 145 N. W. 681.

SEC. 430. Dependent soldiers' and sailors' tax—erection of monuments. That the law as it appears in section four hundred thirty, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

A tax not exceeding one mill upon the dollar may be levied by the board of supervisors upon all taxable property within the county, to be collected at the same time and in the same manner as other taxes, to create a fund for the relief of, and to pay the funeral expenses of honorably discharged, indigent United States soldiers, sailors and marines, and their indigent wives, widows and minor children, not over fourteen years of age if boys, nor over sixteen if girls, having a legal residence in the county, or for the erection or maintenance of monuments or memorial halls in any cemetery or public place in the county, or across the line in an adjoining county where such cemetery is used chiefly by the inhabitants of the county voting the tax, except that where it is contemplated to erect any such monument or memorial hall within the corporate limits of any city or town, public park or public square, the consent of the city or town council, or park commissioners, as the case may be, having jurisdiction thereof, shall first be obtained; said fund to be expended for the purposes aforesaid by the joint action and control of the board of supervisors and the relief commission provided for by section four hundred thirty-one of the code. [36 G. A. (S. F. 533, § 1.)] [35 G. A., ch. 41, § 1.] [34 G. A., ch. 25, § 1.] [33 G. A., ch. 30, § 1.] [30 G. A., ch. 17, § 1.] [24 G. A., ch. 69, § 1.] [22 G. A., ch. 105, § 1.]

SEC. 434-a. Markers for graves—how paid for. That the soldiers' relief commission in any county shall, upon the petition of any five reputable freeholders of any township or municipality in their county, procure for and furnish to said petitioners some suitable and appropriate metal marker, at a cost not exceeding one dollar each, for the grave of each soldier, sailor or marine who served with honor in the forces of the United States, and is buried within the limits of said township or municipality, to be placed on the grave of such soldier for the purpose of permanently marking and designating said grave for memorial purposes; and the expenses thereof shall be paid out of any funds raised by taxes levied under the provisions of section four hundred thirty of the code and amendments thereto. [36 G. A. (S. F. 460, § 1.)]

SEC. 441. Official newspapers—how selected—what published in—printed in foreign languages—compensation—fraudulent lists. The board of supervisors of each county shall, at its January session in each year, select two newspapers published within the county, or one, if there be but one published therein, having the largest number of bona fide yearly subscribers within the county, which circulation shall be determined as follows: In case of contest, the applicants shall each deposit with the county auditor, on or before a day named by the board of supervisors, a certified statement, subscribed and sworn to before some competent officer, giving the names of the several post offices, and the number and the names of the bona fide yearly subscribers receiving their papers through each of said offices living within the county; such statements to be in sealed envelopes, and opened by the county auditor upon direction

of the board of supervisors; and the two applicants thus showing the greatest number of bona fide yearly subscribers living within the county shall be the county official papers, in which all the proceedings of the county board of supervisors, the schedule of bills allowed, and the reports of the county treasurer, including a schedule of the receipts and expenditures, shall be published at the expense of the county during the ensuing year, and the costs of such publication shall be thirty-three and one-third cents for each ten lines of brevier type, or its equivalent; but in counties having a population of fifteen thousand or more, three papers, not more than two of which shall be published in the same town, shall be selected, in which such proceedings shall be published, with the same limitation as to compensation; and in counties where the district court is held in two places each district shall be regarded as a county for the purposes of such publication. The county auditor shall furnish all such papers selected a copy of such proceedings for that purpose. In case a contest is made by a publisher, the board shall receive other evidence of circulation, and if it appears that any certified statement filed is fraudulent, or contains the name of any person who is not a bona fide yearly subscriber residing within the county, which was knowingly and wilfully placed therein to make it appear to contain the names of a greater number of such subscribers than it in fact contains, the same shall not be considered, and any applicant or paper so filing such fraudulent or untrue statement shall not be made a county official paper. Should all certified statements be rejected under the provisions of this act the board shall fix a new date for the selection of official papers and nothing herein shall be construed to prevent the persons or papers rejected under the provisions of this act from filing new certified statements and he shall have the right of appeal to the district court, to be taken as in ordinary actions. Neither publisher to the contest shall receive pay for publishing such proceedings until the case is finally disposed of. And in counties where a newspaper of general circulation is printed in a foreign language, the board may, in addition to those already provided for in this section, select one of such newspapers as one in which the proceedings of the board of supervisors may be published, in a foreign language, and said newspaper shall receive the same compensation therefor as is paid the official papers of said county for such publication, not exceeding thirty-three and one-third cents per square. Provided that said paper shall have at least six hundred actual bona fide yearly subscribers residing within said county, and shall file a list thereof as provided by law. If, in any county, the publishers of two or more newspapers, at least one of which, because of its circulation and location, is entitled to be selected as a county official paper, join in presenting a signed request for such action, the board of supervisors shall designate each of them a county official paper; but the combined compensation of all the papers so requesting, added to that of the other official paper or papers, if any, shall not exceed the combined compensation allowed by law to two official papers in counties having a population below fifteen thousand, or to three official papers in counties having a population of fifteen thousand or more. [36 G. A. (H. F. 267, § 1.)] [36 G. A. (H. F. 239, § 1.)] [34 G. A., ch. 27, § 1.] [31 G. A., ch. 15.] [30 G. A., ch. 18.] [29 G. A., ch. 22, § 1.] [21 G. A., ch. 86, § 2.] [20 G. A., ch. 197, § 2.] [C. '73, § 307.]

SEC. 448. Rate of such tax. The rate of tax shall in no case be more than one per cent. on the county valuation in one year. When the object is to borrow money for the erection of public buildings, as above provided, the rate shall be such as to pay the debt in a period not exceeding ten

years; but in counties having a population of twenty-five thousand or over, or in any county where one hundred thousand dollars or more, has been, or is proposed to be expended the rate of levy shall be such as to pay the debt in not exceeding twenty-five years. In issuing bonds for such indebtedness, when voted, the board of supervisors may cause portions of said bonds to become due at different definite periods. But none of such bonds so issued shall be due and payable in less than five or more than twenty-five years from date. When the object is to construct, or to aid in constructing, any highway or bridge, the annual rate shall not be less than one mill on the dollar of the assessed valuation; and any of the above taxes becoming delinquent shall draw the same interest as the ordinary taxes. [36 G. A. (S. F. 483, § 1.)] [32 G. A., ch. 19.] [23 G. A., ch. 32.] [C. '73, § 312.] [R. § 253.] [C. '51, § 117.]

CHAPTER 3.

OF THE COUNTY AUDITOR.

SECTION 479. Compensation. That section four hundred seventy-nine, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Each county auditor shall receive for his services the following compensation: In counties having a population of less than ten thousand, fourteen hundred dollars.

In counties having a population of ten thousand and less than fifteen thousand, fifteen hundred dollars; in counties having a population of fifteen thousand and less than twenty thousand, sixteen hundred dollars; in counties having a population of twenty thousand and less than twenty-five thousand, seventeen hundred dollars; in counties having a population of twenty-five thousand and less than thirty thousand, eighteen hundred dollars; in counties having a population of thirty thousand and less than thirty-five thousand, nineteen hundred dollars; in counties having a population of thirty-five thousand and less than forty thousand, twenty-one hundred dollars; in counties having a population of forty thousand and less than fifty thousand, twenty-five hundred dollars; in counties having a population of fifty thousand and less than sixty thousand, twenty-seven hundred fifty dollars; in counties having a population of sixty thousand and less than seventy thousand, three thousand dollars; and in all counties having a population of seventy thousand or over, thirty-three hundred dollars.

Provided, however, that in counties having a population of over twenty-five thousand having a special charter city where the county auditor prepares and makes up the city tax books for such special charter city, the county auditor shall receive three hundred dollars in addition to the compensation as fixed by the above schedule in this act. And in counties having two places at which the district court is held, in addition to the amount, according to population, five hundred dollars. [36 G. A. (S. F. 340, § 1.)] [35 G. A., ch. 43, § 1.] [30 G. A., ch. 19.] [18 G. A., ch. 184, § 3.] [C., '73, § 3798.]

SEC. 479-a. Salary in lieu of fees—fees to be reported. The auditor shall accept the salary herein provided in full compensation for all services performed by him under color of his office. All fees of every kind and nature which he receives for services performed in his official

capacity or on matters pertaining to the records in his office, shall belong to the county, and shall be paid into the county treasury quarterly. [36 G. A. (S. F. 340, § 2.)]

SEC. 481. Deputy—qualifications—compensation—other assistants. Each county auditor may, in writing, with the consent of the board of supervisors, appoint one or more deputies not holding a county office, for whose acts he shall be responsible, and from whom he shall require bond, which bond shall be approved by the officer who has the approval of the principal's bond, and such appointment may be revoked in writing; which appointment and revocation shall be filed and kept in the auditor's office. The person thus appointed shall qualify by taking the same oath as his principal, indorsed upon the certificate of appointment. The deputy, in the absence or disability of his principal, may perform all the duties of the principal pertaining to his office, and each deputy shall receive a salary not exceeding nine hundred dollars a year, to be fixed by the board of supervisors. In case no deputy shall be appointed, but on account of the pressure of business in his office the auditor is compelled temporarily to employ an assistant, he shall file the bill for such service at their next regular meeting, and the board of supervisors shall make a reasonable allowance therefor. Provided that in counties having a population of twenty-five thousand or over, the salary of the first deputy and in counties in which the district court is held in two places the salaries of the first and second deputies shall be one-half that of his principal, and in case additional deputies or clerks are needed, the board of supervisors may make such allowance therefor as they may deem reasonable. [36 G. A. (S. F. 342, § 1.)] [18 G. A., ch. 184, § 3.] [16 G. A., ch. 4.] [C. '73, §§ 766-8, 770-1, 3798.] [R., §§ 421, 643-5, 647-8.] [C. '51, §§ 411, 414, 416, 417.]

CHAPTER 4.

OF THE COUNTY TREASURER.

SECTION 482. Duties in general.

The county treasurer has no authority to receive from the clerk of the district court and to render the county liable therefor, unclaimed money received by the clerk on a private judgment, and uncalled for by the judgment plaintiff. *Fowler v. Decatur County*, 150 N. W. 1061.

The county treasurer is a disbursing officer of the board of supervisors whose functions are ministerial in paying out

money on warrants drawn by the county auditor, whose duties are also ministerial, and the authority of the treasurer to pay out money on such warrants, which are not the creation of a new debt but evidence of an existing indebtedness, ceases when the board of supervisors rescind the order on which the warrants were issued and he has notice of the order. *Harrison County v. Ogden*, 145 N. W. 681.

SEC. 490. Compensation. That section four hundred ninety, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Each county treasurer shall receive for his services the following compensation:

In counties having a population of less than ten thousand, fourteen hundred dollars. In counties having a population of ten thousand and less than fifteen thousand, fifteen hundred dollars; in counties having a population of fifteen thousand and less than twenty thousand, sixteen hundred dollars; in counties having a population of twenty thousand and less than twenty-five thousand, seventeen hundred dollars; in counties having a pop-

ulation of twenty-five thousand, and less than thirty thousand, eighteen hundred dollars; in counties having a population of thirty thousand and less than thirty-five thousand, nineteen hundred dollars; in counties having a population of thirty-five thousand and less than forty thousand, twenty-one hundred dollars; in counties having a population of forty thousand and less than fifty thousand, twenty-five hundred dollars; in counties having a population of fifty thousand and less than sixty thousand, twenty-seven hundred and fifty dollars; in counties having a population of sixty thousand and less than seventy thousand, three thousand dollars; and in all counties having a population of seventy thousand and over, thirty-three hundred dollars. Provided, however, that in counties having a population of over twenty-five thousand having a special charter city where the taxes are collected by the county treasurer, three hundred dollars in addition to the compensation as fixed by the above schedule in this act; and in counties where the district court is held at two different places the county treasurer shall receive five hundred dollars in addition to the compensation as fixed by the above schedule in this act. [36 G. A. (S. F. 341, § 1.)] [35 G. A., ch. 44, § 1.] [27 G. A., ch. 16, § 1.] [18 G. A., ch. 184, § 2.] [17 G. A., ch. 122, § 3.] [C. '73, § 3793.] [R. § 777.]

SEC. 490-a. Compensation in full—fees accounted for—additional compensation. The treasurer shall accept the salary herein provided in full compensation for all services performed under color of his office. All fees of every kind and nature which he receives for services performed in his official capacity or on matters pertaining to the records in his office, shall belong to the county and shall be paid into the county treasury quarterly; provided, that boards of supervisors in counties having a population of forty thousand or over, in which there are cities of the first class, including cities acting under special charter and commission form of government, may allow additional compensation to county treasurers not to exceed fifty dollars per annum for each five thousand population of said cities. [36 G. A. (S. F. 341, § 2.)].

SEC. 491. Deputies—qualification—compensation—other assistants. That section four hundred ninety-one of the code be and the same is hereby repealed and the following enacted in lieu thereof:

Each county treasurer may, in writing, with the consent of the board of supervisors, appoint one or more deputies not holding a county office, for whose acts he shall be responsible, and from whom he shall require bond, which bond shall be approved by the officer who has the approval of the principal's bond. Such appointment may be revoked in writing; which appointment and revocation shall be filed and kept in the auditor's office. The person or persons thus appointed shall qualify by taking the same oath as his principal, indorsed upon the certificate of appointment. The deputy, in the absence or disability of his principal, may perform all the duties of the principal pertaining to his office. He shall receive a salary not exceeding nine hundred dollars a year, to be fixed by the board of supervisors, except that in counties having a population of twenty-five thousand or over, the salary of the first deputy and in counties in which the district court is held in two places the salaries of the first and second deputies shall be one-half that of the principal, and in case additional deputies or clerks are needed, the board of supervisors may make such allowance therefor as they may deem reasonable, not exceeding the salary of the first deputy. [36 G. A. (S. F. 344, § 1.)] [35 G. A., ch. 45, § 1.] [35 G. A., ch. 44, § 2.] [18 G. A., ch. 184, § 2.] [17 G. A., ch. 122, § 3.] [16 G. A., ch. 4.] [C. '73, §§ 766-8, 770-1, 3793.] [R. §§ 421, 642, 643-5, 647-8,] [G. '51, §§ 411, 416, 417.]

CHAPTER 5.

OF THE COUNTY RECORDER.

SECTION 495. Fees to be reported and paid to county—compensation. That section four hundred ninety-five of the supplement to the code, 1907, be and the same is hereby repealed and the following enacted in lieu thereof:

The recorder shall report quarterly, under oath, to the board of supervisors, on blanks furnished by the auditor, all fees collected by him, and certify under oath that he has collected all fees for recording instruments provided by law; shall make annual settlement with the board of supervisors on the first Monday in January of each year, and pay into the county treasury all fees received by him. And the recorder shall receive as full compensation for all services the sum of twelve hundred dollars per annum in counties having a population of less than fifteen thousand, and fourteen hundred dollars in counties having a population of more than fifteen thousand and less than twenty-five thousand, and fifteen hundred dollars in counties having a population of over twenty-five thousand and less than thirty-five thousand, and sixteen hundred dollars in counties having a population of over thirty-five thousand and less than fifty thousand, and eighteen hundred dollars in counties having a population of over fifty thousand and less than sixty thousand, and two thousand dollars in counties having a population of sixty thousand and less than seventy thousand and three thousand dollars in counties having a population of ninety thousand or over, and in counties having a population of sixty-five thousand and less than ninety thousand the salary of the county recorder shall be twenty-five hundred dollars per year. [36 G. A. (H. F. 403, § 1.)] [35 G. A., ch. 46, § 1.] [32 G. A., ch. 22.] [30 G. A., ch. 21, § 1.] [25 G. A., ch. 76, § 1.]

CHAPTER 6.

OF THE SHERIFF.

SECTION 510-a. Compensation. That section five hundred ten-a, supplement to the code, 1913, is hereby repealed and the following enacted in lieu thereof:

"The county sheriff shall receive an annual salary as follows:

In counties having a population of fifteen thousand or under, the sum of fourteen hundred dollars.

In counties having a population of fifteen thousand and under twenty thousand, the sum of fifteen hundred dollars.

In counties having a population of twenty thousand and under twenty-five thousand, the sum of sixteen hundred dollars.

In counties having a population of twenty-five thousand and under thirty thousand, the sum of seventeen hundred dollars.

In counties having a population of thirty thousand and under thirty-five thousand, the sum of eighteen hundred dollars.

In counties having a population of thirty-five thousand and under forty thousand, the sum of nineteen hundred dollars.

In counties having a population of forty thousand and under fifty thousand, the sum of two thousand dollars.

In counties having a population of fifty thousand and under sixty thousand, the sum of twenty-two hundred dollars.

In counties having a population of sixty thousand and under seventy thousand, the sum of twenty-four hundred dollars.

In counties having a population of seventy thousand or over, the sum of twenty-six hundred dollars.

All fees collected, except mileage, shall be paid to the clerk of the district court for the use of the county and all fees earned, except mileage, and uncollected at the end of each year, shall belong to the county and when paid shall be reported to the board of supervisors by the clerk of the district court and paid into the county treasury." [36 G. A. (H. F. 270, § 1.)] [33 G. A., ch. 35, § 1.] [29 G. A., ch. 27, §§ 1, 2.]

SEC. 510-b. Deputies—qualification—compensation. That section five hundred ten-b, supplement to the code, 1913, is hereby repealed and the following enacted in lieu thereof:

"In all counties the sheriff shall in writing appoint one or more persons, not holding a county office, as deputy or deputies, for whose acts he shall be responsible and from whom he shall require a bond, which appointment and bond shall be approved by the officer having the approval of the principal's bond; and such appointment may be revoked in writing, which appointment and revocation shall be filed and kept in the auditor's office. In all cases the board of supervisors shall fix the number of deputies and shall fix the salary of such deputies, in counties in which district court is held in two places, the first and the second deputies shall receive one half the salary received by the sheriff. All deputies shall be paid by the county." [36 G. A. (H. F. 270, § 2.)] [29 G. A., ch. 27, § 2.] [25 G. A., ch. 75, § 3.] [18 G. A., ch. 184, § 2.] [17 G. A., ch. 122, § 3.] [16 G. A., ch. 4.] [C. '73, §§ 766-771.] [R. §§ 421, 642-3, 646-8.] [C. '51, §§ 411-413, 415-417.]

SEC. 510-c. Compensation in certain counties. In counties in which district court is held in two places, in addition to the amount according to population, three hundred dollars. [36 G. A. (H. F. 270, § 3.)]

SEC. 511. Fees to be collected.

Fees for summoning grand or trial juries under Par. 6 of this section are "receipts of the office" within the meaning of section 510-a, supplement to the code, 1913,

and constitute a payment on salary to that extent. *McCord v. Page Co.*, 151 N. W. 1062.

CHAPTER 10.

OF TOWNSHIPS AND TOWNSHIP OFFICERS.

SECTION 578. Post notice of receipts and expenditures. Each township clerk, on the morning of the day of the general election and before the hour for opening the polls, shall post up, at the place where such election is to be held in his township, a statement in writing, showing all receipts of money and disbursements in his office for the preceding two years, which shall be certified as correct by the trustees of the township. [36 G. A. (H. F. 446, § 1.)] [16 G. A., ch. 50.]

SEC. 586. Tax to pay for—adjoining townships. They shall, at the regular meeting in April, levy a tax sufficient to pay for any such lands so condemned or purchased, or for the necessary improvement and maintenance of cemeteries thus established, and for the necessary improvement and maintenance of public parks acquired by gift, devise or bequest under

section five hundred eighty-five, supplement to the code, 1913, or for the maintenance and improvement of cemeteries so established in adjoining townships in case they deem such action advisable. They shall have power to control any such cemeteries, or appoint trustees for the same, or sell them to any private corporation for cemetery purposes. They shall also have power to levy a tax not to exceed one mill to improve and maintain any cemetery not owned by the township, provided the same is devoted to general public use. The levy herein authorized may be extended to property within the limits of any city or town so far as same is situated within the township, unless such city or town is already maintaining a cemetery, or has levied a tax in support thereof. And the said tax may be so expended for the support and maintenance of any such cemetery after the same has been abandoned and is no longer used for the purpose of interring the dead. [36 G. A. (H. F. 79, § 1.)] [35 G. A., ch. 50, § 1.] [33 G. A., ch. 38, § 1.] [30 G. A., ch. 23.] [29 G. A., ch. 28, § 1.] [16 G. A., ch. 130, § 4.]

SEC. 587. Regulations for cemeteries—record. The trustees, board of directors, or other officers having the custody and control of any cemetery in this state, shall have power, subject to the by-laws and regulations of said cemetery, to inclose, improve and adorn the grounds of such cemetery; to construct avenues in the same; to erect proper buildings for the use of said cemetery; to prescribe rules for the improving or adorning the lots therein, or for the erection of monuments or other memorials of the dead upon such lots; and to prohibit any use, division, improvement or adornment of a lot which they may deem improper. It shall be the duty of the record-keeping officer of each cemetery to make and keep a permanent record of all interments made in such cemetery, which record shall at all times be open to public inspection. [36 G. A. (S. F. 151, § 1.)] [17 G. A., ch. 106, § 1.]

SEC. 587-a. Record—of what it shall consist. This record shall consist of a copy of the certificate of death as provided by the state board of health, and a record of the exact location of grave on cemetery lot. [36 G. A. (S. F. 151, § 2.)]

SEC. 587-b. Duty of physician and undertaker. It shall be the duty of the attendant physician to furnish, and of the undertaker to procure from him, a certificate of death before proceeding with the burial; and it shall be the duty of the undertaker to present to the sexton or other person in charge of the cemetery, at or before the time of interment, a copy of such death certificate. [36 G. A. (S. F. 151, § 3.)]

TITLE V.

OF CITY AND TOWN GOVERNMENT.

CHAPTER 1.

OF INCORPORATION.

SECTION 616. **Taxation of lands.**

Evidence reviewed and held to authorize the cancellation of certain city levies under this section. *La Grange v. Skiff*, 152 N. W. 486.

CHAPTER 2.

OF ORGANIZATION AND OFFICERS.

SECTION 679-1a. City manager—duties and compensation. That all cities and towns, except cities under the commission form of government and cities having a population of more than twenty-five thousand as shown by the last preceding census, are hereby authorized to provide by ordinance for the creation of the office of city manager and to fix likewise the duties and powers and compensation of such officer. [36 G. A. (S. F. 41, § 1.)]

SEC. 679-2a. Appointment by council—tenure of office. The city manager shall be appointed by a majority vote of the city or town council at a regular meeting of such body, and such manager shall hold office during the pleasure of the said body, and shall be subject to removal by a majority vote thereof. [36 G. A. (S. F. 41, § 2.)]

SEC. 679-3a. Duties which may be imposed. That said city and town after having selected or appointed such city manager may by ordinance provide that the city manager shall perform any or all of the duties incumbent upon the street commissioner, or manager of public utilities, cemetery sexton, city clerk and superintendent of markets, and that he shall superintend and inspect all improvements and work upon the streets, alleys, sewers, and public grounds of the city or town, and to perform such other and further duties as may be imposed upon him, and to possess such other and further power as may, from time to time, be by ordinance conferred upon him. [36 G. A. (S. F. 41, § 3.)]

SEC. 679-4a. Manager's duties to supersede duty of appointive officers. Whenever by ordinance or resolution of the council the powers and duties heretofore vested in any other appointive municipal officer are to be wholly performed by the said city manager, then no appointment of such said appointive officer shall be made, and any appointment of such officer, made prior to the adoption of such ordinance or resolution shall be hereby cancelled. [36 G. A. (S. F. 41, § 4.)]

NOTE: See ch. 14-D, Title V. REPORTER.

CHAPTER 3.

OF ORDINANCES, COURTS AND FINES.

SECTION 680. Power to pass ordinances—penalties.

Municipalities have no power to enact an ordinance which contravenes the policy of the state. So held under an alleged ordinance forbidding the running of traction engines over street crossings without planking the crossing. *Town v. Lanz*, 152 N. W. 610.

This section does not authorize a town

owning an electric light plant to require electric wire men to procure a license, and to execute a bond conditioned on their indemnifying the town and the superintendent of public works from liability for damage growing out of their negligence in doing their work. *Town of Akron v. McEligott*, 147 N. W. 773.

SEC. 681. Adoption of ordinances.

Section applied. *Withey v. Fowler Co.*, 145 N. W. 921.

SEC. 687-a. Proceedings published or posted. Immediately following a regular or special meeting of the city or town council, the clerk shall prepare a condensed statement of the proceedings of said council, including the list of claims allowed, and from what funds appropriated and cause the same to be published in one or more newspapers of general circulation, published in said city or town, or by posting in one or more public places, as directed by said council. [36 G. A. (S. F. 51, § 1.)] [33 G. A., ch. 42, § 1.]

SEC. 691. Jurisdiction of mayor—may transfer case on own motion—fees.

Under this section before it was amended by the act of the 35 G. A., ch. 58, held that the mayor had exclusive jurisdiction of an action against a transient merchant to recover a license fee imposed on him by a

city ordinance and hence such action could not be maintained in the district court. *Incorporated Town of Scranton v. Hensen*, 144 N. W. 1024.

SEC. 694-c1. Municipal court—limits of city defined. That any city, whether organized under a special charter, commission form of government or the general law for the incorporation of cities or towns, now or hereafter having a population of twenty thousand or more, as shown by the last preceding state or United States census, may establish a municipal court under the provisions of this act by proceeding as hereinafter provided, and for the purpose of this act, the territorial limits of any such city shall be held to extend to the limits and include therein all civil townships in which said city or any part thereof is located. [36 G. A. (H. F. 12, § 1.)]

SEC. 694-c2. Election—how secured. Upon the petition of not less than fifteen per cent of the qualified electors as shown by the poll list in the last municipal or state election of any such city or municipal court district, being filed with the city clerk, the mayor shall, by proclamation, published once a week for three consecutive weeks in two newspapers of general circulation published in said municipality, or, if two such newspapers be not published, then in one such newspaper, submit the question of establishing a municipal court as provided in this act, at a general state or municipal election or special election to be held at a time specified therein, which time shall be within two months after said petition is filed. If the said proposition is not adopted at such election, said question shall not be re-submitted to the voters of said city, within two years thereafter, and then said proposition may be re-submitted as above provided. [36 G. A. (H. F. 12, § 2.)]

SEC. 694-c3. Question submitted—conducting election—certifying result—judges elected—judge may act as clerk. At such election the proposition to be submitted shall be, "Shall the proposition to establish a municipal court in the city of (name of city) under chapter (naming chapter containing this act) of the acts of the thirty-sixth general assembly be adopted?" The election shall be conducted, the vote canvassed and the result declared in the same manner as provided by law, in respect to other municipal elections. If the majority of the vote cast on said proposition shall be in favor thereof, said municipal court shall be established. Immediately after such proposition is adopted, the mayor shall transmit to the governor, the secretary of state and the county auditor, each, a certificate showing that such proposition was adopted. At the next regular municipal election after the adoption of such proposition there shall be elected the judge or judges of said municipal court and the clerk and bailiff thereof as hereinafter provided.

Nothing in this act shall be construed to forbid the same person acting as judge and clerk of the municipal court, nor the appointment of a member of the police force to act as bailiff, in which event the city council shall decide whether the salaries of clerk and bailiff shall be paid. [36 G. A. (H. F. 12, § 3.)]

SEC. 694-c4. By what laws governed. All laws governing district courts, superior courts, justice courts, mayor's courts and police courts, not inconsistent with the provisions of this act shall apply to and govern the municipal courts organized under this act. [36 G. A. (H. F. 12, § 4.)]

SEC. 694-c5. Inferior courts abolished—dockets and records delivered to clerk. That after the adoption of the proposition to establish a municipal court under the provisions of this act, and upon the election and qualification of the officers herein provided for, the police court, mayor's court, justice of the peace court and the superior court in and for the territory within the municipal court district, shall be abolished and the offices of police judge, clerk of police court, justices of the peace, constables, superior judge and clerk of superior court shall likewise be abolished; and when said offices shall be abolished the dockets of such courts and all records and papers in their possession pertaining to any proceedings had before them shall be forthwith delivered to the clerk of the municipal court, who shall preserve same in his office and who shall have full power and authority to certify and transcript such proceedings, as appear in the said dockets and records and papers of the said courts, and all subsequent proceedings in any cause of action then pending in any of the said courts so abolished, shall be carried out in the said municipal court in the manner herein provided for, the same as if the said cause had originated in said municipal court. [36 G. A. (H. F. 12, § 5.)]

SEC. 694-c6. Number of judges—clerk and bailiff—tenure of office. There shall be one municipal judge for every thirty thousand inhabitants, or major fraction thereof, as shown by the last state or United States census in any city hereafter establishing a municipal court under the provisions of this act, provided that the inhabitants of any civil township in which said city or any part thereof is located, shall be counted in determining the number of judges. In every city, establishing a municipal court, as herein provided, there shall be nominated at the following city primary, and elected at the following city election, a judge or judges of said municipal court, a clerk and a bailiff thereof, as hereinafter provided. Provided, however, that when the territorial limits of any municipal court extend beyond the city limits to the borders of any township in

which any such city is located as herein provided, then the primary and general election shall be held on the same day and subject to the same requirements as said city primary and election. They shall qualify and their term of office shall begin on the first Monday after their election. The term of office of each judge and of the clerk and bailiff shall be four years. [36 G. A. (H. F. 12, § 6.)]

SEC. 694-c7. Judges—qualifications. Each of said judges shall be a qualified elector residing in such municipal court district and be a practicing attorney at law, and shall subscribe to the same oath required of the judges in the district court of the state of Iowa and shall file the same with the city clerk. [36 G. A. (H. F. 12, § 7.)]

SEC. 694-c8. Clerk—qualifications—duties. The clerk of said court shall be a qualified elector of said municipal court district. The duties of the clerk shall be to have charge of all the books, papers and records filed or kept in the municipal court and to collect all costs, receive and disburse all moneys paid into said court; and to do and perform all necessary acts similar to those incumbent upon the clerk of the district court and not inconsistent with the provisions of this act. [36 G. A. (H. F. 12, § 8.)]

SEC. 694-c9. Bailiff—duties. The bailiff of said court shall be a qualified elector of said municipal court district. The bailiff shall have control and have supervision of the court rooms and shall execute or direct the execution of all orders, writs, notices or processes coming into said court, or authorized or directed by a judge thereof; and shall do and perform all acts similar to those incumbent upon constables and sheriffs. He shall have control of and be responsible for all persons in his custody and while in the court rooms, and it shall be his duty to preserve order during every session of the said court. All regular police officers shall be ex-officio special bailiffs when so ordered by a judge of said court, without other compensation than that paid for their services as police officers. [36 G. A. (H. F. 12, § 9.)]

SEC. 694-c10. Deputy clerks and bailiffs—how appointed—salary. The clerk and bailiff, with the approval of the city council, shall each have power to appoint such deputies as may be necessary to transact the business of the municipal court, and the city council shall fix the salary to be paid to such deputies. When such deputy officers are appointed and their appointment approved they shall take the same oath as that required of the clerk and the bailiff. [36 G. A. (H. F. 12, § 10.)]

SEC. 694-c11. Bonds. The judges of said municipal court, the clerk, the deputy clerk or clerks, if any, the bailiff, and the deputy bailiff or bailiffs, if any, shall give such bonds as may be required by the city council, which bonds shall be filed with and approved by the city clerk. [36 G. A. (H. F. 12, § 11.)]

SEC. 694-c12. Nominations by primary—laws applicable. All candidates for judge of said municipal court or for clerk or bailiff thereof, to be voted for at the general municipal election at which judges of the municipal court, the clerk and the bailiff thereof are to be elected under the provisions of this act, shall be nominated by primary election and no names shall be placed upon the general ballot, except those selected in the manner hereinafter prescribed. The primary election for such nomination shall be held at the same time as and be a part of the primary election, nominating other candidates for municipal offices to be elected at the following general municipal election. All laws governing the affidavits required to be filed by candidates for municipal offices and the petitions

of such candidates applicable to nomination and election of municipal officers elected in cities operating under the commission plan form of government of cities as provided in chapter fifty-one, laws of the thirty-second general assembly of Iowa, and laws amendatory thereto, and not inconsistent with the provisions of this act shall apply to and govern the nomination and election of the judge or judges of municipal courts and the clerk and the bailiff thereof as herein provided. [36 G. A. (H. F. 12, § 12.)]

SEC. 694-c13. Separate ballots provided—number nominated. At all primary elections at which a judge or judges of municipal court, the clerk or bailiff thereof are to be nominated, there shall be separate ballots, upon which shall be placed the names of the candidates for offices, which ballot shall be entitled the "Municipal Judiciary Primary Ballot," and the names of such candidates shall be placed thereon in alphabetical order and without party designation and there shall be designated thereon the number of judges each elector is entitled to vote for. This ballot shall be delivered to each elector by proper election officers and the candidates on such ballot, to the extent of double the number of those to be elected, provided there are that many or more candidates for such office or offices, receiving the highest number of votes, shall be duly nominated. [36 G. A. (H. F. 12, § 13.)]

SEC. 694-c14. Separate ballots provided for general election. At the general municipal election, there shall be a separate ballot on which shall be placed the names of candidates nominated for judge or judges of the municipal court, the clerk or the bailiff of said court, who have been nominated as herein provided, which ballot shall be entitled the "Municipal Judiciary Ballot." The names of all candidates shall be placed thereon in alphabetical order without party designation and there shall be designated thereon the number of judges for which each elector is entitled to vote. This ballot shall be delivered to each elector and the candidates on each ballot, to the number of those to be elected, receiving the highest number of votes, shall be duly elected. [36 G. A. (H. F. 12, § 14.)]

SEC. 694-c15. General election laws applicable. The method of conducting such primary and general election and the canvassing and announcing the result, of recounting the ballots, of proper notice of nomination and election and the penalties for illegal voting and misconduct of election officials, the hire of services and the making of sworn return of election expense shall be the same as now provided by the general primary and general election laws of the state of Iowa and of cities operating under the commission plan form of government. [36 G. A. (H. F. 12, § 15.)]

SEC. 694-c16. Vacancies—how filled—temporary vacancies. If any vacancy occurs in the office of municipal judge, the governor of the state of Iowa shall appoint such officer to fill such vacancy who shall hold the office until the next regular city election or until his successor to fill the unexpired term is elected and qualified. In case of vacancy in any other elective office herein provided, the mayor, by and with the consent of the city council, shall make such appointment. In case of inability of any judge to act, any other judge of any municipal or district court in the county may hold court during such inability or the governor of the state of Iowa may appoint a judge to hold court during such inability, which judge shall have the same qualifications as the regularly elected municipal judge and shall receive the same salary as the regular judge would have received, which shall be paid in the same manner as the salary of the regular judge. [36 G. A. (H. F. 12, § 16.)]

SEC. 694-c17. Sessions continuous—correction of judgments—laws applicable—executions—stay—appeal. There shall be no terms of court and the court shall be open for business twelve months of the year, and there shall always be at least one judge present each day to hold court and to issue such writs and orders as are required. Provided, however, that if it shall be necessary to appoint another judge to act during any absence, that such judge so appointed shall receive as compensation for his services so rendered a sum equal to the salary of the regular judge and payable in the same manner. Grounds for, and the practice governing the correction, vacation, or modification of final judgment or order of said court, and the granting of new trial, shall be the same, so far as may be, as in the district court; and the jurisdiction of said court shall be considered as retained by it for correction of errors of the court, or in the record, for a period of ten days following the entry of final judgment, except that execution may issue upon the entry of final judgment unless stayed by order of court for a period not exceeding such ten days, or by appeal perfected by notice and supersedeas. [36 G. A. (H. F. 12, § 17.)]

SEC. 694-c18. Jurisdiction. Said municipal court shall have concurrent jurisdiction with the district court, in all civil matters, where the amount in controversy does not exceed one thousand dollars, except in probate matters, actions for divorce, alimony, separate maintenance, those directly affecting the title to real estate, and juvenile proceedings, and said court shall have no power to grant injunctions, except where the issuance of the writ is auxiliary to the other relief demanded and of which the court has jurisdiction. Said court shall have all criminal jurisdiction that is now or hereafter may be conferred on justice of peace, mayor's courts and police courts. Prisoners may be committed to the city prison or any other place or institution for confinement or punishment instead of the county jail or may be paroled or their sentence suspended, at the option of the judge. [36 G. A. (H. F. 12, § 18.)]

SEC. 694-c19. Causes of action—how divided. Causes of action in the municipal court shall be divided in the following classes:

Class "A" shall include all equitable actions and all ordinary actions, when the amount in controversy exceeds one hundred dollars, and all special actions of which this court has jurisdiction.

Class "B" shall include all ordinary actions when the amount in controversy is one hundred dollars or less.

Class "C" shall include the trial of all public offenses of which this court has jurisdiction other than for the violation of the city ordinances.

Class "D" shall include all criminal actions for the violation of city ordinances. [36 G. A. (H. F. 12, § 19.)]

SEC. 694-c20. Laws governing district court—how far applicable. All statutes governing the district court as to pleading and practice, parties, evidence, commencement of actions, jurisdiction, process, modes of trial, judgment, execution, attachment, garnishment, replevin and limitation of actions, shall apply to and govern the municipal court except when the same are inconsistent with the provisions of this act. [36 G. A. (H. F. 12, § 20.)]

SEC. 694-c21. Pleadings. All pleadings in class "A" cases shall be in writing and in substantially the same form as in the district court, and the petition must be filed with the clerk of the municipal court not less than five days before the date set in the original notice for the appearance of the defendant. The time for filing all subsequent pleadings shall be the same as in the district court unless a different time is prescribed by the

judge or judges of the municipal court in the rules thereof. The pleadings in class "B" cases shall be the same as is now or may hereafter be provided for the trial of civil cases in justice of the peace courts, except as otherwise provided for herein. [36 G. A. (H. F. 12, § 21.)]

SEC. 694-c22. Commencement of actions. Civil actions in municipal court are commenced by voluntary appearance or by written notice. If by notice, the same shall be addressed to the defendant or defendants by name, but if his name is unknown, a description of him will be sufficient. It must be subscribed by the plaintiff or his attorney. The notice must state the amount for which the plaintiff will take judgment if the defendant does not appear and answer at the time and place stated in the original notice, which shall be not less than five nor more than fifteen days after the service thereof. It must further state the date on or before which the petition will be filed with the clerk of the municipal court, and unless the petition is filed with the clerk of the municipal court on or before such date, which shall be at least five days before the return day, the defendant or defendants shall not be held to appear and answer. [36 G. A. (H. F. 12, § 22.)]

SEC. 694-c23. Change of venue. Changes of venue may be taken from the said court in all civil actions to the district court in the county in which said municipal court is situated or to another county in the same manner, for like causes and with the same effect as the venue is changed in the district court. But in cases where a contract, payable in such city, has been signed by a nonresident of such city and suit is brought upon said contract against such nonresident, he may, at his option, upon motion, supported by affidavit showing that he is a nonresident, have the case transferred to the district court of that county at any time before trial. [36 G. A. (H. F. 12, § 23.)]

SEC. 694-c24. Criminal actions—how tried. All criminal actions for the violation of city ordinances, shall be tried summarily and without a jury, saving to the defendant the right of appeal to the district court, which appeal shall be taken in the same time and manner as appeals are taken from justices' courts and police courts, in criminal actions. All other criminal actions shall be triable in the same manner as are now or may hereafter be made triable by justice of the peace or other courts having jurisdiction thereof. [36 G. A. (H. F. 12, § 24.)]

SEC. 694-c25. Court of record. The municipal court shall be a court of record and shall have a seal. Within the jurisdiction of the municipal court, the judges shall have the same power in regard to injunctions, writs, orders and other proceedings in court and out of court as are possessed by the judges of the district court. The judges of the municipal court shall have power to make and enforce rules of practice and procedure for the conduct of affairs of the court. The records to be kept by said court, shall be in substantially the same form as provided for the district court. [36 G. A. (H. F. 12, § 25.)]

SEC. 694-c26. Method of procedure. If the method of procedure in any case within the jurisdiction of the municipal court is not sufficiently prescribed by this act or by any rule of court adopted in pursuance hereof, the court may make such provision for conducting and disposing of the same as may appear to the court proper for the just determination of the rights of the parties. [36 G. A. (H. F. 12, § 26.)]

SEC. 694-c27. Fees—costs—how accounted for. Unless otherwise provided in this act, the fees, costs and expense payable in said court shall be the same as in the district court and where no provision is made there-

for in the district court, then the fees, costs and expense shall be the same as in the courts of justices of the peace. All fees, fines, forfeitures, costs and expense paid to the clerk and bailiff, shall be paid one-half to the city treasurer and one-half to the county treasurer on or before the tenth day of each succeeding month. [36 G. A. (H. F. 12, § 27.)]

SEC. 694-c28. Witness fees. The witness fees allowed in the municipal court shall be the same as in the district court in all cases included in class "A". The witness fees to be taxed in all cases arising in classes "B", "C", and "D" shall be the same as in courts of justices of the peace, provided, however, that no regular police officer of such city, no clerk or his deputy and no bailiff or his deputy shall be allowed a witness fee in cases arising in classes "C" and "D". [36 G. A. (H. F. 12, § 28.)]

SEC. 694-c29. Jury. That in each municipal district where municipal courts shall have been established, the jury lists shall be prepared, jury panels drawn, the juries summoned and the jurors in each case drawn in the manner hereinafter provided. [36 G. A. (H. F. 12, § 29.)]

SEC. 694-c30. Jury commission. The city clerk, the city auditor and the clerk of the municipal court shall constitute the jury commission for that municipal court district and each such officer shall be a jury commissioner during his term of office. The oath of office administered to each officer on entering upon the duties of their respective offices, shall also apply to their duties as jury commissioners and the bond given by each such officer shall thereafter, in addition to the conditions otherwise required by law, be conditioned upon the faithful discharge of all the duties of the jury commissioners during their term of office. [36 G. A. (H. F. 12, § 30.)]

SEC. 694-c31. Jurors—qualifications—causes for challenge. All persons selected to serve as jurors in each such municipal court district shall have the same qualifications and exemptions and shall be subject to the same challenges as jurors in the district court of the state of Iowa; but jurors in the district court shall be exempt from any jury service in the municipal courts. [36 G. A. (H. F. 12, § 31.)]

SEC. 694-c32. Jury list—how prepared. Said jury commissioners shall be provided with a poll list of such municipal court district of the last preceding municipal court election, and shall, before the last Monday in April following and every two years thereafter, prepare a list of all electors, possessing the necessary legal qualifications for jury service as herein provided to be known as the "Jury List." The name of each person on said list shall be entered in alphabetical order in a book or books to be kept for that purpose, and opposite each name there shall be entered the age of said person, his occupation and his place of residence, giving his street and number. The custody of said book or books shall be in the city clerk and shall be open to the public for inspection and investigation at all times. This jury list may be revised and amended annually in the discretion of the jury commission or upon order of the municipal court. The jury commission shall keep record of such changes or correction in said jury lists as shall come to the knowledge of each or any jury commissioner and said jury commission shall annually before the last Monday in April of each year, amend said jury list by striking the names of such electors as shall be disqualified for jury service. Provided further that when the territorial limits of any municipal court extends beyond the city limits to the borders of the township in which said city is located, as herein provided, that the "jury list" shall also include the qualified elec-

tors in such additional territory, as shown by the last municipal court or general election. [36 G. A. (H. F. 12, § 32.)]

SEC. 694-c33. Boards of registration to examine electors as to qualifications. The boards of registration of such municipality, or in event there are no such boards, then the election boards in each voting precinct, when so directed by the jury commission, shall make such examination of the electors of their respective precincts, touching their qualifications for jury service as said jury commission may lawfully require, which examination shall be under oath and a complete record thereof be made and preserved in a book or books provided for that purpose and when completed and properly certified by said boards, they shall deliver the same to the city clerk to be by him kept and preserved. [36 G. A. (H. F. 12, § 33.)]

SEC. 694-c34. Jurors—how names prepared and drawn. When the jury commission shall have prepared the jury list as herein provided, they shall write each name on a separate ticket, with the age, place of residence, occupation of each, if known, each ticket to be of uniform size, color and material and folded uniformly and in such a manner that same cannot be read without unfolding, and placed in separate envelopes of uniform size, color and material, without any mark of identification whatsoever, which envelope shall then be sealed and the whole put in a drum or box to be kept for that purpose to be known as the "Jury Box," which jury box shall have but one opening and that only large enough to insert the hand, and shall be so constructed that when revolved upon an axis, the ballots therein contained shall be thoroughly mixed. After said ballots have been placed in said jury box, the same shall be closed and securely sealed, the separate seal of each jury commissioner being attached thereto, which jury box shall not be opened thereafter except in open court in the presence of a judge and of each jury commissioner. The custody of said jury box shall be in the clerk of the municipal court. After any drawing of names from the jury box as hereinafter provided, the said jury box shall again be closed and sealed in like manner as above provided in the presence of court and when so sealed, shall be returned to the custody of the said clerk of the municipal court. [36 G. A. (H. F. 12, § 34.)]

SEC. 694-c35. Jurors—how drawn. On the last Monday of each month, in open court and in the presence of a judge of said court and in the presence of the other jury commissioners, the city auditor shall, after the jury box containing the names of all persons then legally on the jury list shall have been well shaken, and the names therein contained have been thoroughly mixed, break the seals thereon and then, being blind-folded shall, without partiality and at random, draw from said jury box, an envelope, which, without opening, the said city auditor shall pass to the clerk of the municipal court, who shall open same, unfold the ticket therein contained and read same aloud so that all may hear, which shall then be passed to the city clerk who shall make a record thereof. Thereafter other names shall be drawn in like manner as before until such number of names as the majority of the judges shall have ordered drawn for jury service, shall have been drawn, which persons shall constitute the jury panel for that month; provided that if for any reason it seems probable that a jury cannot be secured from the regular panel, the judge or a majority of the judges shall order such number of additional jurors drawn as he or they may deem necessary, which drawing shall be in open court and in like manner as hereinbefore provided; provided, further, that should the name of any person known to be dead, a non-resident, one absent from the state, one unable to attend on account of illness or who is legally dis-

qualified to be drawn, such name shall not be included in the panel and other names shall be drawn until the required number shall have been selected. The name of any person excluded by the provisions of this section from the jury panel, shall, after the month and before the drawing for the following month, be replaced in said jury box. The jury panel as drawn on the last Monday of each month shall constitute the jury panel for the succeeding month beginning on the first Monday of each month. [36 G. A. (H. F. 12, § 35.)]

SEC. 694-c36. Setting aside jury panel. Whenever the court is satisfied that the jury commission has failed in any material respect to perform the duties required of them or that any improper influence has in any manner reached them and influenced the selection of the jury panel, the court may set aside the said panel and order new panels drawn and in the same manner as herein provided for the selecting of said jury panel. [36 G. A. (H. F. 12, § 36.)]

SEC. 694-c37. Jury summons. The clerk of the municipal court shall forthwith issue a summons to each person drawn as herein provided, which summons shall be at once served by the bailiff or other officer in the manner provided by law, to appear in court on the first Monday of the succeeding month and when such jurors shall have appeared the jurors shall be selected in each cause of action as hereinafter provided, at which time the name of each juror shall be called and all excuses heard and determined by the court. [36 G. A. (H. F. 12, § 37.)]

SEC. 694-c38. Jurors to serve during but one month. When the jury for each month shall be discharged the clerk of the municipal court shall certify to the city clerk the names of all persons who have served during said month, a complete record of which shall be made and kept by the city clerk showing the name, service and date of service of each juror, and the names of all who have so served shall then be checked off from said jury list and not again be placed thereon until the new jury list shall be prepared by the jury commissioners on or before the last Monday in April of the year following the next succeeding municipal election. The names of all jurors who have been excused from service because of sickness or other reason and also those who were not drawn or accepted for jury service during the term of court and who possess the legal qualifications for jury service, shall be again placed in the jury box before drawing the jury for the following month. [36 G. A. (H. F. 12, § 38.)]

SEC. 694-c39. Jury—how drawn. When the jury panel shall have been selected as herein provided, the clerk of the municipal court shall prepare the names on said panel for drawing in the same manner as herein provided for preparing the names on the jury list by the jury commissioners, placed in a like jury box as hereinbefore provided, which box shall then be closed and sealed with the separate seal of the clerk of the municipal court attached thereto. This box shall be kept in the custody of the clerk of the municipal court and shall not be thereafter opened except in open court and in the presence of a judge of the municipal court and only when so ordered by such judge and then only for the purpose of drawing a jury or inserting the names of jurors so discharged which names shall have been first prepared in a like manner as above provided. After said jury box shall have been opened for any purpose, it shall in open court and in the presence of a judge, be resealed by the clerk of the municipal court. When ordered by the judge the clerk of the municipal court, in open court and in the presence of the attorneys of all parties

litigant in pending cause of action and after the names contained in said jury box shall have been thoroughly mixed, the clerk of the municipal court shall break the seal on said jury box and impartially and at random draw an envelope therefrom, which he shall open and read aloud so that all persons may hear; then other names shall be drawn in like manner as before, until the required number shall have been drawn, which persons shall constitute the jury for the pending cause of action, provided, that should any person so drawn be absent from court, be excused from service or be disqualified for service in the pending trial because of being challenged, other names shall be drawn in like manner as before until the required number of jurors are selected; provided, further, that the names of all persons so excused, absent or disqualified, shall at once, in the presence of the court, be prepared as hereinbefore provided and be replaced in the jury box, after which the same shall be sealed as above provided; provided, further, that if for any reason the number of jurors required by law cannot be secured from the jury panel, the judge of such court shall order such number of additional names as he shall deem necessary to be drawn by the jury commissioners from the jury list as herein provided and when so drawn, summons shall issue for their attendance in court; provided that the clerk of the municipal court may deputize a deputy who may lawfully seal the petit jury box as herein provided; provided that when any party to a pending trial has reason to believe that irregularities exist in preparing the names of the jury panel in said jury box, may demand of the court an examination thereof; and any party to a pending trial may lawfully refuse to proceed with the trial until such examination of said jury box shall have been made in open court and then not until the names of said jury panel shall have been prepared and inserted in said jury box in a manner provided by law. [36 G. A. (H. F. 12, § 39.)]

SEC. 694-c40. Jury commission to serve without compensation. Members of the jury commission shall, without additional compensation to that by law provided, perform all of the duties of the jury commissioners in addition to their respective duties as now or hereinafter shall be provided by law. The city council shall, if necessary, be empowered to expend a reasonable sum necessary for expenses incident to the transaction of the duties of the jury commission. [36 G. A. (H. F. 12, § 40.)]

SEC. 694-c41. Improperly influencing selection of jury. Any person who shall seek in any manner, to influence the action of the jury commission or who shall seek the position of juror or who shall ask any jury commissioner or any attorney or any officer of the court or any other person to secure his selection as juror, shall be guilty of contempt of court and punished as by law provided. Any attorney or party to a suit pending in said municipal court who shall request or solicit the place of any person upon the jury, shall in addition to the other penalties provided by law, likewise be guilty of contempt of court and be punished as by law provided and any person so soliciting or sought to be put upon the jury shall be disqualified to serve as a juror. Any official having anything to do in any manner whatsoever with the making of the jury list, the selecting of the jury panel or the drawing of the jurors who shall neglect or fail to carry out or shall in any unlawful manner carry out or attempt to carry out any of the provisions of the law relating to the selection of juries, shall, except when otherwise provided by law, be guilty of misdemeanor and shall be punished by a fine of not more than one hundred dollars or thirty days in jail or both and conviction therefor shall be grounds for removal from office. [36 G. A. (H. F. 12, § 41.)]

SEC. 694-c42. Compensation for jurors—number—demand for jury. The jurors provided for herein shall receive two dollars per day for each day of actual service in said court. In all cases where the case is tried by a jury, the jury shall consist of six legally chosen and selected jurors. Upon request of either party to any cause of action in class "A", triable by jury, the jury may consist of twelve jurors, provided, however, that the party so requesting such jury, shall pay in advance to the clerk of said court an extra fee of six dollars therefor. The judges of said court may, by rule of court, provide time at which the parties to each cause of action triable by jury shall make known their demand for a jury and in the event that such demand is not made at the time and in the manner provided for by the rules of said court, said cause of action shall be triable by the court. [36 G. A. (H. F. 12, § 42.)]

SEC. 694-c43. Peremptory challenges—challenges for cause. In all civil cases, where the jury shall consist of six jurors the peremptory challenges allowed to either party shall be limited to three each; but where the jury shall consist of twelve jurors, the same number of challenges shall be allowed to either party as is or may be allowed in the district court. Challenges for cause shall be the same as in the district court. [36 G. A. (H. F. 12, § 43.)]

SEC. 694-c44. Instructions. The judges of said court shall give written instructions to the jury in all cases triable to juries, provided, however, that if the amount in controversy in any cause of action shall be one hundred dollars or less, the trial judge in each such cause, may, at his option, give either oral or written instructions to the jury. [36 G. A. (H. F. 12, § 44.)]

SEC. 694-c45. Appeals direct to supreme court. All appeals from judgments or orders of said court, or the judge thereof, in civil actions, shall be taken to the supreme court in the same manner, under the same restrictions, within the same limitations, within the same time and with the same effect as appeals are now or hereafter may be taken from the district court to the supreme court. [36 G. A. (H. F. 12, § 45.)]

SEC. 694-c46. Judgments—liens. Judgments of the municipal court may be made liens upon real estate in the county by filing transcript of same in the district court, as is now or hereafter may be provided by the statutes of Iowa in relation to judgments of justices of the peace, and with equal effect, and from the time of such filing they shall be treated in all respects as to their mode of enforcement as judgments rendered in the district court as of that date, and no execution can thereafter be issued from the municipal court on such judgments, and no real property shall be levied on or sold on process issued out of the municipal court. Judgments of the municipal court may be made liens upon real estate in other counties in the same manner as judgments in the district courts. Where judgments are not transcribed the municipal court shall have jurisdiction of proceedings auxiliary to execution. [36 G. A. (H. F. 12, § 46.)]

SEC. 694-c47. Salary. The salary of each municipal judge, in cities of thirty thousand or more inhabitants, shall be two thousand five hundred dollars per annum, and in cities of less than thirty thousand inhabitants two thousand dollars per annum.

The clerk and the bailiff shall receive a salary of one thousand dollars per annum, each, in cities of less than thirty thousand inhabitants, and one thousand two hundred dollars each, per annum, in cities of thirty thousand or more inhabitants. The deputy clerks and deputy bailiffs shall receive such compensation as the city council may allow.

The salaries of municipal judges, clerks and all deputies shall be paid monthly on the first Monday of each month. For the first month such salary shall be paid from the city treasury and the second month such salary shall be paid from the county treasury. Each month thereafter such payments shall alternate from the city to the county treasury in like manner. [36 G. A. (H. F. 12, § 47.)]

SEC. 694-c48. City to provide rooms—expenses apportioned. The city council shall provide suitable place for holding said court and such other rooms and offices as may be necessary for the transaction of the business of said court. All of the other expenses of maintaining said court not otherwise provided for in this act shall be apportioned and distributed one-half to the city and one-half to the county. [36 G. A. (H. F. 12, § 48.)]

SEC. 694-c49. Shorthand reporter. Each judge of the municipal court, may appoint a shorthand reporter. All provisions relating to shorthand reporters and their duties in the district court, in so far as applicable, shall govern, except their compensation which shall be six dollars per day for the time actually employed and shall be paid one-half by the county and one-half by the city as provided in this act. All actions included in class "A" hereof, may be reported the same as in the district court, and the reporters' fees shall be taxed in said action as costs. No reporter shall be provided for in the trial of actions in class "B", unless the party demanding the same shall pay the costs of said reporter to the clerk in advance which shall be taxed as costs in the case. The transcript fees paid reporters will be the same as in the district court, and may be taxed as part of the costs on appeal. [36 G. A. (H. F. 12, § 49.)]

SEC. 694-c50. Abolishing municipal courts. In any city where municipal courts, as herein provided, shall have been established, for more than four years such city may abandon such municipal court and accept the provisions of the general law of the state then applicable to such cities by proceeding as follows: Upon the petition of not less than fifteen per cent of the qualified electors of such municipal court district as shown by the poll lists of the last municipal or state election, being filed with the city clerk, the mayor, by proclamation, shall submit such proposition at a general election. If the majority of votes cast at such election be in favor of the proposition of abandoning the municipal court, the officers elected at the next succeeding general election shall be those then prescribed by the general law of the state for such cities and townships and upon the qualification of such officers such municipal courts shall be abolished and the courts provided for by the general law of the state established. The filing of the petition, the manner of conducting such election and the declaring of the result shall be as by law provided for in this act, for the adoption of the municipal courts in so far as the provisions thereof are applicable. [36 G. A. (H. F. 12, § 50.)]

SEC. 694-c51. Conflicting acts repealed. All acts and parts of acts in conflict and not consistent herewith, are hereby repealed. [36 G. A. (H. F. 12, § 52.)]

CHAPTER 4.

OF GENERAL POWERS.

SECTION 695. Bodies corporate—name—authority.

Municipalities have no power to enact of the state. So held under an alleged an ordinance which contravenes the policy ordinance forbidding the running of trac-

tion engines over street crossings without planking the crossing. *Town v. Lanz*, 152 N. W. 610.

This section does not authorize a town owning an electric light plant to require electric wire men to procure a license, and

to execute a bond conditioned on their indemnifying the town and the superintendent of public works from liability for damage growing out of their negligence in doing their work. *Town of Akron v. McElligott*, 147 N. W. 773.

SEC. 696-b. Sanitary districts—cleaning streets—tax—bonds. The council of any incorporated city or town, including cities operating under special charter and commission governed cities, may, by ordinance, provide for the establishment of sanitary districts for the collection and disposal of garbage and such other waste material as may become dangerous to the public health or detrimental to the best interests of the community, and for the oiling and sprinkling, flushing and cleaning of streets, and may adopt such rules and regulations as are necessary for the proper administration of the provisions of this act. It shall have authority to levy an annual tax within each district not exceeding two mills for a fund for the purposes of this act, and, by vote of a majority of the voters voting on such proposition, may issue bonds for the purchase or erection of disposal plants. [36 G. A. (H. F. 374, § 1.)]

SEC. 696-c. Conflicting acts repealed. All acts or parts thereof in conflict with this act are hereby repealed in so far as they conflict herewith. [36 G. A. (H. F. 374, § 2.)]

SEC. 701-a. Pawnbrokers and junk dealers to report receipt of tools—restriction on sale. That every pawnbroker, junk dealer or dealer in second hand goods conducting business in any city of ten thousand or more population, who shall purchase or receive from any person any tool or implement such as is commonly used by carpenters, bricklayers, plasterers, plumbers or other mechanics in the construction or erection of buildings, shall, within twenty-four hours after the purchase or receipt of such tool or implement give notice to the chief of police, captain of police, or police sergeant at a police station in the city where said tool or implement was purchased or received, stating the date on which said tool or implement was purchased or received, and the name of the person from whom same was purchased or received; and the pawnbroker, junk dealer or dealer in second hand goods so purchasing or receiving such tool or implement shall not sell or dispose of same for a period of forty-eight hours after the notice is given as above specified, and until the expiration of such time shall keep said tool or implement in his store, shop or place of business in such place that same can be readily seen and examined. [36 G. A. (H. F. 118, § 1.)]

SEC. 701-b. Penalty—personal liability. Any person violating the provisions of section one of this act, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment of not more than thirty days or a fine of not to exceed one hundred dollars and in addition thereto, if it should be proven that such tool or implement was stolen before the sale or delivery to said pawnbroker, junk dealer or dealer in second hand goods and the provisions of section one of this act have not been complied with by the person purchasing or receiving same, then said pawnbroker, junk dealer or dealer in second hand goods shall be liable to the owner of said tool or implement for its full value, same to be recovered in a suit at law. [36 G. A. (H. F. 118, § 2.)]

SEC. 706. Animals running at large.

The rule of the common law requiring an owner to keep and restrain domestic animals on his own premises is inapplic-

able to the people of the state of Iowa. The legislature may, however, change the rule; but in the absence of a statutory

provision requiring chickens to be restrained in the country as distinguished from towns or cities, they may run at large. *Kimple v. Schafer*, 161-659, 143 N. W. 505.

This section does not regulate the running at large of chickens in the country districts and in such districts chickens are free commoners. *Ibid.*

SEC. 711. Fires—electric apparatus—regulations—fire limits.

This section does not authorize a town owning an electric light plant to require electric wire men to procure a license, and to execute a bond conditioned on their indemnifying the town and the superin-

tendent of public works from liability for damage growing out of their negligence in doing their work. *Town of Akron v. McElligott*, 147 N. W. 773.

SEC. 711-a. Regulation of electric installation. Cities and towns, including cities acting under commission form of government and cities acting under special charter, shall have power to prescribe rules and regulations for the installation of electric light and power wiring, electrical fixtures and appliances, and electrical work and materials; to provide for the inspection of such work, materials, and the manner of installation; to compel the removal of dangerous electric light and power wiring, electrical fixtures and appliances and electrical work hereafter installed in violation of the manner prescribed, and to impose penalties within the limits of section six hundred eighty of the code for a violation of the ordinances enacted hereunder. Provided, that the provisions of this act shall not apply to substations, central power stations and power houses, and the installations in such substations, central power stations, and power houses belonging to and operated by public utility companies operating under state charters and franchises. [36 G. A. (S. F. 249, § 1.)]

SEC. 722-a. Court of condemnation—appointment—vacancies—procedure. That upon the passage of the resolution as provided under section one hereof and presentation of a certified copy thereof to the supreme court while in session, or to the chief justice of the supreme court, the said court or chief justice shall, within five days thereafter, appoint three district court judges from three judicial districts, of which one shall be from the district wherein such city or town is located, if he be not a resident of such city or town, as a court of condemnation, and shall enter an order requiring said judges to attend as such court of condemnation at the county seat in the county in which said city or town is located, within ten days thereafter, which judges shall so attend as ordered; and such court of condemnation at the time it meets to organize, as is provided in said order, or at any time during the proceeding, which may be adjourned from time to time for any purpose, may fix a time for the appearance of any person or persons which any party desires to have joined in the proceedings and which the court deems necessary, which time for appearance shall be sufficiently remote to give notice upon such parties; but if such time of appearance shall occur after any proceedings are begun they shall be reviewed by the court as it may direct to give all parties full opportunity to be heard. All persons not appearing and having any right, title, or interest in or to the property which is the subject of condemnation or any part thereof and including all leaseholders and mortgagee trustees of bondholders which are to be made parties to the proceedings, shall be served with notice thereof, and the time and place of meeting of said court in the same manner and for the same length of time as the service of original notices, either by personal service or service by publication, the time so set being the time at which the parties so served are required to appear, and actual personal service of the notice within or without the state shall supersede the necessity of publication. These provisions shall

also apply to condemnation proceedings which are pending, but nothing herein shall be held to invalidate any proceedings or notices served in any proceedings under chapter four, title ten, or under the provisions of the act to which this is amendatory which have been had or taken at the time of the taking effect of this act. Such court of condemnation shall have the power to summon and swear witnesses, take evidence, order the taking of depositions, and require the production of any books and papers, as is provided in chapter one, title twenty-three of the code, and a reporter may be appointed, as is provided for the district court; and such court shall perform all the duties of commissioners in the condemnation of property and such duties and the method of condemnation and procedure, including provisions for appeal, shall, except as herein otherwise specially provided, be the same, as nearly as may be, as is provided in chapter four, title ten of the code, but the clerk of the district court of the county where such city or town is located shall perform all the duties required of the sheriff in said chapter and, in case of a vacancy in said court of condemnation, such vacancy shall be filled in the same manner in which the original appointment was made and the court may review any evidence of its record made necessary by reason of such vacancy. [36 G. A. (S. F. 145, § 1.)] [34 G. A., ch. 35, § 1.] [33 G. A., ch. 45, § 2.]

The action of the Supreme Court of Iowa in appointing three district court judges to act as a court of condemnation on application of a city council after the passage of a resolution to acquire waterworks, the franchise for which has expired, is presumptively, if not necessarily,

a finding that this section and the part of the preceding section relating to the acquiring of such waterworks are not repugnant to the Iowa Constitution. *Des Moines Water Co. v. City of Des Moines*, 206 Fed. 675.

SEC. 726. Bonds. Bonds issued under the provisions of this chapter shall mature in not more than twenty years, be in sums of not less than twenty nor more than one thousand dollars each, and bear interest at a rate not exceeding six per cent. per annum, payable annually or semi-annually. [36 G. A. (H. F. 542, § 1.)] [C. '97, § 726.]

SEC. 728. Library trustees. In any city or town in which a free library has been established, there shall be a board of library trustees, consisting of five, seven or nine members to be appointed by the mayor by and with the approval of the city council which shall also establish by ordinance the number to be appointed. Of said trustees so appointed on boards to consist of nine members, three shall hold office for two years, three for four years, and three for six years; on boards to consist of seven members, two shall hold office for two years, two for four years and three for six years each; and on boards to consist of five members, one shall hold office for two years, two for four years and two for six years each, from the first day of July following their appointment in each case, and at their first meeting they shall cast lots for their respective terms, reporting the result of such lot to the council. All subsequent appointments, whatever the size of the board shall be for terms of six years each, except to fill vacancies. Such vacancies in the board shall be filled by appointment by the mayor, such appointees to fill out the unexpired term for which the appointment is made. Bona fide citizens and residents of the city or town, male or female, over the age of twenty-one years, are alone eligible to membership. The removal of any trustee permanently from the city, or his absence from six consecutive regular meetings of the board, except in case of sickness or temporary absence from the city, without due explanation of absence shall render his office as trustee vacant. Members of said board shall receive no compensation for their services. Provided that in cities

and incorporated towns where a college or university is located, it shall be lawful for the city or town and such institution of learning to jointly establish and maintain a public library for their mutual benefit, upon such terms and conditions as regards maintenance, control, appointment of library trustees and other incidents of joint control as may in any lawful manner be mutually agreed upon between them; but no city or town may undertake to contribute toward the maintenance more than the amount produced by a rate of taxation therefor allowed by law, and no persons shall be appointed or confirmed as library trustees other than such having the qualifications required by law. [36 G. A. (S. F. 385, § 1.)] [34 G. A., ch. 36, § 1.] [30 G. A., ch. 24, § 1.] [25 G. A., ch. 41, § 1.]

SEC. 741-d. City hall. That section seven hundred forty-one-d, supplement to the code, 1913, is hereby repealed and the following enacted in lieu thereof:

“Cities and towns, including cities under commission plan and those under special charter, shall have power to erect a city or town hall and to purchase the ground therefor.” [36 G. A. (H. F. 396, § 1.)] [35 G. A., ch. 72, § 1.] [32 G. A., ch. 34, § 1.]

SEC. 741-e. Special tax. For the purpose of paying for the construction of such building and the purchase price of such ground, such cities and towns shall have the power to levy upon all the property within the corporate limits of such cities and towns subject to taxation for said purposes in addition to all other taxes now provided by law, a special tax not exceeding in any one year two mills on the dollar for a period of years not exceeding twenty. [36 G. A. (H. F. 396, § 2.)] [32 G. A., ch. 34, § 2.]

SEC. 741-f. Bonds—limit of indebtedness. Any city or town desiring to construct such a building or to purchase ground therefor may issue bonds in anticipation of the special tax authorized in the preceding section. Such bonds shall be known as city or town hall bonds and shall be issued and sold in accordance with the provisions of chapter twelve of title five of the code of Iowa, and acts amendatory thereto. In issuing such bonds, the city or town council may cause portions of said bonds to become due at different, definite periods, but none of such bonds so issued shall be due and payable in less than five or more than twenty years from date. And in issuing such bonds such city or town may become indebted in an amount which, added to all other indebtedness, shall not exceed two per centum of the actual value of the taxable property in such city or town as determined by the last state and county tax list, anything in section thirteen hundred and six-b of the supplement to the code, 1907, to the contrary notwithstanding, and such indebtedness may be incurred and such bonds issued in pursuance of an election which may have been heretofore held authorizing the erection of such city or town hall. [36 G. A. (H. F. 396, § 3.)] [33 G. A., ch. 48, § 1.] [32 G. A., ch. 34, § 3.]

SEC. 741-g. Question submitted. No building shall be erected under the provisions of this act unless a majority of the legal voters voting thereon vote in favor of the same at a city or town election or at a special election. [36 G. A. (H. F. 396, § 4.)] [33 G. A., ch. 49, § 1.] [32 G. A., ch. 34, § 4.]

SEC. 741-h. Notice—form. The question provided in the preceding section to be submitted may be ordered by the city or town council submitted to a vote at a general city election or at one specially called for that purpose. In cities having a population of five thousand or over notice of such election shall be published in two newspapers published in said city once each week for not less than four consecutive weeks. In all other cities

and towns notice of such election shall be given by publication in one newspaper published in said city or town once each week for not less than two consecutive weeks. The election shall be held not less than five nor more than twenty days after the last publication of such notice. The question to be submitted shall be in the following form:

"Shall the city (or town) of.....erect a city (or town) hall at a cost not exceeding \$....." [36 G. A. (H. F. 396, § 5.)] [32 G. A., ch. 34, § 5.]

CHAPTER 6.

OF STREETS AND PUBLIC GROUNDS.

SECTION 751. Establishment — improvement — assessments on abutting property. Cities and towns shall have power to establish, lay off, open, widen, straighten, narrow, vacate, extend, improve and repair streets, highways, avenues, alleys, public grounds, wharves, landings and market places within their limits; but no street, avenue, highway, or alley which shall hereafter be dedicated to public use by the proprietor of the ground in any municipal corporation shall be deemed a public street, avenue, highway, or alley, or be under the use or control of such municipality, unless the dedication shall be accepted and confirmed by an ordinance or resolution specially passed for such purpose. The expenses of such extension, repairs and improvements may be paid from the general fund, or from the highway or poll taxes of such cities or towns, or partly from each of such funds, or by assessing all or any portion of the cost thereof on abutting and adjacent property according to the benefits derived from such extension, repairs and improvements as provided in chapter seven of title five of the code and amendments thereto. The district benefited and in which adjacent property is to be assessed shall be designated and determined by the council in the ordinance or resolution ordering such extension, repairs and improvements, provided that nothing in this act shall be construed as changing the manner of assessing abutting and adjacent property for the cost of paving, guttering, curbing or macadamizing streets and alleys. [36 G. A. (H. F. 336, § 1.)] [35 G. A., ch. 75, § 1.] [20 G. A., ch. 20, § 1.] [18 G. A., ch. 96, § 1.] [15 G. A., ch. 6.] [15 G. A., ch. 51, § 5.] [C. '73, §§ 464-5, 527.] [R. §§ 1064, 1095.]

The fee to all streets and alleys is in the city and held by it in trust for the general public. The city has the right to vacate a street and when the street is vacated the trust ceases and the city becomes the owner of the ground and may

use the same for any legitimate purpose and the erection of a structure for the storage of vehicles and tools is not an improper use unless shown to be a nuisance. *Walker v. City of Des Moines*, 161-215.

SEC. 753. Supervision—repair.

The liability of a city by reason of the condition of its streets must rest on some breach of its statutory duty over its streets. In determining whether the city has breached its duty it must be remembered that the private property owner during his building operations has a right to a reasonable use of the streets, and the conduct of the city must be fairly judged in the light of that fact. *Holmquist v. Construction Co.*, 151 N. W. 828.

Knowledge of the defective condition of a street whereby a person is injured, does not charge the injured person with contributory negligence as a matter of law. It still remains a question for the jury whether as a reasonably prudent man he believed he could pass the defective place in safety. *Fountain v. City of Des Moines*, 145 N. W. 881.

One injured by being hit by a barrel stove which a policeman kicked out of

the street cannot predicate liability against the city on the theory that the city was maintaining an unlawful obstruction in the street. *Evans v. City*, 151 N. W. 396.

A city is not bound to remove all snow and ice from its sidewalks; but is required to use reasonable and ordinary care to remove defects arising out of conditions occurring after snow has fallen. *Finnane v. City of Perry*, 145 N. W. 494.

In a particular case arising out of injury caused by a defect in a sidewalk, the question of defendant's negligence and plaintiff's contributory negligence held questions for the jury. *Overton v. City of Waterloo*, 145 N. W. 889.

A city has the right to repair its streets and to tear them up for that purpose, and in order to create a liability to one injured at the place where the street is torn up, it must be shown that there was negligence in the doing of the authorized act. *O'Connell v. City of Dubuque*, 145 N. W. 519.

A city has the right under this section to maintain hitching posts in a street if such use does not become a nuisance. *Smith v. City of Jefferson*, 161-245.

A city or town has power to permit or refuse the use of streets close to buildings for areaways and cellar stairways. *Wendt v. Town of Akron*, 161-338.

Hitching posts, interfering with the ingress and egress to property, may constitute a nuisance and be abatable as such. *Kent v. City*, 152 N. W. 6.

A city cannot escape liability for a defect in its street on the fact that the defect did not amount to a nuisance. *Raine v. City*, 151 N. W. 518.

Municipalities have no power to enact an ordinance which contravenes the policy of the state. So held under an alleged ordinance forbidding the running of traction engines over street crossings without planking the crossing. *Town v. Lanz*, 152 N. W. 610.

SEC. 754-a. Regulation of "jitney" busses. Cities and towns including cities acting under the commission form of government, and cities acting under special charter, shall have power to regulate and license so-called "jitney" busses, and all motor vehicles operating upon the streets and avenues of such cities and towns and engaged in carrying passengers for hire, on a plan similar to that followed by street railway companies; to fix and determine the streets and avenues upon which they shall be permitted to operate; to require such vehicles to be operated over reasonable routes, and upon reasonable schedules; to require the owners or operators thereof to file with such city or town, a proper indemnity bond for the protection of the city or public against damages resulting from negligence in the operation of such vehicles; and to impose penalties within the limits of section six hundred eighty of the code for the violation of any ordinance enacted hereunder. Provided that "jitney" busses shall not be excluded from streets on which street cars are allowed to operate. [36 G. A. (S. F. 559, § 1.)]

SEC. 758. Bridge fund. Cities of the first class and also cities of the second class having a population of five thousand or over, and which are traversed by a stream two hundred feet or more in width from shoreline to shoreline shall have full control of the bridge fund levied and collected as provided by law, and shall have the right to use the same for the construction of bridges, culverts, and approaches thereto, repairing the same, and paying bridge bonds and interest thereon issued by such city, and shall be liable for defective construction thereof, and failure to maintain the same in safe condition as counties now are with reference to county bridges; and no county shall be liable for any such bridge or injuries caused thereby. [36 G. A. (H. F. 517, § 1.)] [25 G. A., ch. 5, § 1.] [23 G. A., ch. 2, § 1.] [22 G. A., ch. 16, § 1.] [18 G. A., ch. 45, § 1.]

SEC. 758-a. Bridge tax—levy authorized. When the whole or any part of the cost of building or reconstruction of any bridge by a city of the first class or any city of the second class having a population of five thousand or over, and which is traversed by a stream two hundred feet or more in width from shoreline to shoreline shall be ordered paid from the city bridge fund, to be levied upon all the property within any such city, it shall

have the power, after the completion of the work, by ordinance or resolution, to levy at any one time the whole or any part of the cost of such improvement upon all of the taxable property within such city and determine the whole percentage of tax necessary to pay the same, and the percentage to be paid each year, not exceeding two thirds of the maximum annual limit of the tax such city may levy for a bridge fund, and the number of years, not exceeding twenty-five, given for the maturity of each installment thereof, but no part of such costs shall be levied against property owned by the city, county, state or the United States. Certificates of such levy shall be filed with the auditor of the county or counties in which said city is located, setting forth the amount or percentage and maturity of said tax, or each installment thereof, upon the assessed valuation of all the property in said city, certified as correct by the city clerk or auditor, and thereupon said tax shall be placed upon the tax lists of the proper county or counties. [36 G. A. (H. F. 517, § 2.)] [32 G. A., ch. 36, § 1.]

SEC. 758-d. Bonds for construction of bridges. That cities of the first class and also cities of the second class having a population of five thousand or over, and which are traversed by a stream two hundred feet or more in width from shoreline to shoreline are hereby authorized to contract indebtedness and to issue bonds for the purpose of constructing bridges. Such bonds shall be payable in not exceeding twenty annual installments and bear interest at not exceeding five per centum per annum, and shall be made payable at such place and be of such form as the city council shall by ordinance designate. But no city shall become indebted in excess of five per centum of the actual value of the taxable property of said city as shown by the last preceding assessment roll. [36 G. A. (H. F. 517, § 3.)] [34 G. A., ch. 39, § 1.]

SEC. 758-e. Additional to other powers. This act shall be construed as granting additional power without limiting the power already existing in cities of the first class and also cities of the second class having a population of five thousand or over, and which are traversed by a stream two hundred feet or more in width from shoreline to shoreline. [36 G. A. (H. F. 517, § 4.)] [34 G. A., ch. 39, § 2.]

SEC. 767. Railway tracks—street railways.

The word "railway" as used in this section refers to commercial railways engaged in general freight and passenger business and not to street railways, built upon streets for the accommodation of street traffic. *Anhalt v. Waterloo Railway Co.*, 147 N. W. 928.

SEC. 768-h. Vestibules—heating—equipment. Every person, partnership, company or corporation, owning or operating a street railway in this state, shall after November first, nineteen hundred sixteen, from November first of each year to April first following, provide all motor cars used for the transportation of passengers, with vestibules enclosing the front and rear platforms on all sides for the protection of employees operating such cars, when in the performance of their duties, the employees are required to remain on said vestibules, the major portion of their time. Said vestibules shall be heated and each vestibule shall contain a seat for the use of the motormen and conductor, respectively, under reasonable rules and regulations. [36 G. A. (H. F. 462, § 1.)]

SEC. 768-i. Toilets. Every person, partnership, company or corporation owning or operating a street railway in this state shall provide and maintain toilet facilities for the use of the employees at some suitable location upon each line, or run, and the running schedule of said cars,

or the operating rules, shall be such as will permit said employee to use said toilet facilities. [36 G. A. (H. F. 462, § 1.)]

SEC. 768-j. Penalties. Every person, partnership, company or corporation, owning or operating a street railway in this state who shall fail or refuse to comply with any of the provisions of section seven hundred sixty-eight-h and section seven hundred sixty-eight-i of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense. Each day's failure to comply with any of the provisions of said sections shall be deemed a separate offense. [36 G. A. (H. F. 462, § 1.)]

SEC. 775. Regulations as to electric wires.

The fact that a town has not adopted an ordinance regulating telephone companies, as provided in this section, does not constitute an election by the town to operate under section 2158 of the code of 1897. *East Boyer Co. v. Town of Vail*, 147 N. W. 327.

The provisions of this section do not supersede the provisions of section 776 of the code of 1897, requiring affirmative action before a franchise can be granted. *Ibid.*

SEC. 776. Granting franchise—question submitted.

The fact that the voters of a town may grant a franchise to one company and refuse it to another does not make this and the preceding section unconstitutional

under Section I of the 14th Amendment to the U. S. Constitution, guaranteeing the equal protection of the law to all. *East Boyer Co. v. Town of Vail*, 147 N. W. 327.

SEC. 782. Grades for grading.

The grade of a street can only be established by ordinance. *Crown v. City of Sigourney*, 145 N. W. 478.

CHAPTER 7.

OF STREET IMPROVEMENTS, SEWERS AND SPECIAL ASSESSMENTS.

SECTION 792. Assessing cost of improvements—repavement—disposal of waste material.

In the construction of street improvement a substantial compliance with the

ordinance is sufficient. *Hubbell v. City of Des Moines*, 150 N. W. 701.

SEC. 792-a. Special assessment—rate.

This section does not apply to special assessments in drainage districts. *Hatcher v. Board of Supervisors*, 145 N. W. 12.

The city council has the duty of inquiring into the actual value of property assessed at the time of the levy and if it errs in fixing the value the only remedy of the property owner is to lay his objections before the city council at the time fixed therefor and upon an adverse ruling, to appeal, and the fact that the valuation of his property is fixed at the time of the levy without actual notice to him, but on notice as provided by statute, at an amount exceeding that shown upon the last pre-

ceding assessment roll, does not deprive the property owner of property without due process of law. And where two intersecting streets upon which a corner lot abuts are improved separately, by paving, the two sets of pavements do not constitute a single improvement, the assessment for which is limited to 25 per cent of the value of the property and the limit of 25 per cent is to be applied to each distinct improvement without reference to other assessments the property may have been compelled to bear. *Durst v. City of Des Moines*, 164-82, 145 N. W. 528.

SEC. 792-g. Assessment against property not abutting—limitations. Whenever, after January first, nineteen hundred fourteen, any

city or town council, including the councils of cities acting under special charter, levies any special assessment for street improvement as provided by section seven hundred ninety-two of the code and amendments thereto and supplementary thereof, the same shall be made in accordance with the provisions of section seven hundred ninety-two-a of the supplement to the code, 1907, and shall be limited to the amount to be assessed against private property, against all lots and parcels of land according to area so as to include one half of the privately owned property between the street improved and the next street whether such privately owned property abut upon said street or not but in no case shall privately owned property situated more than three hundred feet from the street so improved be so assessed. In case of improvement upon an alley, such assessment shall be confined according to area to privately owned property within the block or blocks improved and if not platted into blocks for not more than one hundred fifty feet from such improved alley. All property except streets, alleys, public highways, public driveways and property owned by the United States government shall be deemed privately owned property within the meaning of this section. [36 G. A. (H. F. 342, § 1.)] [35 G. A., ch. 76, § 1.]

SEC. 810. Street improvements and sewers—preliminary notice. When the council of any such city shall deem it advisable or necessary to make or reconstruct any street improvement or sewer authorized in this chapter, it shall, in a proposed resolution, declare such necessity or advisability, stating the one or more kinds of material proposed to be used and method of construction, whether abutting property will be assessed, and, in case of sewers, the one or more kinds and size, and what adjacent property is proposed to be assessed therefor, and in both cases designate the location and terminal points thereof, and cause fourteen days' notice of the time when said resolution will be considered by it for passage to be given by two publications in some newspaper of general circulation published in the city, the last of which shall be not less than two nor more than four weeks prior to the time fixed for its consideration, at which time the owners of the property subject to assessment for the same may appear and make objection to the contemplated improvement or sewer and the passage of said proposed resolution, at which hearing the same may be amended and passed, or passed as proposed. But if no such newspaper is published within the limits of the corporation, then such notice may be given by posting copies thereof in three public places within the limits of the corporation, two of which places shall be the post office and the mayor's office of such city or town. [36 G. A. (S. F. 222, § 1.)] [34 G. A., ch. 40, § 1.] [34 G. A., ch. 41, § 1.] [25 G. A. ch. 7, § 20.] [22 G. A., ch. 6, §§ 2, 3.] [21 G. A., ch. 168, § 21.]

The provisions of this section requiring that the resolution of necessity in case of sewers shall state "what adjacent property is proposed to be assessed therefor", is complied with when a city ordinance is shown to be in force defining what shall constitute "adjacent property" in such an

instance. *Dunker v. City of Des Moines*, 160-567.

It is unnecessary to designate the width of the improvement in the resolution of necessity and notice prescribed by this section. *In re Appeal of Apple*, 161-314.

SEC. 812. Contract.

The time of performance of contracts for paving, sewers, etc., may be reasonably extended without invalidating the contract or the assessments made after completion of the work. *Hubbell v. City of Des Moines*, 150 N. W. 701.

Evidence that the earth along one side of the pavement had washed out was held not to warrant the conclusion that the pavement of the kind laid was not permanent in character. *Ibid.*

SEC. 813. Bids—notice. All contracts for the making or reconstruction of street improvements and sewers shall be let in the name of the city, to the lowest bidder, by sealed proposals, upon giving notice for at least ten days from the first publication by two publications in a newspaper published in said city, which notice shall state as nearly as practicable the extent of the work and the one or more kinds of materials for which bids will be received, when the work shall be done, the terms of payment fixed, and the time the proposals shall be acted upon; but all bids may be rejected and new bids ordered; provided, however, that if no newspaper is published within the limits of such city or town, then such notice may be given by posting the same in three public places within the limits of such city or town, two of which such places shall be the post office and the mayor's office of such city or town. All bids must be accompanied, in a separate envelope, with a certified check payable to the order of the treasurer, in a sum to be named in the notice for bids, as security that the bidder will enter into a contract for the doing of the work, and will give the bond required in the following section. All such checks, where the bid has not been accepted, shall be returned to the respective bidders. [36 G. A. (S. F. 223, § 1.) [34 G. A., ch. 42, § 1.] [34 G. A., ch. 40, § 2.] [25 G. A., ch. 7, § 3.] [22 G. A., ch. 5, § 2.] [22 G. A., ch. 6, § 1.] [21 G. A., ch. 168, § 3.] [20 G. A., ch. 20, § 2.] [17 G. A., ch. 162, § 2.] [15 G. A., ch. 51, § 2.]

SEC. 814. Contractor's bond to repair.

The fundamental distinction between (1) a bond conditioned to perform the contract as per specifications, and (2) a bond conditioned to guarantee the completed work for a given period, is that under the former liability under the bond is foreclosed by a good faith conclusion and

agreement that the work has been done "as per specifications", while under the latter liability attaches for mistakes, oversights, and fraud in the original acceptance, and for hidden and future developing defects. *State v. McCarthy*, 150 N. W. 586.

SEC. 817. Cost at intersections.

A paving assessment is not invalid because the entire cost of paving intersections was assessed against property abut-

ting on the street improved and none assessed against property abutting only upon cross streets. *In re Appeal of Apple*, 161-314.

SEC. 824. Objections.

The property owner aggrieved by non-jurisdictional errors, irregularities and inequalities in the construction of paving and sewers, has been provided an exclusive remedy. He must file his objections with the council and avail himself of his right to appeal therefrom. *Hubbell v. City*, 150 N. W. 701.

Slight variations between completed improvements and the established grade, changes in grades after contract and before commencement of work, and assessments in excess of the 25 per cent limitation, are all non-jurisdictional matters. *Ibid.*

SEC. 825. Levy of assessment—installments.

In a controversy over an assessment between a county and city, held it was proper to allow interest on the assessment

finally made by the court from the date of the original assessment. *Madison County v. City of Winterset*, 145 N. W. 492.

SEC. 836. Relevy—schedule. When by reason of nonconformity to any law or ordinance, or by reason of any omission, informality or irregularity, any special tax or assessment hereafter levied is invalid, or is adjudged illegal, or in case of deficiencies, the council shall have the power to correct the same by resolution or ordinance, and may reassess and relevy the same, as also an amount to make up such deficiencies, with the

same force and effect as if done at the proper time, in the proper amount, and in the manner provided by law or by the resolution or ordinance relating thereto. Whenever any such special tax or assessment, upon property not by law exempt therefrom, shall have been heretofore or shall be hereafter adjudged to be void for any jurisdictional defect, and the city adjudged liable to pay the same, the city council shall as to such property have power, by resolution or ordinance, to cause to be prepared a schedule and proposed reassessment in proportion to and not in excess of benefits, and to cause notice thereof to be given, and to hear objections thereto and make necessary corrections, as provided by section eight hundred twenty-three of the code, as amended by chapter forty-two of the laws of the thirty-fourth general assembly; and thereupon the council shall reassess and relevy such special tax or special assessment as so corrected, with the same force and effect as if jurisdiction had been acquired in the first instance, and all subsequent proceedings had been regularly and legally had. This section shall also be applicable to all cities acting under special charters. [36 G. A. (H. F. 564, § 1.)] [35 G. A., ch. 83, § 1.] [22 G. A., ch. 6, § 7.] [22 G. A., ch. 44, § 1.] [20 G. A., ch. 20, § 3.]

SEC. 839. Appeal.

The giving of the bond is jurisdictional, and cannot be waived. *City v. Jefferson County*, 151 N. W. 53.

Either the mayor or clerk may fix the amount of, and approve, the bond, on appeal from a special assessment, or either may do one of such acts. A request so to do is essential before the duty devolves on such officers to fix or approve the bond and it is necessary that both the notice be served and the bond fixed and approved

within ten days to effect an appeal. *Johannsen v. City of Colfax*, 161-502, 143 N. W. 500.

An appeal should be dismissed on motion where a bond was not filed within the time specified in this section as that requirement is mandatory, and the mayor or clerk are not required to fix the penalty of the bond unless requested so to do. *Ibid.*

SEC. 840-g. Sewer outlets and purifying plants—tax levy authorized. That the law as it appears in chapter forty-one of the laws of the thirty-second general assembly be and the same is hereby repealed and the following is enacted as a substitute therefor, to wit:

"Cities of the second class and towns shall have the power to levy annually a tax of not to exceed five mills on the dollar to be used solely for the purpose of constructing outlets and purifying plants for sewers. The levy made under this act shall not be considered a part of the levy made for a sewer fund under provisions of the law as it appears in paragraph three of section eight hundred ninety-four of the supplement to the code, 1907. The tax herein authorized may be anticipated by issuing certificates or bonds, as provided by section nine hundred twelve of the code." [36 G. A. (S. F. 202, § 1.)] [33 G. A., ch. 54, § 1.] [32 G. A., ch. 41, § 1.]

SEC. 840-h. Paving highways leading into cities. Cities having a population of two thousand or more, shall have power to construct paved roadways along two such streets, avenues or highways within said cities as, in the judgment of the city councils thereof, constitute main traveled ways into and out of such cities, and to repair, improve and reconstruct the same, all as in this chapter hereinafter provided. [36 G. A. (S. F. 143, § 1.)]

SEC. 840-i. Paving districts—assessments—limitation. Such cities shall have power to establish paving districts to embrace such portions of said cities as, in the judgment of the city councils thereof, will receive special benefits from the construction, repair, improvement, or

reconstruction of such paved roadways, to change the boundaries of same from time to time as may become in the judgment of such councils, just and equitable and to assess so much of the cost of such paved roadways against all lots or tracts of land contained in the paving district within which such improvements are made, as shall equal and be in proportion to the special benefits conferred by said improvements and not in excess thereof. In no case shall such assessments exceed twenty-five per centum of the actual value of said lots or tracts at the time of levy thereof. [36 G. A. (S. F. 143, § 2.)]

SEC. 840-j. Resolution of necessity. Whenever the council of any such city shall deem it advisable or necessary for the benefit of the city as a whole, to construct, repair, improve or reconstruct any paved roadway as authorized by this act, it shall, in a proposed resolution, declare such advisability or necessity, stating the streets, avenues or highways along which such improvement is to be made, the terminal points thereof, one or more kinds of material proposed to be used and the width of such paved roadway; establishing a paving district the lots or tracts of land embraced in which shall be assessed to pay the cost of said improvement as in chapter seven, title five, of the code, and acts amendatory thereto provided; estimating the total cost of such improvement; and stating the proportion of such estimated total cost which will be assessed against each lot or tract of land in said district, which proportion shall be determined and fixed in accordance with the terms of this act, and with the benefits, value, area, distance from said roadway and accessibility thereto. [36 G. A. (S. F. 143, § 3.)]

SEC. 840-k. Plat and estimate to precede resolution of necessity. Before such proposed resolution shall be introduced the city council of such city shall cause to be prepared a plat and schedule which shall show the paving district proposed to be established; and each and every lot and tract of land therein contained, together with the proportion of the total cost which will be assessed against each said lot or tract, and an estimate of the total cost of the proposed improvement; said plat and schedule shall be filed in the office of the city clerk and shall be referred to as being so on file in said proposed resolution. [36 G. A. (S. F. 143, § 4.)]

SEC. 840-l. Preliminary notice. Before action may be had upon any such proposed resolution, such city council shall cause such notice of the time when said resolution will be considered by it for passage to be given as provided in section eight hundred ten of the code and amendments thereto. [36 G. A. (S. F. 143, § 5.)]

SEC. 840-m. Objections—right to hearing—amending resolution. At the time fixed in said notice for consideration of said resolution, any citizen of such city, or owner of any property affected thereby, may appear and make written objection to the contemplated improvement, to the boundaries of the proposed paving district, to the proportion proposed to be assessed against any lot or tract, or to the passage of said resolution. At which hearing the resolution may be amended and passed, or passed as proposed. [36 G. A. (S. F. 143, § 6.)]

SEC. 840-n. Ordering construction. Whenever the provisions of the preceding four sections of this act shall have been complied with, such council may, by ordinance or resolution, order the construction, repair improvement or reconstruction of said paved roadway, upon a ye and nay vote, entered of record, which record shall also show whether such roadway was petitioned for, or made on the motion of the council. [36 G. A. (S. F. 143, § 7.)]

SEC. 840-o. Levy to pay portion of costs borne by city. Such city shall have power after the completion of any improvement contemplated in this act, to levy upon all taxable property excepting moneys and credits in said city contained, an annual tax for the purpose of paying that portion of the cost of such improvement not borne by the special assessments levied against the lots and tracts of land embraced in the paving district established therefor, but the aggregate of all such levies shall not exceed ten mills, nor shall such levies in the aggregate, exceed one mill for any one year. [36 G. A. (S. F. 143, § 8.)]

SEC. 840-p. Payment by city—limitation—anticipating collections. In no event shall such cities be authorized or empowered to pay more than fifty per centum of the total cost of any improvement contemplated in this act, out of the fund raised by the levy provided for in the preceding section nor out of any other city fund. But any such city may anticipate the collection of taxes authorized to be levied by the preceding section as provided by sections seven hundred fifty-eight-b and seven hundred fifty-eight-c of the supplement of the code, 1907, relating to bridge taxes. [36 G. A. (S. F. 143, § 9.)]

SEC. 840-q. Grade to be established. If any such street, avenue or highway along which any improvement herein contemplated is to be constructed, has not an established grade the city council shall cause a grade, or grades to be established therein, and no improvement provided for in this act shall be constructed upon any street, avenue or highway until the surface thereof shall have been graded so that such improvement when fully constructed will be at the established grade. [36 G. A. (S. F. 143, § 10.)]

SEC. 840-r. Statutes applicable. All the provisions of title five, chapter seven, of the code and amendments thereof, so far as the same are additional to this act or applicable thereto, shall be and remain in the same force and effect as in other street improvements. This act shall not apply to cities acting under special charter. [36 G. A. (S. F. 143, § 11.)]

CHAPTER 8-A.

OF PROTECTION OF CITY PROPERTY FROM FLOODS.

SECTION 849-a. Protection authorized. That in addition to the powers they now have all cities and towns in this state shall have power in accordance with the provisions of this act to protect lots, lands and property within their limits from danger and damage from floods and high water by deepening, widening, straightening, altering or changing and otherwise improving watercourses within their limits, and by constructing levees, conduits, embankments and other works, and to provide for the levy of special assessments and other taxes and the issuance of bonds and certificates to defray the expense of such improvements. [36 G. A. (H. F. 424, § 4.)] [33 G. A., ch. 55, § 1.] [30 G. A., ch. 33, § 1.]

SEC. 849-l. Assessments in lieu of tax. Cities having a population of twenty thousand, or more, shall have the power, whenever in the judgment of the council of such city it shall be deemed advisable, to assess so much of land embraced within such benefited district as shall be equal and be in proportion to the special benefits conferred by said improvement, but not in excess thereof, in lieu of the tax to be levied against said property within such benefited district as provided by sections eight

hundred forty-nine-c and eight hundred forty-nine-e of the 1913 supplement to the code, and pay the remainder of the cost of such improvement by the levying of taxes or issuing of improvement certificates or bonds as provided by said sections eight hundred forty-nine-c and eight hundred forty-nine-e of the 1913 supplement to the code. [36 G. A. (H. F. 424, § 1.)]

SEC. 849-m. Plans to state amount of proposed assessment. If it shall be proposed by the city council of any city having a population of twenty thousand, or more, to assess the lots, tracts or parcels of land within such benefited district for such improvement as provided by section one hereof, in lieu of the tax as provided by sections eight hundred forty-nine-c and eight hundred forty-nine-e of the 1913 supplement to the code, then the plans and specifications, as provided by section eight hundred forty-nine-b of the 1913 supplement to the code, shall state the amount proposed to be assessed against each lot, tract or parcel of land embraced within such benefited district. [36 G. A. (H. F. 424, § 2.)]

SEC. 849-n. Construction of act. This act shall be construed as granting additional power to cities having a population of twenty thousand, or more, without limiting the power already existing in cities of the first class, including cities acting under the commission plan of government. [36 G. A. (H. F. 424, § 3.)]

CHAPTER 9.

OF PARK COMMISSIONERS AND BOARD OF PUBLIC WORKS.

SECTION 850-o. Soldiers' monuments in public parks. Cities and towns, including cities acting under special charter and cities under the commission form of government, may by ordinance permit soldiers' monuments or memorial halls, which may be erected under the provisions of section four hundred thirty, supplement to the code, 1913, or under the provisions of section four hundred thirty-five of the code, to be located and erected in any public park or public grounds of the city or town. [36 G. A. (H. F. 420, § 1.)]

SEC. 850-p. Meandered lake—tax to improve. That where any city has, prior to July first, eighteen hundred eighty, received a grant of the title from the United States to a meandered lake within its corporate limits, to be held and used for public uses, recreation and park purposes, and where such city has for more than twenty years devoted the same to the public use, recreation and park purposes, its board of park commissioners, is authorized in the discretion of said board to certify to the county auditor and cause to be collected an additional tax of not exceeding one-half mill each year for the years nineteen hundred sixteen, nineteen hundred seventeen, nineteen hundred eighteen, nineteen hundred nineteen and nineteen hundred twenty, to be used for the sole and only purpose of improving such lake by dredging or otherwise deepening the same, constructing dikes and levees for the protection of the same and for changing the form and size thereof and for the regulation, control and improvement of the water supply and for the improvement and beautifying of such lake, the park land surrounding the same and for the furnishing of suitable equipment thereof for public use and pleasure. [36 G. A. (S. F. 150, § 1.)]

CHAPTER 9-A.

OF IMPROVEMENT OF THE CHANNELS OF MEANDERED STREAMS WITHIN THE CORPORATE LIMITS OF CERTAIN CITIES.

SECTION 879-01. Soldiers' monuments on river fronts. That any river front improvement commission elected under the provisions of chapter nine-A, title five, supplement to the code, 1913, may, by contract or by resolution duly entered of record, authorize and permit the location and erection of any soldier's monument or memorial hall which may be erected under the provisions of section four hundred thirty, supplement to the code, 1913, or section four hundred thirty-five of the code, to be located and erected upon grounds held in trust by such commission. [36 G. A. (H. F. 419, § 1.)]

CHAPTER 9-C.

OF JUVENILE PLAYGROUNDS.

SECTION 879-r. Juvenile playgrounds—election. All cities shall hereafter have the power to provide one or more playgrounds, as hereinafter provided, the number and location thereof to be determined by the city council; provided, however, the electors of such city, at a general or special election called for that purpose, shall first vote in favor of the establishment of such playgrounds and the issuing of city bonds for the providing thereof.

The city council, may, on its own motion, order the question of providing such playgrounds submitted to a vote of the electors of such city at a regular election or at a special election called for that purpose; or the mayor shall submit such question to such vote on a petition of fifteen per cent of the qualified electors of such city as shown by the poll books of the last municipal election. The proposition to be submitted shall be "Shall the proposition to establish juvenile playgrounds (or playground, if only one) in the city of (name of city) and to authorize a city bond issue of \$. (state the amount to be issued) as provided for in chapter (naming chapter containing this act) of the acts of the thirty-sixth general assembly of Iowa be adopted?" Said election shall be conducted, the vote canvassed and the result declared in the same manner as is by law provided for the holding of other municipal elections. If a majority of the votes cast on said proposition be in favor of the establishment of such playgrounds then the city council shall thereupon establish the same, as hereinafter provided; if a majority of the votes cast are opposed to such proposition said question shall not be again submitted to the voters of said city within two years thereafter but may then be again submitted as above provided. [36 G. A. (H. F. 363, § 1.)]

SEC. 879-s. Playground bonds. For the purpose of providing funds for the purchase of real estate to be used as such playgrounds, and for the purpose of constructing buildings thereon, the city council shall provide for an issue of city bonds, to be known as "Playground Bonds" and shall take all preliminary steps and make all necessary arrangements for the preparation, issue, sale, payment and redemption of such bonds, which provision shall provide that such bonds shall be issued serially and redeemed within fifteen years after their issue; and the city council shall also provide for a millage tax upon the taxable property of the city, sufficient to liquidate such bonds, together with the interest thereon, at

their maturity. All proceeds received from the sale of such bonds shall be deposited in the treasury of such city to the credit of the "Playground Bond Fund" and shall be kept by the treasurer as a separate fund and used solely and exclusively for the purchase of real estate for playground purposes and for the construction of buildings thereon. [36 G. A. (H. F. 363, § 2.)]

SEC. 879-t. Purchase or condemnation of land—improvements. Whenever the establishment of such a playground is authorized by a majority vote of the electors, and as provided above, the city council shall secure the necessary real estate therefor, suitably located for such purposes, which land may be secured by purchase or otherwise. Title to such real estate shall be taken in the name of the city. If said city council and the owners of any property desired by it for playground purposes cannot agree as to the price to be paid therefor, it may cause the same to be condemned in the manner provided for taking lands for municipal purposes. The city council shall immediately thereafter improve such real estate by the construction of the necessary buildings thereon and by the planting of trees and shrubbery thereon and by the doing of such other things as in their judgment is necessary to make the playgrounds attractive, suitable and satisfactory for playground purposes. [36 G. A. (H. F. 363, § 3.)]

SEC. 879-u. Playground maintenance fund. Following the establishment of such playgrounds, the city council shall provide a levy of not more than two mills on all of the taxable property of such city, and all moneys received from such taxation and all gifts or bequests made to the city in the interest and for the benefit of such playgrounds shall be deposited in the treasury of such city to the credit of the "Playground Maintenance Fund" and shall be kept by the treasurer in a separate fund to be used solely and exclusively for the improvement of such playgrounds, the expense of which is not otherwise provided for, and for the maintenance and operation thereof. Orders upon such funds shall be paid out only on the order of the city council. [36 G. A. (H. F. 363, § 4.)]

SEC. 879-v. Playground superintendent—assistance—salaries. That for each playground the city council shall appoint a woman, peculiarly fitted for such work, who shall be known as "Playground Superintendent" and she shall be placed in charge of such playground and shall have control over the children playing thereon and shall have such other powers and perform such other duties as shall be fixed from time to time by the city council. Her term of appointment and the salary which she is to receive shall be fixed by the city council. The city council may also employ such additional help as may prove necessary. All salaries shall be paid monthly. Such salaries and all other expenses incurred in the maintenance of such playgrounds shall be paid out of the "Playground Maintenance Fund", but only after being allowed and ordered paid by the city council. [36 G. A. (H. F. 363, § 5.)]

SEC. 879-w. Rules and regulations. The city council shall request suggestions for rules and regulations to be adopted for the government and operation of such playgrounds from the playground superintendent and the superintendent of schools of such city and from such public spirited citizens as are interested in the child welfare of such city, and shall carefully consider all such suggestions and shall thereafter determine and promulgate the rules and regulations which shall govern in the operation and management of such playgrounds. Such rules and regulations may thereafter be modified and changed, from time to time, by the city council. [36 G. A. (H. F. 363, § 6.)]

CHAPTER 10.

OF CONDEMNATION AND PURCHASE OF LAND.

SECTION 880. For what purposes. Cities and towns shall have power to purchase or provide for the condemnation of, pay for out of the general fund, enter upon and take any lands, within or without the territorial limits of such city or town, for the following purposes:

1. For parks, commons, cemeteries, crematories or hospital grounds;
2. For establishing, laying off, widening, straightening, narrowing, extending and lighting streets, avenues, highways, alleys, wharfs, landing places, public squares, public grounds, public markets and market places, and public slaughter houses;
3. For any other purposes provided in this title, and in all cases where such purchase or condemnation is now or may hereafter be authorized.

4. Such cities and towns may levy a tax not exceeding in any one year one mill on the dollar of the assessed valuation of the property within the corporate limits thereof, such levy to be used for no other purpose than the payment for the land acquired for cemetery purposes and interest accruing on the purchase or condemnation price thereof. [36 G. A. (S. F. 570, § 1.)] [15 G. A., ch. 6.] [C. '73, §§ 464, 470.] [R., § 1064.]

SEC. 881. Sewer outlets—disposal plants. That section eight hundred eighty-one, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“Cities and towns including cities under special charter and cities acting under commission form of government shall have the power to acquire real estate and easements therein, within or without their territorial limits, necessary for the control of streams and surface waters flowing into sewers within such towns and cities, or necessary for sewer outlets, garbage disposal plants, sewage disposal plants, and dump grounds, by purchase or condemnation, as in this chapter provided, and the expense of such acquisition of real estate or easements therein, for the control of streams and surface waters flowing into sewers, for sewer outlets, garbage disposal plants, sewage disposal plants, and dump grounds, shall, in the case of garbage disposal plants and dump grounds, be paid out of the general fund, and in the case of the control of streams and surface waters flowing into sewers, sewer outlets and sewage disposal plants, out of the general fund, or out of the city sewer fund, or out of the sewer fund of the sewer district which is to be served by such acquisition of land or easement.” [36 G. A. (H. F. 280, § 1.)] [30 G. A., ch. 37.] [26 G. A., ch. 8.]

CHAPTER 11.

OF TAXATION.

SECTION 887-a. Road dragging fund. City and town councils, in cities having a population of less than eight thousand, and towns, may, at the time of levying taxes for other purposes, levy a tax of not more than one mill on the dollar of the taxable value of such city or town, which shall be used for dragging the roads or streets of such city or town, and for no other purpose. [36 G. A. (S. F. 185, § 1.)]

SEC. 894. Other taxes. Any city shall have power to levy annually the following special taxes:

1. *Grading fund.* A tax not exceeding, in any one year, three mills on the dollar, for a grading fund, to be used for the purpose of opening, widening, extending and grading any street, highway, avenue, alley, public ground or market place; [23 G. A., ch. 5, § 1; 21 G. A., ch. 160, §§ 2, 3; 20 G. A., ch. 20, § 5.]

2. *Improvement fund.* A tax not exceeding, in any one year, five mills on the dollar, for a city improvement fund, to be used for the purpose of paying the cost of the making, reconstruction or repair of any street improvements at the intersections of streets, highways, avenues or alleys, and at spaces opposite streets, highways, avenues and alleys intersecting but not crossing, and at spaces opposite property owned by the city or the United States, and for the purpose of paying the purchase price and subsequent taxes assessed against property purchased by the city at tax sale; [25 G. A., ch. 8, § 1; 22 G. A., ch. 12, § 1; 21 G. A., ch. 160, §§ 2, 3; 19 G. A., ch. 38, §§ 1, 2.]

3. *Sewer fund.* A tax not exceeding, in any one year, two mills on the dollar on the assessed valuation of all property therein, for a city sewer fund, when the entire city comprises one sewer district, to be used to pay the cost of the making, reconstruction or repair of any sewer at the intersection of streets, highways, avenues, alleys, and at spaces opposite streets, highways, avenues and alleys intersecting but not crossing, and at spaces opposite property owned by the city or the United States, and to pay the whole or any part of the cost of the making, reconstruction or repair of any sewer within the limits of said city; when a city has been divided into sewer districts, a tax not exceeding two mills on the dollar on the assessed valuation of all property in the sewer district, for a district sewer fund, to be used to pay, in whole or in part, the cost of the making, reconstruction or repair of any sewer located and laid in that particular district; [25 G. A., ch. 7, § 11; 22 G. A., ch. 7, § 1; 21 G. A., ch. 34; 17 G. A., ch. 162, § 1; 16 G. A., ch. 107, § 1.]

[See § 840-g. EDITOR.]

4. *Library tax.* That chapter thirty-eight of the laws of the thirtieth general assembly be and the same is hereby repealed and the following enacted in lieu thereof:

"In cities and towns which have established, or may hereafter establish, a free public library when the trustees of such library have made the certificate provided for in section one hereof, a tax in the amount so certified, but not exceeding in any one year five mills on the dollar in all cities and incorporated towns to be used for the maintenance of such library; and in such cities and towns an additional tax not exceeding in any one year three mills on the dollar, for the purchase of real estate and the erection of a building or buildings thereon for a public library, or for the payment of interest on any indebtedness incurred for that purpose, and for the creation of a sinking fund for the extinguishment of such indebtedness;" [35 G. A., ch. 68, § 2.] [31 G. A., ch. 21, § 2; 30 G. A., ch. 38; 26 G. A., ch. 5; 25 G. A., ch. 99, § 2; 25 G. A., ch. 43, § 1; 22 G. A., ch. 18, § 1.]

5. *Waterworks tax.* A tax not exceeding, in any one year, five mills on the dollar, which, with the water rates or rents authorized, shall be sufficient to pay the expenses of running, operating and repairing waterworks owned and operated by any city or town, and the interest on any bonds issued to pay all or any part of the cost of construction, renewal, repair or extension of such works; but such tax shall not be levied upon property which lies wholly without the limits of the benefit and protection

of such works, which limits shall be fixed by the council each year before making the levy; [29 G. A., ch. 48, § 1; C. '73, § 475.]

6. *Tax for gasworks or electric plant.* A tax not exceeding, in any one year, five mills on the dollar, which, with the rates or rentals authorized, shall be sufficient to pay the expenses of running, operating and repairing gasworks and electric light or power plants owned by any city or town, and the interest on any bonds issued to pay all or any part of the cost of the construction of such works or plants; but such tax shall not be levied upon property which lies wholly without the limits of the benefit of the same, which limits shall be fixed by the council each year before making the levy; [22 G. A., ch. 11, § 2; C. '73, § 475.]

7. *Water tax.* A tax not exceeding, in any one year, five mills on the dollar, for the purpose of paying the amount due or to become due to any individual or company operating waterworks for water supplied under any contract, the levy to be limited to the property as in subdivision five hereof; and if in cities of the first class the maximum tax is insufficient to pay such amount under contracts now in force, the deficiency shall be paid out of the general fund; [C. '73, § 475.]

8. *Tax for gas or electric light or power.* A tax not exceeding, in any one year, five mills on the dollar, for the purpose of paying the amount due or to become due to any municipality, individual or company operating gasworks or electric light or power plants for all gas, electric light or power supplied under any contract, the levy to be limited to the property as in subdivision six hereof; providing that in cities of five thousand or less and towns, there may be in any one year a tax not exceeding seven mills on the dollar; [36 G. A. (H. F. 361, § 1.)] [35 G. A., ch. 91, § 1.] [35 G. A., ch. 67, § 2.] [22 G. A., ch. 11, § 2.] [C. '73, § 475.]

9. *Bond fund tax.* A tax for the purpose of creating a bond fund sufficient to pay the interest to accrue before the next annual levy on funding or refunding bonds outstanding, and such proportion of the principal that at the end of five years the sum raised shall equal at least twenty per cent. of the amount of the bonds issued; at the end of ten years at least forty per cent. of said amount; at the end of fifteen years at least sixty-five per cent. of said amount; and at or before the date of the maturity of said bonds a sum equal to the whole amount of the unpaid principal and interest, which tax shall be used to pay such principal and interest, and for no other purpose; [24 G. A., ch. 14, § 5; 23 G. A., ch. 4, §§ 6, 7; 22 G. A., ch. 17, § 5; 21 G. A., ch. 78, § 5.]

10. *Tax for water or gasworks or electric plant bonds.* A tax as authorized in the preceding subdivision, to be levied in the proportions therein set forth, and to be used exclusively in payment of the principal of bonds issued for the construction of water and gasworks and electric light and power plants, which tax shall not be levied upon property lying wholly without the limits of the benefit of such works or plants, which limits shall be fixed by the council each year before making the levy; [23 G. A., ch. 13, § 1; 22 G. A., ch. 10, § 1.]

11. *Cemetery tax.* A tax, not exceeding one half of one mill on the dollar of the assessed valuation of the property within the corporate limits, for the care, preservation and adornment of any cemetery owned or controlled by the city, or any private or incorporated cemetery association utilized by the citizens of said city or town; and the said tax may be so expended for the support and maintenance of any such cemetery after the same has been abandoned and is no longer used for the purpose of interring the dead; [35 G. A., ch. 50, § 2; 33 G. A., ch. 38, § 2.]

12. *Subdivisions five, six, seven, eight, nine, ten and eleven, extended to incorporated towns, and proceedings legalized.* The provisions of subdivisions five, six, seven, eight, nine, ten and eleven of said section eight hundred ninety-four are extended to incorporated towns, and all proceedings of incorporated towns had under the assumption that the said provisions were applicable to said incorporated towns are hereby legalized and confirmed, and said proceedings shall be in law held to be valid to the same extent as if the said subdivisions of said section eight hundred ninety-four of the code included incorporated towns by the specific terms thereof. The tax authorized by paragraph eleven hereof may as to towns exceed one half of one mill, but shall in no case exceed three mills on the dollar. [33 G. A., ch. 38, § 3.] [28 G. A., ch. 32, § 1.]

CHAPTER 13.

OF PLATS.

SECTION 917. Dedication to public.

The filing of a plat dedicating a highway in a village, not incorporated, conveys to the public an easement only in the highway, and on the vacation of the highway, the right of unencumbered pos-

session of the land embraced therein reverts to the original owner or his grantees. *Kitzman v. Greenhalgh*, 164-166, 145 N. W. 505.

SEC. 932. Manner of transfer. When a plat or lot of the character described in the preceding section is located in such town, and one-half of the resident voters thereof, according to the last census, shall petition the mayor and council, asking them to submit to the voters of the town, at a general or special election, the question whether or not such public plat or lot shall be transferred to such independent district and dedicated and used for school purposes, they shall submit the question to the voters of the town, in accordance with the prayer of said petition, after giving ten days' notice in writing or printing thereof, in which the proposition submitted shall be clearly set forth and signed by the mayor, three of which notices shall be posted in public and conspicuous places in the town, and one published in the last two issues preceding such election of a weekly newspaper published therein, or, if there be none, then in the weekly newspaper published elsewhere in the county, having the largest circulation in said town. The notice shall also state the manner of voting, which shall be by ballot. The ballot shall contain the words: "Shall the proposition to transfer lot (or block, or square, as the case may be, describing it), for the purposes of a public school-house lot, be adopted?" Such election shall be conducted as ordinary town elections are, under the supervision of the town authorities, who shall canvass the vote as provided in other cases. If it shall appear that two-thirds of the votes cast at such election are in favor thereof, then such transfer shall be complete, and the lot, block or square may be appropriated and used for the purposes indicated by said vote, and shall be no longer held for any other purpose.

In the event that any such town shall have discontinued its organization or shall have failed to exercise its municipal powers and elect officers for a period of more than ten years, then the petition hereinbefore provided for may be presented to the board of directors within such school corporation, whereupon, if signed by one-third of the resident electors thereof, it shall be the duty of said board within ten days after the filing of the same to call

an election in said district for which they shall give the same notices as required in section twenty-seven hundred forty-six of the code and twenty-seven hundred fifty of the supplement to the code, 1913, at which election the proposition submitted shall be in the same form as in the instance of a submission of such proposition in the case of a town election, and such election shall be held as provided for the holding of other school elections. If it shall appear that a majority of the votes cast at such election are in favor of such proposition then a transfer of such public square or plat of ground shall be complete and such lot, plat, block or square may be appropriated and used for the purposes indicated by said vote and shall be no longer held for any other purpose. [36 G. A. (S. F. 66, § 1.)] [21 G. A., ch. 75, § 2.]

CHAPTER 13-A.

OF PENSIONS FOR DISABLED AND RETIRED FIREMEN.

SECTION 932-c. Investment of surplus. The firemen's pension fund shall be kept and preserved as a separate fund. The board of trustees shall have power to invest any surplus left in such fund at the end of the fiscal year, but no part of the fund realized from any tax levy shall be used for any purpose other than the payment of pensions. Investments shall be limited to interest-bearing bonds of the United States, of the state of Iowa, of any county, township or municipal corporation of the state of Iowa. All such securities shall be deposited with the treasurer of the board of trustees for safe-keeping. [36 G. A. (S. F. 147, § 1.)] [33 G. A., ch. 61, § 3.]

CHAPTER 14.

OF CITIES UNDER SPECIAL CHARTERS.

SECTION 937. Council—vacancies. In any such city having a population of twenty thousand or more, as shown by the last state or national census, the council shall consist of a mayor, two aldermen at large, and one alderman from each ward. At the first annual city election after the taking effect of this code, there shall be elected two aldermen at large, and one alderman from each ward. Thereafter the successors of such aldermen shall be elected biennially. The aldermen in office at the time of taking effect of this code shall continue in office only until the election and qualification of the aldermen herein provided for. Vacancies, now existing or hereafter occurring, in the office of alderman, shall be filled by special election, unless such vacancy shall have occurred less than sixty days prior to a regular city election. Such special election shall be called by a proclamation of the mayor, giving at least ten days' notice of such election, designating the time and polling places therefor and the vacancy to be filled thereat. Notice of such election shall be published in at least one newspaper printed and published in said city and in two, if there be such number, for a period of ten days prior to such election. Notice of such election shall be posted at or near the polling places designated for said election for a similar length of time. The election board at any such special election shall be the same as at the last preceding city election. In case of vacancies happening therein the mayor shall make appointments to fill the same, such appointee to be a member of the same political party

or organization as the member filling such position before the vacancy. (The city clerk shall, on notice from the mayor cause ballots to be prepared for such election as provided by law; or, in the event of his refusal or inability to act, the mayor shall cause such ballots to be prepared). Nominations of candidates for such vacant office may be made by caucus or convention, as provided in section one thousand ninety-eight of the code; or, in the event such nomination be not made by such caucus or convention, within five days prior to the day fixed for holding such election, then the regular executive or city central committee, of any party qualified to nominate by caucus or convention, may make such nomination. [36 G. A. (H. F. 45, § 1.)] [35 G. A., ch. 94, § 1.]

The mayor of a city having a population of twenty thousand or over is a member of the council, and must be counted as such in determining the number of votes necessary to fill vacancies in the council. *State ex rel Jebens v. Noth*, 151 N. W. 822.

SEC. 937-a. Vacancies—when filled by council. In the event that such vacancy shall have occurred less than sixty days prior to a regular city election, then the vacancy so existing shall be filled by a majority vote, of the remaining aldermen of the city council. [36 G. A. (H. F. 45, § 2.)]

SEC. 937-b. Conflicting acts repealed. That all acts or parts of acts in so far as in conflict herewith be and the same are hereby repealed. [36 G. A. (H. F. 45, § 3.)]

SEC. 972. Payment. The special assessments made in said plat and schedule, as corrected and approved, shall be levied at one time, by resolution, against the property abutting upon or adjacent to such street or sewer, and, when levied and certified, shall be payable as ordinary city taxes. If the owner of any lot or parcel of land or railroad or street railway, the assessment against which is embraced in any bond or certificate provided for in chapter eight, of this title, shall, within thirty days from the date of such assessment, promise and agree in writing, indorsed on such bond or certificate, or in a separate agreement, that, in consideration of having the right to pay his assessment in installments, he will not make any objections of illegality or irregularity, or to the assessment or levy of such tax upon and against his property, and will pay said assessment, with interest from the date of acceptance of the work by the city council at a rate not exceeding six per cent. per annum, as shall by ordinance or resolution of the council be prescribed, then such tax so levied against the lot or parcel of land or railroad or street railway shall be payable in not less than five nor more than ten equal installments, the first of which may become due and payable, with interest from the date of acceptance of the work by the city council on the whole amount, at a time fixed in the year in which the levy is made, or in the following year, and the other installments shall be due and payable, with interest on the whole amount unpaid, at intervals of one or two years, as fixed by the resolution making the levy, and all of such installments, with interest from the date of acceptance of the work by the city council, shall mature in ten years or less from the time fixed for the payment of the first installment; but where no such agreement is made, then the whole of such assessment so levied shall mature at one time, and be due and payable, with interest from the date of acceptance of the work by the city council, as hereinafter provided. [36 G. A. (H. F. 372, § 1.)] [25 G. A., ch. 7, §§ 11, 20.] [22 G. A., ch. 5, § 7.] [21 G. A., ch. 168, § 12.] [20 G. A., ch. 20, §§ 3, 6.] [20 G. A., ch. 25, § 9.] [17 G. A., ch. 162, § 3.]

SEC. 974. Interest. Such assessment shall bear interest from the date of acceptance of the work by the city council at six per cent. per annum. Interest on the whole assessment unpaid shall become due and payable at the time fixed by resolution or ordinance for the payment of each installment. [36 G. A. (H. F. 372, § 2.)] [25 G. A., ch. 7, § 11.] [22 G. A., ch. 5, § 7.] [21 G. A., ch. 168, § 12.] [20 G. A., ch. 20, §§ 3, 5, 6.] [20 G. A., ch. 25, § 9.] [17 G. A., ch. 162, § 3.]

SEC. 997-a. Property inside curb line—power of city. That cities under special charter now or hereafter having a population of twenty-five thousand or over, shall have, and are hereby granted power to place by ordinance, the exclusive charge, custody and control of all property outside of the lot or property lines and inside the curb lines and upon the public streets in the park commission. [36 G. A. (H. F. 277, § 1.)]

SEC. 997-b. Permanent sidewalks. That cities under special charter now or hereafter having a population of twenty-five thousand or over shall have and are hereby granted the power to confer upon the park commission by ordinance, the right to determine the location of permanent sidewalks outside of the lot or property lines and upon the public streets. [36 G. A. (H. F. 277, § 2.)]

SEC. 997-c. Care of trees and shrubbery on streets. That cities under special charter now or hereafter having a population of twenty-five thousand or over shall have, and are hereby granted the power to place by ordinance, the charge, custody and control in the park commission, of all trees, shrubbery, flowers and grass outside of the lot or property lines and inside the curb lines and upon the public streets, and authorize the park commission to plant, cut, prune, remove, transplant, spray, care for and maintain all trees, shrubbery, flowers and grass outside of the lot or property lines and inside the curb lines and upon the public streets, in such a manner as not to interfere with public travel; and to pay the same or any part thereof out of the park fund, or to provide by ordinance, for assessing the cost thereof or any part thereof upon the lots and parcels of land in front of which such trees, shrubbery, flowers and grass are planted and maintained. [36 G. A. (H. F. 277, § 3.)]

CHAPTER 14-B.

OF APPOINTMENTS AND REMOVALS.

SECTION 1056-a15. Preference in appointments and promotions.

This section is not unconstitutional under Section 6, Article 1, of the Constitution prohibiting the granting of special privileges or immunities to any class of citizens. *Thurber v. Duckworth*, 147 N. W. 158.

SEC. 1056-a16. Removals.

This section is not unconstitutional under Section 6, Article 1, of the Constitution prohibiting the granting of special privileges or immunities to any class of citizens. *Thurber v. Duckworth*, 147 N. W. 158.

A discharged person's claim for damages and a writ of mandamus may both be enforced in the same action. *Ibid.*

CHAPTER 14-C.

OF GOVERNMENT OF CERTAIN CITIES.

SECTION 1056-a25. Council—powers and duties—departments.

When a city adopts the commission form of government, the powers possessed by the officers of the old government are vested in the new council and these powers include the powers of the water works trustees although such officers are not particularly specified. *Sloan v. City of*

Cedar Rapids, 161-307.

The appointment of water works trustees by a city council, in the absence of evidence to the contrary, is presumed to have been made after an ordinance had been enacted as required by statute, providing for such offices. *Ibid.*

SEC. 1056-a26. Department superintendents—officers and assistants. That section ten hundred fifty-six-a twenty-six of chapter fourteen-C of the supplement to the code, 1907, be and the same is hereby repealed, and the following enacted in lieu thereof:

The mayor shall be superintendent of the department of public affairs, and the council shall at the first regular meeting after election of its members designate by majority vote one councilman to be superintendent of the department of accounts and finances; one to be superintendent of the department of public safety; one to be superintendent of the department of streets and public improvements; and one to be superintendent of the department of parks and public property; provided, however, that in cities having a population of less than twenty-five thousand there shall be designated to each councilman two of said departments. Such designation shall be changed whenever it appears that the public service would be benefited thereby. The council shall, at said first meeting, or as soon as practicable thereafter, elect by majority vote the following officers: city clerk, solicitor, assessor, treasurer, auditor, civil engineer, city physician, marshal, market master, street commissioner, and such other officers and assistants as shall be provided for by ordinance and necessary to the proper and efficient conduct of the affairs of the city; provided, however, that in cities having a population of less than twenty-five thousand such only of the above named officers shall be appointed as may, in the judgment of the mayor and councilmen, be necessary for the proper and efficient transaction of the affairs of the city. In those cities of the first class not having a superior court, the council shall appoint a police judge or in any city of the second class under the commission form of government, wherein the census enumerators have completed taking the census, reported the same to the county auditor, and the county auditor has made a return of the same to the executive council, such return showing such city to have a population of fifteen thousand or more, the city council of such city may immediately appoint a police judge the same as though the executive council had completed the canvass of the census and certified the same as official. That all cities of the second class appointing police judges as herein provided shall within two years after the official census returns are published abolish such police court, unless such city completes all necessary steps to become a city of the first class as provided in title five, chapter two of the code, and amendments thereto. In cities of the second class not having a superior court the mayor shall hold police court, as now provided by law. Any officer or assistant elected or appointed by the council may be removed from office at any time by vote of a majority of the members of the council, except as otherwise provided for in this act. [36 G. A. (H. F. 626, § 1.)] [35 G. A., ch. 100, § 2.] [34 G. A., ch. 54, § 1.] [33 G. A., ch. 64, § 8.] [32 G. A., ch. 48, § 8.]

SEC. 1056-a30. Ordinances and resolutions—franchises.

Sec. 1056-a37 is not applicable to the *Moines City Ry. Co. v. Susong*, 150 N. W. ordinances covered by this section. *Des* 6.

SEC. 1056-a32. Civil service commissioners—duties—powers of council. In cities having a population of fifteen thousand and over the council shall, and in cities having a population of two thousand and less than fifteen thousand, the council may, immediately after organizing, by ordinance appoint three civil service commissioners who shall hold office, one until the first Monday in April of the second year after his appointment, one until the first Monday in April of the fourth year after his appointment, and one until the first Monday in April of the sixth year after his appointment; provided, however, that in all cases in which no civil service commissioners are appointed by the council, the council shall have the same powers and shall exercise and perform all the duties devolving upon such commissioners, as provided for in this act. In cities wherein civil service commissioners have been appointed under the provisions of this act each succeeding council shall, as soon as practicable after organizing, appoint one commissioner for six years, who shall take the place of the commissioner whose term of office expires. The chairman of the commission for each biennial period shall be the member whose term first expires. No person while on the said commission shall hold or be a candidate for any office of public trust. Two of said members shall constitute a quorum to transact business. The commissioners must be citizens of Iowa, and residents of the city for more than three years next preceding their appointment. The council may remove any of said commissioners during their term of office for cause, four councilmen voting in favor of such removal, and shall fill any vacancy that may occur in said commission for the unexpired term. The city council shall provide suitable rooms in which the said civil service commission may hold its meetings. They shall have a clerk, who shall keep a record of all its meetings, such city to supply the said commission with all necessary equipment to properly attend to such business. [36 G. A. (H. F. 8, §§ 1, 2.)]

(a) *Oath of office.* Before entering upon the duties of their office, each of said commissioners shall take and subscribe an oath, which shall be filed and kept in the office of the city clerk, to support the constitution of the United States and of the state of Iowa, and to obey the laws, and to aim to secure and maintain an honest and efficient force, free from partisan distinction or control, and to perform the duties of his office to the best of his ability.

(b) *Examinations—results certified—soldiers' preference.* Subdivisions b, c, and d of section ten hundred fifty-six-a thirty-two of the supplement to the code, 1907, be and hereby are repealed and the following enacted as a substitute therefor:

[The substitute includes subdivisions b, c, d and d1 hereof. **EDITOR.**]

Such commission shall, on the first Monday of April and October of each year, or oftener if they shall deem it necessary, under such rules and regulations as it may prescribe, hold examinations for the purpose of determining the qualifications of applicants for positions, including applicants for position of chief of the fire department, and for positions in the fire and police department, which examinations shall be practical in their character and shall relate to such matters as will fairly test the fitness of the person examined to discharge the duties of the position to which he seeks to be appointed. Such commission shall, as soon as possible after

every such examination, certify to the city council the names of ten persons for each department who, according to its records, have the highest standing for the positions they seek to fill, as a result of such examination, and all vacancies in positions under civil service which shall occur before the holding of the next examination shall be filled from said list so certified; provided, however, if the list for any cause shall be reduced to less than three for any division or department, then the superintendent of the proper department may temporarily fill a vacancy until the next examination of the commission. In all examinations and appointments under the provisions of this act, honorably discharged soldiers, sailors or marines of the regular or volunteer army or navy of the United States shall be given a preference if otherwise qualified. [34 G. A., ch. 54, § 2.]

(c) *Removals and discharges—appeal—witnesses—annual report—rules and regulations.* All persons subject to such civil service examination shall be subject to removal from office or employment by majority vote of such civil service commission for misconduct or failure to properly perform their duties under such rules and regulations as may be adopted by the council. The chief of police, the chief of the fire department, or any superintendent or foreman in charge of municipal work, may peremptorily suspend or discharge any subordinate then under his direction for neglect of duty, disobedience of orders or misconduct, but shall, within twenty-four hours thereafter, report such suspension or discharge, with the reason therefor, to the superintendent of his department, who shall thereupon affirm or revoke such suspension or discharge according to the merits under the facts in the case. Every officer or employe so suspended or discharged and whose suspension or discharge has been affirmed, or the officer or person so suspending or discharging a subordinate when such suspension or discharge has been revoked, as the case may be, may, within five days from the affirmance or revocation of any such suspension or discharge, appeal therefrom to the civil service commission, if the person taking the appeal was subject to such civil service, otherwise to the city council, and such commission or council, as the case may be, shall fully hear and determine the appeal upon the merits of the case, and if it be determined that any suspension or discharge was unwarranted the appellant shall be reinstated, otherwise it shall be affirmed. Any such appeal may be taken by serving upon the proper department superintendent or his secretary or clerk a notice in writing, within said time, specifying the ruling appealed from, which notice shall be signed by the person taking the appeal. A true copy of such notice of appeal shall be filed with the chairman of the civil service commission or mayor, as the case may be. Within five days from the service of such notice of appeal, the proper department superintendent shall file with the civil service commission, or city council, as the case may be, a written specification of the charges or grounds upon which the affirmance or revocation of the suspension or discharge appealed from was based. Within five days after such specifications are filed as aforesaid the commission or council, as the case may be, shall fix the time and place for hearing the appeal and notify the appellant in writing of the time and place so fixed, which notice shall contain a copy of the specifications so filed. The time for hearing any such appeal shall not be fixed earlier than five days nor later than twenty days from the filing of such specifications. The council and commission shall have the power to enforce the attendance of witnesses, the production of books and papers, and to administer oaths in the same manner and with like effect, and under same penalties, as in the case of magistrates exercising criminal or civil jurisdiction under the statutes of Iowa. The hearings on such appeals shall be public and

appellant may be represented by counsel. The council or commission, as the case may be, shall issue subpoenas for such witnesses as appellant may designate, which shall be signed by the mayor or chairman of the commission, as the case may be. Such commission shall make annual report to the council and it may require a special report from such commission at any time. Such commission may prescribe such rules and regulations for the proper conduct of its business as shall be found expedient and advisable. [34 G. A., ch. 54, § 3.]

(d) *Chief of fire department—appointment—removal—members of fire and police departments—qualifications.* Such commission shall appoint a chief of the fire department, but the tenure of any person holding such position at this time shall not be affected by this section; provided, however, that such officer may be removed for cause in accordance with the provisions of the next preceding section. No person shall be employed in any capacity in the fire or police department unless he is a citizen of the United States and has been a resident of such city more than one year and is of good moral character and can read and write the English language and is not addicted to the use of intoxicating liquors as a beverage. Nothing in this act shall be construed as limiting the powers conferred upon the city council and its members in section ten hundred fifty-six-a twenty-five of the supplement to the code, 1907. [34 G. A., ch. 54, § 4.]

(d1) *Campaign contributions prohibited—penalty.* No member of the fire or police department in any such city shall directly or indirectly contribute any money or anything of value to any candidate for nomination or election to any office or to any campaign or political committee. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed thirty days. [34 G. A., ch. 54, § 5.]

(e) *Penalties.* The council of such city shall have power to pass ordinances imposing suitable penalties for the punishment of persons violating any of the provisions of this act relating to the civil service commission.

(f) *Officers and employes affected.* The provisions of this section shall apply to all appointive officers and employes of such city, except those especially named in section eight of this act, commissioners of any kind (laborers whose occupation requires no special skill or fitness), election officials, and mayor's secretary and assistant solicitor, where such officers are appointed; provided, however, that existing employes heretofore appointed, or employed after competitive examination, or for long service under the provisions of chapter thirty-one, acts of the twenty-ninth general assembly, and subsequent amendments thereto, shall retain their positions without further examination unless removed for cause. All officers and employes in any such city shall be elected or appointed with reference to their qualifications and fitness, and for the good of the public service, and without reference to their political faith or party affiliations. It shall be unlawful for any candidate for office, or any officer in any such city, directly or indirectly, to give or promise any person or persons any office, position, employment, benefit, or anything of value, for the purpose of influencing or obtaining the political support, aid or vote of any person or persons. Every elective officer in any such city shall, within thirty days after qualifying, file with the city clerk, and publish at least once in a daily newspaper of general circulation, his sworn statement of all his election and campaign expenses, and by whom such funds were contributed. Any violation of the provisions of this section shall be a misdemeanor and be

a ground for removal from office. [35 G. A., ch. 102, § 1.] [33 G. A., ch. 64, § 10.] [32 G. A., ch. 48, § 14.]

SEC. 1056-a37. Petitions for ordinances—adoption or submission—how repealed or amended.

This section is not applicable to the a30. *Des Moines City Ry. Co. v. Susong*.
class of ordinances covered by Sec. 1056- 150 N. W. 6.

CHAPTER 14-D.

OF THE GOVERNMENT OF CITIES AND INCORPORATED TOWNS BY A COUNCIL
AND MANAGER.

SECTION 1056-b. Organization authorized. That any city or incorporated town and cities organized under chapter fourteen-C, supplement to the code, 1913, may become organized as a city or incorporated town, as the case may be, under the provisions of this act, by proceeding as herein-after provided. [36 G. A. (H. F. 408, § 1.)]

SEC. 1056-b1. Adoption of plan—election—councilmen—when elected. Upon petition, signed by the electors of any city or incorporated town or any city organized under chapter fourteen-C, supplement to the code, 1913, equal in number to twenty-five per centum of the votes cast for all candidates for mayor, at the last preceding election of such city or town, the mayor shall, not less than thirty days prior to the election to be held as herein provided, by proclamation, submit the question of organizing the government of such city or town, under this act, at a special election to be held at a time specified in such proclamation, and within two months after such petition is filed with the clerk of such city or town; provided, that in case not less than ten per centum of the qualified electors of any city reside in each of two or more townships, said petition shall be signed by not less than ten per centum of the qualified electors of such city, residing in each of such townships. If such plan of government be not adopted at the special election called, the question of adopting said plan shall not be resubmitted to the voters of such city or town, within two years thereafter. At such election, the proposition to be submitted shall be: "Shall the city (or incorporated town, as the case may be) of (name of city or incorporated town), organize under chapter (naming the chapter containing this act), of the acts of the thirty-sixth general assembly of the state of Iowa." The election at which the question of organizing the government of such city or town, under this act, shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law, in respect to elections in cities and towns organized under the general laws of the state. If a majority of the votes cast at such election shall be in favor of the organization of the government of such city or town, under the provisions of this act, cities having a population of twenty-five thousand or more, shall thereupon proceed to the election of five councilmen, and cities and towns having a population of less than twenty-five thousand shall proceed to the election of three councilmen; provided, however, that in any city having a population of twenty-five thousand or more, and less than seventy-five thousand, of which the territory embraced within the boundaries of such city lies in two townships, which are divided by a water course, four councilmen shall be elected, two of whom shall be residents of, and elected from that part of the city lying within each of such

townships. Upon the adoption of the proposition to organize the government of such city or town, under this act, the mayor shall immediately transmit to the governor, to the secretary of state, and to the county auditor, a certificate that the form of government provided by this act has been adopted, and the councilmen for which provision is made herein, shall be elected at the next regular city or town election, after the adoption of such form of government. If, however, the next regular city or town election does not occur within one year after the special election at which such form of government is adopted, the mayor shall, within ten days after such election, by proclamation, call a special election for the election of councilmen, as herein provided, and shall give thirty days' notice of such special election, which notice shall be included and given in the call for such special election. The special election, so called for the election of councilmen, shall, in either case, be conducted as hereinafter provided. [36 G. A. (H. F. 408, § 2.)]

SEC. 1056-b2. Laws applicable—ordinances—territorial limits—rights existing unimpaired. All laws governing cities of the first class, organized under the general laws of the state, not inconsistent with the provisions of this act, shall apply to and be in force in every city of the first class, organized hereunder; all laws governing cities of the second class, organized under the general laws of the state, not inconsistent with the provisions of this act, shall apply to and be in force in every city of the second class, organized hereunder, and all laws governing incorporated towns, not inconsistent with the provisions of this act, shall apply to and be in force in every such town organized hereunder. All by-laws, ordinances and resolutions lawfully passed, and in force in any such city or incorporated town, under its former organization, shall be and remain in force until altered or repealed by the council elected under the provisions of this act. The territorial limits of such city or town shall remain the same as under its former organization, and all rights and property of every description, which were vested in any such city or town, under its former organization, shall vest in the same when organized under the provisions of this act, and no right, or liability, in favor of, or against such city or town, existing at the time of the adoption of the form of government herein contemplated, and no suit or prosecution of any kind, shall be affected by the change of the form of government of such city or town, unless herein, otherwise provided. [36 G. A. (H. F. 408, § 3.)]

SEC. 1056-b3. Tenure of office of councilmen, other officers and employees. The councilmen elected at the special election called by the mayor, after the adoption of the form of government contemplated by this act, shall qualify, and their terms of office shall begin on the first Monday after their election, and they shall hold office until the next regular biennial municipal election, and until their successors are elected and qualified. At the first regular biennial election, after the organization of any city or town, under the provisions of this act, in all such cities and towns where three councilmen are to be elected, one councilman shall be elected for the term of two years, and two for the term of three years. When four councilmen are to be elected, as provided in section two hereof, one shall be elected from each township for the term of two years, and one from each township for the term of three years, and in cities where five councilmen are to be elected, two shall be elected for two years, and three for three years. At the next regular biennial municipal election, and biennially thereafter, there shall be elected, a member or members of the council for the term of three years to succeed those whose terms of office will expire the first Monday in April, following such election, and there shall also be

elected at such regular biennial municipal election, a member or members of the council for a term of three years to succeed those whose terms will expire one year after the first Monday in April following such election.

The time when each candidate for councilman shall begin his term of office shall be specified under his name on the ballot, and all petitions for nomination of members of the council, to be voted for at such regular biennial municipal election, shall specify the length of the term of office for which the candidate seeks nomination. The terms of office of the mayor and councilmen or aldermen of any city or incorporated town, adopting the form of government contemplated by this act, in office at the beginning of the terms of office of the councilmen first elected, under the provisions hereof, shall then cease and determine, and except the members of the library board, whose terms of office shall continue as now provided by law, the terms of office of all other officers including park commissioners, members of the board of public works, and water works trustees, whether elected or appointed, and of all employees of such city or incorporated town, shall be subject to the action of the council or manager, as herein provided. Except the members of the library board, the council shall have power to determine the tenure of office of any officer or the term of employment of any employee that it is authorized to appoint or employ, and to declare any such office vacant, or to discharge any such employee with or without cause, as it may deem advisable, and the manager shall have power to determine the tenure of office of any officer or the term of employment of any employee that he is authorized to appoint or employ, and to declare any such office vacant, or to discharge any such employee with or without cause, as he may deem advisable. [36 G. A. (H. F. 408, § 4.)]

SEC. 1056-b4. Councilmen to be nominated by petition—election—form of ballot. Candidates for councilmen, to be voted for under the provisions of this act, shall be nominated by petition, filed with the city or town clerk, ten days before the day of election, and no name shall be placed upon the ballot, except the names of candidates nominated by such petition. The petition for the nomination of councilmen shall be signed by at least ten electors of the city or town, for every one thousand inhabitants of such city or town, as shown by the last previous federal or state census, and no petitioner shall sign any petition or petitions for more candidates than are to be elected in the city or town in which such petition is filed. No person shall be deemed nominated for the office of councilman, unless the petition for his nomination shall have been signed as herein required. The petition for the nomination of councilmen shall be substantially in the following form:

“The undersigned, duly qualified electors of (here insert the name of the city or town), and freeholders therein, and residing at the place set opposite our respective names, hereby nominate (name of candidate), as candidate for the office of councilman, of the (name of city or town), and request that his name be placed upon the official ballot of said city (or town), at the municipal election to be held therein, on the..... Monday, of....., 19... We further state that we know the said (name of candidate) to be a qualified elector of said city (or town), a man of good moral character, and in our judgment, qualified for the duties of councilman.

Name of electors. Residence. Street and number.
.....

In cities where the residences are numbered, the street and number of the residence of each elector, signing such petition, shall be written on the

petition immediately after the name of the elector, and no name upon any such petition shall be counted unless the street and number of the residence of the person signing the same appear thereon, as herein provided. Petitions for nomination of councilmen, filed with the city or town clerk, shall, within two days after the expiration of the time within which such petitions may be filed, be canvassed by the city or town council, as the case may be, and the names of all persons who shall have been nominated by such petitions, shall, by the clerk, be placed upon the official ballot of the city or town, of the municipal election for which such nominations are made. The names of the candidates shall be arranged upon the ballot in the manner provided by section ten hundred eighty-seven-a thirteen, supplement to the code, 1913, as nearly as may be, with a square at the left of each name, and below the names of each of such candidates, shall appear the words, vote for (here insert the number of councilmen to be elected) as the case may be. The ballots shall be printed upon plain, substantial white paper, through which the printing or writing cannot be read, and shall be headed, "Candidates for councilmen of (name of city or town), at the general (or special) municipal election of 19..." The candidates upon the ballot shall be voted for by placing a cross in the square preceding the name of the candidate for whom the vote is cast. [36 G. A. (H. F. 408, § 5.)]

SEC. 1056-b5. Ballots—clerk to prepare—number—judges—canvass of returns. The city or town clerk shall cause the ballots to be prepared and printed as herein specified, and shall deliver, or cause to be delivered, at every polling precinct in the city or town, a number of ballots equal to twice the number of votes cast at such precinct at the last general municipal election. The city or town council shall appoint the judges and clerks of the election. The election shall be conducted, the vote canvassed, and the certified return thereof made by the judges of such election as provided by law. The returns from the voting precincts shall be canvassed, the result declared by the council, and clerk, on the day after the election, and notice of the result given at the time and in the manner provided by statute. [36 G. A. (H. F. 408, § 6.)]

SEC. 1056-b6. Election laws applicable. All of the provisions of section ten hundred fifty-six-a twenty-two, and ten hundred fifty-six-a twenty-three, supplement to the code, 1913, shall apply to elections held under the provisions of this act, and any person violating any of the provisions of either of said sections shall, upon conviction thereof, be punished as therein provided. [36 G. A. (H. F. 408, § 7.)]

SEC. 1056-b7. Mayor to be elected by the council from its membership—authority of mayor. The councilmen elected hereunder, after having duly qualified as officers of the city or town in which they are respectively elected, shall, on the first Monday after their election, organize the government of such city or town under the provisions of this act, and shall, at that time, elect one of their number as chairman and presiding officer who shall be designated as mayor of the city or town in which he is elected. The member of the council so elected shall be recognized as the official head of the city or town, by the courts and officers of the state, upon whom service of civil process may be made. He may take command of the police, and govern the city by proclamation at times of public danger, or during an emergency, and shall be the judge as to what constitutes such public danger or emergency. But the election of a member of such city or town council as mayor, shall not give him or confer upon him any additional power or authority, except such as is herein provided and such

as is ordinarily exercised by a presiding officer. [36 G. A. (H. F. 408, § 8.)]

SEC. 1056-b8. Quorum—yeas and nays—motions, resolutions and ordinances to be reduced to writing—signing of ordinances. In all cities where five or four councilmen are chosen, three members of the council shall constitute a quorum, and in cities and incorporated towns in which three councilmen are chosen, under the provisions of this act, two of the council shall constitute a quorum. Upon every vote of the city or town council, the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing, and read before the vote is taken thereon, and every resolution or ordinance passed by the council must be signed by a majority of the council, and be recorded before the same shall be in force. [36 G. A. (H. F. 408, § 9.)]

SEC. 1056-b9. Compensation—classification of city—powers conferred. The members of the city or town council elected under the provisions of this act, shall serve and perform all of the duties of their respective offices without compensation, and every city which shall adopt the form of government herein contemplated shall, upon the adoption of such form of government become a city of the first or second class, under the general laws of the state, according to the population of such city. The council of every city or town, organized hereunder, shall have, possess and may exercise all executive, legislative, and judicial powers, not inconsistent with this act, conferred by law upon councils of cities and towns of the same class organized under the general laws of the state, and every city and town organized under this act, shall have, possess and may exercise the corporate powers, not inconsistent with the provisions hereof, conferred by chapters one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve and thirteen, of title five of the code, and acts amendatory thereto, upon cities and towns of the same class organized under the general laws of the state. [36 G. A. (H. F. 408, § 10.)]

SEC. 1056-b10. Meetings—presiding officer pro tempore. Regular meetings of the council shall be held on the first Monday after the election of councilmen, and on the first Monday of each month thereafter. Special meetings may be called from time to time by two councilmen. All meetings of the council whether regular or special, shall be open to the public. If, at any meeting, the presiding officer of the council be not present, the members of the council present shall select one of their number to act as presiding officer pro tempore, and his act as presiding officer pro tempore shall have the same force and legality as though performed by the regularly elected presiding officer of the council. [36 G. A. (H. F. 408, § 11.)]

SEC. 1056-b11. Statutes made applicable. All of the provisions of section ten hundred fifty-six-a thirty-one, supplement to the code, 1913, shall apply to all officers and employees elected or appointed in any city or town, organized under this act, as fully as though the provisions of such section were incorporated and repeated herein. [36 G. A. (H. F. 408, § 12.)]

SEC. 1056-b12. Manager—appointment—tenure of office. At the first meeting after their election, or as soon thereafter as practicable, the council shall appoint a competent person manager, who shall be the administrative head of the municipal government of the city or town in which he is appointed. Such manager shall be under the direction and supervision of the council, and shall hold office at its pleasure. [36 G. A. (H. F. 408, § 13.)]

SEC. 1056-b13. Qualification—bond. Before entering upon the duties of his office, the manager shall take an official oath that he will support the constitution of the United States, the constitution of the state of Iowa, and without fear or favor, he will, to the best of his ability faithfully and honestly perform the duties of his office, and shall execute a bond in favor of the city or town, for the faithful performance of his duties, in such sum as may be fixed by the council. [36 G. A. (H. F. 408, § 14.)]

SEC. 1056-b14. Manager need not be resident—manager pro tempore. The council in making the appointment of a manager, shall consider the qualification and fitness only of the person appointed, and he shall be appointed without regard to his political affiliation, and need not be a resident of the city or town, at the time of his appointment. During the absence or disability of the manager, the council may designate some properly qualified person to perform and execute the duties of his office. [36 G. A. (H. F. 408, § 15.)]

SEC. 1056-b15. Duties of manager. The duties of the manager shall be:

(1) To see that the laws and ordinances of the city or town are faithfully enforced and executed.

(2) To attend all meetings of the council.

(3) To recommend to the council such measures as he may deem necessary or expedient for the good government and welfare of the city or town.

(4) He shall have the general supervision and direction of the administration of the city or town government. He shall supervise and direct the official conduct of all appointive officers of the city or town, except the clerk, police judge or magistrate, solicitor, corporation counsel, assessor, board of review, and members of the library board. He shall supervise the performance of all contracts for work to be done for the city or town, make all purchases of material and supplies, and see that such material and supplies are received, and are of the quality and character called for by the contract.

(5) He shall have power to employ and discharge from time to time, as occasion requires, all employees of the city or town, and to fix the compensation to be paid to such employees, except as otherwise herein provided. He shall have power to discharge summarily and without cause any officer, appointee or employee that he has power to appoint or employ. He shall supervise and manage all public improvement, works and undertakings of the city or town, and shall have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, squares, bridges, viaducts, aqueducts, public highways, sewers, drains, ditches, culverts, streams and water courses, except those designated in and which are covered by the provisions of chapter nine, of title five, supplement to the code, 1913, and amendments thereto, and of all public buildings. He shall manage, supervise and control market houses, crematories, sewage disposal plants and farms, and shall enforce all obligations of privately owned or operated public utilities enforceable by the city or town. He shall have charge of the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for public works or public improvements; the cleaning, sprinkling and lighting of streets, alleys and public places; the collection and disposal of waste, and the preservation of tools and appliances belonging to the city or town. He shall manage all municipal water plants, lighting, heating or power plants, and transportation enterprises. He shall manage, supervise and control the use, construction, improvement, repair and maintenance of all recreational facilities of the

city or town, including parks, play grounds, public gymnasiums and public bath houses.

(6) He may, without notice, and summarily cause the affairs of any department or the conduct of any officer under his supervision, or of any employee, to be investigated, and he, or any person appointed by him to examine or investigate the affairs of any department, or the conduct of any officer or employe, shall have power to compel the attendance of witnesses, the production of books and papers, and other evidence, and to punish for contempt any person who shall fail to attend and testify as a witness when duly summoned, or who shall fail to produce any books, papers or other evidence under his control when required to do so.

(7) He shall take active control of the police, fire and engineering departments of the city or town, and employ such assistants and employees therein as to him shall be deemed advisable.

(8) He shall, in his discretion, issue licenses, authorized by law, and may revoke the same at pleasure. All licenses issued shall be signed by the manager, and clerk, and duly entered in a book kept for that purpose.

(9) He shall keep the council fully advised of the financial and other conditions of the city or town, and of its future needs.

(10) He shall have power to appoint or employ persons to fill all places for which no other mode of appointment is provided, and shall have power to administer oaths. [36 G. A. (H. F. 408, § 16.)]

SEC. 1056-b16. Manager—additional duties—budget. The manager shall prepare and submit to the council, an annual budget on the basis of estimates of the expenses of the various departments of the city or town. These departmental estimates shall show the expenses of each department for the preceding year, and shall indicate wherein an increase or a diminution is recommended for the ensuing year. Such estimate shall be published in the official newspapers of the city or town, two weeks before such estimates are submitted by the manager to the council, and printed copies thereof shall be furnished to any citizen upon request to the manager. The budget so submitted to the council shall be taken up by it in open meeting, and full opportunity shall be given for hearing any objections or protests which any tax payer of the city or town may desire to make to any item or items in such budget, or to any omissions therefrom. He shall, at all times, see that the business affairs of the municipal corporation of which he is manager, are transacted in a modern and scientific method, in an efficient and businesslike manner, and that accurate records of all of the business affairs of the city or town under his management, be fully and accurately kept. He shall make to the council an itemized monthly report in writing, showing in detail, the receipts and disbursements, for the preceding month, and such report shall be made by him not later than the tenth day of each month. The reports so made, after having been passed upon by the council, shall be published each month in the official newspapers of the city or town. He shall be accountable to the council for his actions, and conduct, and for the management of the business affairs of the city or town. He shall perform any duty specially required of him by the council, and may be discharged at the will of the council, without cause. [36 G. A. (H. F. 408, § 17.)]

SEC. 1056-b17. Salary. The salary of the manager shall be fixed by the council, and paid monthly from the treasury of the city or town, upon an order, signed by the presiding officer, of the council, and the clerk. [36 G. A. (H. F. 408, § 18.)]

SEC. 1056-b18. Officers appointed by council—official newspapers. The council shall, at the first meeting after its members are elected,

appoint a clerk, and at such meeting, or as soon thereafter as practicable, appoint a police judge or magistrate, a solicitor, an assessor, and the members of the library board, as the terms of office of the members of said board shall expire. It may also appoint a corporation counsel, and assistant solicitors, if deemed advisable. All officers so appointed by the council shall have and exercise all powers conferred upon such officers by the laws governing cities and towns organized under the general laws of the state, and their compensation shall be fixed and paid, and they shall perform the duties of their respective offices, as required by such laws. The council shall, on or before the first Monday of April, in each year, also appoint three persons who shall constitute a local board of review of the city or town in which they are appointed. The compensation of such board of review shall be fixed by the council and paid from the general fund of the city or town, and such board shall be governed by the statute relating to boards of review, and shall possess and exercise all of the powers conferred upon local boards of review by law. The council shall also select one or more newspapers of general circulation published within the city or town, which shall be designated official papers. If no newspaper is published in any town organized under this act, the council of such town may, in its discretion, select a newspaper published in the county, which has a circulation in such town, and designate the same the official paper of the town. All ordinances, resolutions, and proceedings of any city or town, organized under the provisions of this act, required to be published, shall be published in the official paper or papers so selected by the council. [36 G. A. (H. F. 408, § 19.)]

SEC. 1056-b19. Manager not to appoint councilman. No councilman elected under the provisions of this act, shall be, by the manager appointed to any office of the city or town in which he is elected, or employed in any department thereof, and any councilman or manager who shall violate the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished as provided by section forty-nine hundred six of the code. Any councilman or manager violating the provisions of this section, may be removed from office, under the provisions of chapter eight, title six, supplement to the code, 1913. [36 G. A. (H. F. 408, § 20.)]

SEC. 1056-b20. Manager not to influence election—penalty. The manager shall take no part in any election held for the purpose of electing councilmen, except that he may attend at the polls and cast his vote, if he is a qualified elector of the city or town, and any attempt upon his part to procure the election of any person as councilman, or to induce any elector to vote for any person for councilman, or any solicitation by such manager, of any elector to vote for any person or persons, for the office of councilman, shall be a misdemeanor, and upon conviction thereof, he shall be punished as provided by section nineteen hundred six of the code, and in addition to such punishment, he may be removed from office, under the provisions of chapter eight, title six, supplement to the code, 1913. [36 G. A. (H. F. 408, § 21.)]

SEC. 1056-b21. Statutes relating to parks made applicable—board of public works may be abolished. The provisions of chapter nine, of title five of the code, and the amendments thereto, relating to parks and park commissioners, shall be applicable to and be in force in cities and towns organized under the provisions of this act, to the same extent and effect that such provisions are applicable to and in force in cities and towns of the same class organized under the general laws of the state,

except as changed or modified by this act. The board of park commissioners shall have and may exercise all powers conferred upon them by the provisions of chapter nine, title five of the code, and the amendments thereto, except as herein changed or modified. Any city adopting the form of government herein contemplated may abolish any board of public works theretofore existing in such city, and all public works and public improvements shall thereupon be under the supervision and control of the manager, subject, however, to the action and direction of the council. [36 G. A. (H. F. 408, § 22.)]

SEC. 1056-b22. Departments to continue unless abolished. All departments of cities and towns which shall adopt the form of government herein contemplated, shall continue to exist as departments of the government of such city or town until abolished, changed or modified under the provisions of this act. [36 G. A. (H. F. 408, § 23.)]

SEC. 1056-b23. Ordinances—procedure in passing—electors voting on ordinance. Every ordinance or resolution appropriating money or ordering any sewer or street improvement, or making or authorizing the making of any contract, or granting any franchise, or the right to use and occupy the streets, highways, bridges or public places of the city or town, for any purpose, shall be complete in the form in which it is finally passed, and, except an ordinance or resolution for an improvement, the preservation of the public peace, health or safety, which contains a statement of its urgency, shall remain on file with the city or town clerk, for public inspection, at least one week before its final passage or adoption. No ordinance passed by the council, except when otherwise required by the general laws of the state, or by the provisions of this act, and, except an ordinance for an improvement, the preservation of the public peace, health or safety, which contains a statement of its urgency, and is passed by a unanimous vote of the council, shall go into effect, before ten days from the time of its passage; and, if during said ten days, a petition, signed by the electors of the city or town, equal in number to at least twenty-five per centum of the entire vote cast in such city or town, at the last preceding general or municipal election, as shown by the poll books of such election, protesting against the passage of such ordinance, be presented to the council, such ordinance shall thereupon, be suspended from going into operation, and it shall be the duty of the council to reconsider the same, and, if the same be not repealed, the council shall submit the ordinance to the vote of the electors of the city or town at a regular or special election, called for that purpose, in the manner provided by subdivision (b) of section ten hundred fifty-six-a thirty-seven, supplement to the code, 1913. The petition, protesting against an ordinance, shall be in all respects, in accordance with the provisions of section ten hundred fifty-six-a thirty-seven, supplement to the code, 1913, except as to the percentage of signers thereof, and shall be examined and certified by the clerk, as provided in such section. If a majority of the qualified electors, voting on the proposed ordinance, shall vote in favor thereof, such ordinance shall thereupon become a valid ordinance of the city or town; and, any ordinance so adopted cannot be repealed or amended except by a vote of the electors of the city or town. The council may submit a proposition for the repeal of any ordinance so adopted by the electors, or for the amendment thereof, to be voted upon at any succeeding regular municipal election; and should such proposition so submitted receive a majority of the votes cast at such election, such ordinance shall thereby be repealed or amended, according to the proposition submitted. [36 G. A. (H. F. 408, § 24.)]

SEC. 1056-b24. Franchises. No franchise or right to occupy, or use the streets, highways, bridges or public places of any such city or town, shall be granted, renewed or extended, except by ordinance, and every franchise or grant for interurban or street railways, gas or water works, electric light or power plants, heating plants, telegraph or telephone systems, or other public utilities, within such city or town, must be authorized or approved by a majority of the electors of such city or town, voting thereon, at a regular or special election, as provided by section seven hundred seventy-six of the code. [36 G. A. (H. F. 408, § 25.)]

SEC. 1056-b25. Vacancies. Any vacancy in the council, caused by the death, resignation, removal from office, or removal from the city or town, shall be filled by the appointment made by the council, and in cities where the territory lies in two townships divided by a water course, the member of the council so appointed shall be a resident of the township in which his predecessor in office resided at the time of his election. The person so appointed by the council shall hold his office for the unexpired term of his predecessor. [36 G. A. (H. F. 408, § 26.)]

SEC. 1056-b26. Abandonment of plan. Any city or town which shall have operated for six years or more under the provisions of this act, may abandon its organization hereunder, and accept the provisions of the general law of the state then applicable to cities or towns of like population, or if now organized under special charter, may resume such special charter by proceeding as follows:

Upon the petition of not less than twenty-five per centum of the electors of such city or town, a special election shall be called at which the following proposition shall be submitted:

"Shall the city (or town) of (name of city or town) abandon its organization under chapter (here insert the number of the chapter containing this act) of the thirty-sixth general assembly, become a city (or town) under the general law governing cities and towns, or if now organized under special charter, resume such special charter."

If the majority of the votes cast at such election be in favor of the abandonment of the form of government provided by this act, the officers elected at the next succeeding regular biennial election shall be those then prescribed by the general law of the state for cities and towns of like population, or those prescribed by the special charter of such city, as the case may be, and upon qualification of such officers, such city or town shall become a city or town under the general law of the state, or under special charter, as the case may be; but such change shall not, in any manner, affect the property, rights or liabilities of such city or town, and shall extend only to such change in the form of government thereof. The petition for the abandonment of the form of government herein provided, shall be signed, filed, its sufficiency determined, the election ordered and conducted, and the results declared generally, as provided by section two of this act, so far as the provisions thereof are applicable. [36 G. A. (H. F. 408, § 27.)]

NOTE: See § 679-1a. REPORTER.

TITLE VI.

OF ELECTIONS AND OFFICERS.

CHAPTER 1.

OF THE ELECTION OF OFFICERS AND THEIR TERMS.

SECTION 1061. Proclamation. At least thirty days before any general election, the governor shall issue his proclamation, designating all the offices to be filled by the vote of all the electors of the state, or by those of any congressional, legislative or judicial district, and, in the years required by article ten, section three, of the constitution, submitting the question: "Shall there be a convention to revise the constitution and amend the same?" and transmit a copy thereof to the sheriff of each county. Said proclamation shall designate by number the several districts in which congressional and judicial officers are to be chosen without other description. The office of senators in the state legislature shall be designated substantially as follows:

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

The office of representative in the state legislature shall be designated as follows:

"In the districts numbered" (giving the number of each district in which two representatives are to be chosen) "each two representatives. In all other representative districts of the state, each one representative." [36 G. A. (H. F. 13, § 1.)] [C., '97, § 1061.] [C. '73, § 577.] [R., § 462.]

SEC. 1073. Justices and constables. In all townships, except such as are included in the territorial limits of municipal courts, there shall be elected by the voters at the general election, two justices of the peace and two constables, who shall hold office two years and be county officers. [36 G. A. (H. F. 12, § 51.)] [25 G. A., ch. 74, § 4.] [C. '73, §§ 389, 590, 592-3.] [R., §§ 443, 726, 474, 477-8.] [C. '51, §§ 221, 243.]

NOTE: Acts in conflict with § 51, H. F. 12, 36 G. A., are repealed by § 694-c51. REPORTER.

CHAPTER 2.

OF THE REGISTRATION OF VOTERS.

SECTION 1076. Board of registers—village precincts. In cities having a population of thirty-five hundred or more, not including the inmates of any state institution, the council, on or before the sixth Monday preceding each general election, and on or before the third Monday prior to any city election to be held during the year nineteen hundred and six, shall appoint one suitable person from each of the two political parties which cast the greatest number of votes at the last general election, from three names presented by each chairman of the city central political committee

of such parties, to be registers in each election precinct in the city for the registration of voters therein, who shall be electors of the precinct in which they are to serve, of good clerical ability, speaking the English language understandingly, temperate, of good habits and reputation, who shall qualify by taking an oath or affirmation to the effect that they will well and truly discharge all of the duties required of them by law. They shall hold their office for two years, but registers appointed for city elections during the year nineteen hundred and six shall hold such office only until such election is completed, and receive compensation at the rate of three dollars for each day of eight hours engaged in the discharge of their duties, to be paid by the county, except in case of city elections, when they shall be paid by the city. If for any cause such registers, or any of them, shall not be appointed at or before the time above mentioned, or, if appointed, shall be unable for any cause to discharge the duties of such office, the mayor of such city shall forthwith, on similar recommendation, make such appointments and fill all vacancies. Should the mayor, upon the request of five freehold electors, fail for a period of three days to perform the duties aforesaid, he shall forfeit and pay, at the action of any such elector, the sum of one hundred dollars per day, for the equal benefit of the city and plaintiff. The provisions of this title shall apply to cities acting under special charters, with like effect as though said cities were acting under the general incorporation laws of the state. If any voting precinct or one or more adjoining, contains a village having a population of thirty-five hundred or more, the board of supervisors of the county shall appoint two registrars for each of such voting precincts for the purpose of registering the voters thereof for general election. One registrar for each political party shall be appointed from names presented by the chairman of the county central committee of the two political parties in each of said precincts casting the greatest number of votes therein at the last general election. In all other respects relating to registration of voters in such precincts, the law applicable to voters at the general election in cities shall be applicable to such voting precincts, and registrars and voters of such voting precincts shall be governed thereby except that the expense thereof shall be paid by the county. [36 G. A. (H. F. 452, § 2.)] [35 G. A., ch. 108, §§ 1, 2.] [31 G. A., ch. 41.] [31 G. A., ch. 40, § 1.] [26 G. A., ch. 62.] [22 G. A., ch. 48, §§ 5, 12.] [21 G. A., ch. 167, § 3.]

CHAPTER 2-A.

PRIMARY ELECTIONS.

SECTION 1087-a5. Judges and clerks—how selected—oath—expenses. The judges and clerks of all primary elections under this act shall be made up and selected and appointed in the same manner as for the general election held in November, and they shall take the same oath and the judges are hereby authorized to administer oaths as hereinafter provided. Vacancies shall be filled as provided for the judges and clerks of the general election. The expenses of the primary election shall be audited by the board of supervisors of each county and be paid the same as the expenses of the general election. The compensation of the judges and clerks of the primary election shall be the sum of thirty cents per hour for all official services rendered by any such judge or clerk at any such

election. [36 G. A. (H. F. 452, § 1.)] [33 G. A., ch. 69, § 2.] [32 G. A., ch. 51, § 5.]

NOTE: H. F. 452 directs the change to be made in the "tenth" line. Evidently the sectional heading was counted. REPORTER.

SEC. 1087-a21. County returns filed—published proceedings of canvassing board. When the canvass is concluded, the board shall deliver the original returns to the auditor, who shall file the same and record each of the abstracts above mentioned in the election book. The published proceedings of the board of supervisors as a canvassing board shall contain only a brief statement of the names of the candidates nominated by the electors of any county or subdivision thereof under the title of the office for which they are nominated, and a statement of the title of the office for which they are nominated, and a statement of the title of the county offices, if any, for which no nomination was made by any political party participating in the primary election for the failure of any one of its candidates for any office to receive thirty-five per centum of all the votes cast by the party for such office. [36 G. A. (S. F. 317, § 1.)] [33 G. A., ch. 69, § 11.] [32 G. A., ch. 51, § 21.]

SEC. 1087-a24. Tie vote—vacancies.

Where the regularly nominated candidate of one of the parties for the office of county supervisor died at 8:30 o'clock on the night preceding election day, held not to be a practical possibility for the party officials to fill the vacancy in time for use at the polls the next morning. *Patton v. Hazelton*, 146 N. W. 477.

CHAPTER 3.

OF ELECTIONS.

SECTION 1093. Election boards. Election boards shall consist of three judges and two clerks and their compensation shall be thirty cents per hour while engaged in the discharge of their duties. Not more than two judges and not more than one clerk shall belong to the same political party or organization, if there be one or more electors qualified and willing to act as such judge or clerk, and a member or members of opposite parties. In cities and towns, the councilmen shall be judges of election; but in case more than two councilmen belonging to the same political party or organization are residents of the same election precinct, the county board of supervisors may designate which of them shall serve as judges. In township precincts, the clerk of the township shall be a clerk of election of the precinct in which he resides, and the trustees of the township shall be judges of election, except that, in townships not divided into election precincts, if all the trustees be of the same political party, the board of supervisors shall determine by lot which two of the three trustees shall be judges of such precinct. The membership of such election board shall be made up or completed by the board of supervisors from the parties which cast the largest and next largest number of votes in said precinct at the last general election, or that one which is unrepresented; but, in city and town elections, the powers given in this chapter and duties herein made incumbent upon the board of supervisors shall be performed by the council. If, at the opening of the polls in any precinct, there shall be a vacancy in the office of clerk or judge of election, the same shall be filled by the members of the board present, and from the political

party which is entitled to such vacant office under the provisions of this chapter. The election board at any special election shall be the same as at the last preceding general election. In case of vacancies happening therein, the county auditor may make the appointments to fill the same when the board of supervisors is not in session. [36 G. A. (H. F. 452, § 3.)] [35 G. A., ch. 112, § 1.] [31 G. A., ch. 42.] [26 G. A., ch. 68, § 3.] [C. '73, §§ 606-8.] [R. §§ 481-3.] [C. '51, §§ 246-8.]

SEC. 1101. Withdrawals. Any candidate named by either of the methods authorized in this chapter may withdraw his nomination by a written request, signed and acknowledged by him before any officer empowered to take the acknowledgment of deeds, and filed in the office of the secretary of state thirty days, or the proper auditor or clerk fifteen days, before the day of election, and no name so withdrawn shall be printed upon the ballot. In case of a special election to fill vacancies in office, such withdrawal papers shall be filed with the secretary of state sixteen days, and with the proper auditor or clerk twelve days, before the day of such special election. [36 G. A. (H. F. 633, § 1.)] [24 G. A., ch. 33, § 8.]

SEC. 1102. Vacancies filled.

Where the regularly nominated candidate of one of the parties for the office of county supervisor died at 8:30 o'clock on the night preceding election day, held not to be a practical possibility for the party officials to fill the vacancy in time for use at the polls the next morning. *Patton v. Hazelton*, 146 N. W. 477.

SEC. 1104. Filing certificates and petitions. Certificates of nomination and nomination papers of candidates for state, congressional, judicial and legislative offices shall be filed with the secretary of state, not more than sixty nor less than forty days; those for all other officers, except for cities and towns, with the county auditors of the respective counties, not more than sixty nor less than thirty days; and for the offices in the cities and towns, with the clerks thereof, not more than forty nor less than fifteen days, before the day fixed by law for the holding of the election. Such certificates and nomination papers thus filed, and being apparently in conformity with law, shall be regarded as valid, unless objection in writing thereto shall be made, and, under proper regulations, shall be open to public inspection, and preserved by the receiving officer for not less than six months after the election is had. Any error found in such papers may be corrected by the substitution of another, executed as is required for an original nomination certificate or paper. In case of special election to fill vacancies in office, certificates of nomination or nomination papers, for nomination of candidates for office to be filled by the electors of a larger district than a county, may be filed with the secretary of state, not later than fifteen days before the time of election. Certificates of nomination or nomination papers, nominating candidates for office to be filled by the electors of a county, may be filed with the county auditor at any time not less than twelve days before the election. [36 G. A. (H. F. 633, § 2.)] [26 G. A., ch. 68, §§ 1-2.] [24 G. A., ch. 33, §§ 4, 7, 8, 10.]

SEC. 1105. Nominations transmitted to county auditor. Not less than twenty days before the election, the secretary of state must certify to the auditor of each county in which any of the electors have the right to vote for any candidate or candidates, the name and residence of each person nominated, whether an original nomination or to fill a vacancy, to be voted for at such election, and the order in which the tickets shall appear on the ballot. Should a vacancy in the nominations occur and be filled after this certificate has been forwarded, a like certificate shall at once issue and be sent the proper officer. In case of special election to fill vacancy in

office, the certificate by the secretary of state to the county auditor may be made at any time not later than fifteen days before the election. [36 G. A. (H. F. 633, § 3.)] [26 G. A., ch. 68, §§ 1, 2.] [24 G. A., ch. 33, §§ 11-13.]

SEC. 1106-a. Suffrage amendment to constitution submitted. That the said proposed amendment to the constitution of the state of Iowa, which is as follows, to wit:

“Repeal section one of article two of the constitution of the state of Iowa and in lieu thereof enact and adopt the following, to wit:

SECTION 1. Every citizen of the United States, of the age of twenty-one years, who shall have been a resident of this state six months next preceding the election, and of the county in which he or she claims his or her vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.” be and the same is hereby ordered submitted to the people at the regular primary election to be held in the year 1916 in the manner prescribed by section eleven hundred six, supplement to the code, 1913. [36 G. A. (H. F. 422, § 1.)]

NOTE: See full title in Table of Titles. **REPORTER.**

SEC. 1107. Printing. For all elections held under this chapter, except those of cities or towns, the county auditor shall have charge of the printing of ballots in his county, and shall cause to be placed thereon the names of all candidates which have been certified to him by the secretary of state, in the order the same appear upon the certificate issued by the secretary of state, together with those of all other candidates to be voted for thereat, whose nominations have been made in conformity with law. If a township election precinct includes a town or any part thereof, the names of nominees for township assessors shall not be placed upon the official ballot for that precinct. In no case shall the cost of printing the official ballot exceed twenty-five dollars per thousand ballots, except in presidential years, when it shall not exceed thirty dollars per thousand ballots. In city or town elections, the clerk shall have charge of the printing of the ballots, and shall cause to be placed thereon the names of all candidates to be voted for thereat, whose nominations have been made as provided in this chapter; and in either case such ballots shall be furnished the election judges at the polling place in each precinct not less than twelve hours before the opening of the polls on the morning of the election. [36 G. A. (H. F. 379, § 1.)] [24 G. A., ch. 33, § 15.]

CHAPTER 3-B.

OF ELECTORS VOTING WHEN ABSENT FROM COUNTY OF RESIDENCE.

SECTION 1137-b. Voters absent from county may vote. Any qualified elector of the state of Iowa, having duly registered where such registration is required, who through the nature of his business, is absent or expects in the course of said business, to be absent from the county in which he is a qualified elector on the day of holding any general, special, primary, county, city or town election, may vote at any such election as hereinafter provided. [36 G. A. (H. F. 32, § 1.)]

SEC. 1137-c. Application for official ballot. Any elector, as defined in the foregoing section, expecting to be absent from the county of his residence on the day of any such election may, not more than fifteen nor

less than three days prior to the date of such election, make application to the county auditor of such county, or the clerk of the city or town, as the case may be, for an official ballot to be voted at such election. [36 G. A. (H. F. 32, § 2.)]

SEC. 1137-d. Form of application. Application for such ballot shall be made on a blank to be furnished by the county auditor or clerk of the city or town, as the case may be, in which the applicant is an elector, and shall be substantially in the following form:

APPLICATION FOR BALLOT TO BE VOTED AT THE..... ELECTION ON.....

State of..... } ss.
County of..... }

I,, do solemnly swear that I have been a resident of the state of Iowa for six months, of the county of for sixty days and of the..... precinct of..... ward of the city or town of..... ten days next preceding this election, and that I am a duly qualified elector entitled to vote at said election. That I am.....

(Stating business)

and because of the nature of my business expect to be absent from said county on, the date of said election, and I hereby make application for an official ballot or ballots to be voted by me at such election, and that I will return said ballot or ballots to the officer issuing same, on or before the day of said election.

Date.....

Signed.....

Residence, (street and number)

(City) P. O. Address.....

Subscribed and sworn to before me this..... day of

A. D. 191.....

(Penalty clause set out in full.)

Provided that if the application be made for a primary election ballot, such application shall designate the name of the political party with which the applicant is affiliated. [36 G. A. (H. F. 32, § 3.)]

SEC. 1137-e. Auditor or clerk to deliver or mail ballot. Upon receipt of such application and not more than ten nor less than three days prior to such election, it shall be the duty of such auditor or clerk, as the case may be, to mail, postage prepaid, an official ballot or ballots, if more than one are to be voted at said election, or such officer shall deliver said ballot or ballots to any qualified elector applying in person at the office of such auditor or clerk, as the case may be, and subscribing to the foregoing application, not more than ten nor less than one secular day before said election. [36 G. A. (H. F. 32, § 4.)]

SEC. 1137-f. Duty of auditor—form of affidavit. It shall be the duty of said auditor or clerk, as the case may be, to fold the ballot or ballots in the manner specified in section eleven hundred sixteen of the code and he shall enclose such ballot or ballots in an envelope unsealed to be furnished by him, which envelope shall bear upon the face thereof the name, official title and post-office address of such auditor or clerk, and upon the other side a printed affidavit in substantially the following form:

State of }
County of..... } ss.

I,, do solemnly swear that I am a resident of the.....precinct of the (town) (township) ofor of the.....ward in the city of.....residing at..... in said city, and the county of.....and state of Iowa, and am entitled to vote in such precinct at the election to be held on..... That I am.....

(Stating business)

and my duties as such prevent my being in the county of my residence on the day of said election. I further swear that I marked the enclosed ballot in secret.

Signed.....

Subscribed and sworn to before me this..... day ofA. D.,, and I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that he then in my presence and in the presence of no other person, and in such manner that I could not see his vote, marked such ballot and enclosed and sealed the same in this envelope; that the affiant was not solicited or advised by me to vote for or against any candidate or measure.

.....
.....

Provided that if the ballot enclosed is to be voted at a primary election, the affidavit shall designate the name of the political party with which the voter is affiliated. [36 G. A. (H. F. 32, § 5.)]

SEC. 1137-g. Affidavit—marking ballot—ballot deposited in envelope—mailing or delivering envelope. Such absent voter shall make and subscribe to the said affidavit before an officer authorized by law to administer oaths and such voter shall thereupon in the presence of such officer and of no other person, mark such ballot or ballots, but in such manner that such officer cannot know how such ballot is marked, and such ballot or ballots shall then in the presence of such officer be folded by such voter so that each ballot will be separate and so as to conceal the marking and be in the presence of such officer deposited in such envelope and the envelope securely sealed. Said envelope shall be mailed by such voter, by registered mail, postage prepaid, to the officer issuing the ballot, or if more convenient it may be delivered in person. [36 G. A. (H. F. 32, § 6.)]

SEC. 1137-h. Custody of ballot by auditor or clerk. Upon receipt of such absent voter's ballot, the auditor or clerk, as the case may be, shall forthwith enclose the same, unopened, together with the application made by said absent voter, in a larger or carrier envelope which shall be securely sealed and endorsed with the name and official title of such auditor or clerk, and the words, "this envelope contains an absent voter's ballot and must be opened only at the polls on election day while said polls are open," and such auditor or clerk shall thereafter safely keep the same in his office until delivered by him as provided in the next section. [36 G. A. (H. F. 32, § 7.)]

SEC. 1137-i. Envelopes—delivery to judges of election. In case an absent voter's ballot is received by the auditor or clerk, as the case may be, prior to the delivery of the official ballots to the judges of election of the

precinct in which said elector resides, such ballot envelope and application, sealed in the carrier envelope, shall be enclosed in such package and therewith delivered to the judges of such precinct. In case the official ballots for such precinct have been delivered to the judges of election at the time of the receipt by the auditor or clerk of such absent voter's ballot, such official shall immediately enclose said envelope containing the absent voter's ballot, together with his application therefor, in a larger or carrier envelope which shall be securely sealed and endorsed on the face to the judges of election, giving the name or number of precinct, street and number of the polling place, city or town in which such absent voter is a qualified elector and the words "this envelope contains an absent voter's ballot and must be opened only on election day at the polls while the polls are open", mailing the same, postage prepaid, to such judges of election or, if more convenient, such auditor or clerk may deliver such absent voter's ballot to the judges of election in person or by duly deputized agent, said auditor, clerk or agent to secure his receipt for delivery of such ballot or ballots. Provided, however, that such delivery of ballots by person is to be made without expense to the county, city or town, as the case may be. [36 G. A. (H. F. 32, § 8.)]

SEC. 1137-j. Opening envelope—depositing ballot—rejecting ballot. At any time between the opening and closing of the polls on such election day the judges of election of said precinct shall open the outer or carrier envelope only, announce the absent voter's name and compare the signature upon the application with the signature upon the affidavit on the ballot envelope. In case the judges find the affidavits executed; that the signatures correspond; the applicant a duly qualified elector of the precinct and that the applicant has not voted in person at said election, they shall open the envelope containing the absent voter's ballot in such manner as not to deface or destroy the affidavit thereon and take out the ballot or ballots therein contained without unfolding or permitting the same to be unfolded or examined and having endorsed the ballot in like manner as other ballots are required to be endorsed, deposit the same in the proper ballot box or boxes and enter the absent voter's name in the poll book, the same as if he had been present and voted in person. In case such affidavit is found to be insufficient, or that the signatures do not correspond, or that the applicant is not a duly qualified elector in such precinct, or that the ballot envelope is open, or has been opened and resealed, or that the ballot envelope contains more than one ballot of any one kind, such vote shall not be accepted or counted. Every ballot not counted shall be endorsed on the back thereof "rejected (giving reason therefor)". All rejected ballots shall be enclosed and securely sealed in an envelope on which the judges shall endorse "defective ballots" with a statement of the precinct in which and the date of the election at which they were cast, signed by the judges and returned to the same officer and in the same manner as by law provided for the return and preservation of official ballots voted at such election. [36 G. A. (H. F. 32, § 9.)]

SEC. 1137-k. Challenges. The vote of any absent voter may be challenged for cause and the judges of election shall have all the power and authority given by law to hear and determine the legality of such ballot. [36 G. A. (H. F. 32, § 10.)]

SEC. 1137-l. Ballot of deceased voter. Whenever it shall be made to appear by due proof to the judges of election that any elector, who has marked and forwarded his ballot as provided in this act, has died, then the ballot of such deceased voter shall be returned by the judges of elec-

tion with the unused ballots to the official issuing it, however the casting of the ballot of a deceased voter shall not invalidate the election. [36 G. A. (H. F. 32, § 11.)]

SEC. 1137-m. Laws made applicable. All the provisions of the election laws now in force and not inconsistent with the provisions of this act, shall apply with full force and effect to all counties, cities and towns in which voting machines are used, relative to the furnishing of ballot boxes; the printing and furnishing of official ballots in such number as the auditor or clerk, as the case may be, may deem necessary; the canvassing of the ballots and making the proper return of the result of the election. [36 G. A. (H. F. 32, § 12.)]

SEC. 1137-n. Penalty clause. If any person shall wilfully swear falsely to any such affidavit, he shall, upon conviction thereof, be guilty of perjury and shall be punished as in such cases by law provided. If any person who, having procured an official ballot or ballots as heretofore provided, shall wilfully neglect or refuse to cast or return same in the manner heretofore provided, or shall wilfully violate any provision of this act, he shall be guilty of a misdemeanor and shall be fined not to exceed one hundred dollars, or imprisoned in the county jail not to exceed thirty days. If any county auditor, city or town clerk or any election officer, shall refuse or neglect to perform any of the duties prescribed by this act, or shall violate any of the provisions thereof, he shall upon conviction be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail not to exceed ninety days. [36 G. A. (H. F. 32, § 13.)]

SEC. 1137-o. Construction of statute. This act shall be deemed to provide a method of voting in addition to the method now provided by statute, and, to such extent, as amendatory of existing statutes relating to the manner and method of voting. [36 G. A. (H. F. 32, § 14.)]

CHAPTER 4.

OF THE CANVASS OF VOTES.

SECTION 1170. Canvass public—result determined.

One duly nominated for the office of supervisor who dies the day before election, and knowledge of whose death is not general on election day, and for whom a majority of the electors of the county vote, notwithstanding his death, is not a "person having the greatest number of votes" within the meaning of the section and the canvassing board should not de-

clare him elected. *Patton v. Hazelton*, 146 N. W. 477-478.

In such a case, the person receiving the next highest number of votes, though a "person" under this section, should not be declared elected because he cannot be held to have received the "greatest number of votes". *Ibid.*

CHAPTER 6.

OF QUALIFICATION FOR OFFICE.

SECTION 1183. Bond required.

The failure of the superintendent of a city police department to exact a bond of a policeman does not render the city liable for an unlawful act of such police-

man, as the failure to exact the bond is an omission to perform a governmental function. *Looney v. City of Sioux City*, 145 N. W. 287.

CHAPTER 8.

OF REMOVAL FROM OFFICE.

SECTION 1258. Municipal officers. Any councilman, marshal, police matron, or other officer of a city or town, may be removed from office for any of the foregoing causes, or when charged with the commission of any crime, upon charges preferred in writing to the council, and a hearing thereon, by a two-thirds vote of all the members elected to the council. The council may, by ordinance, provide as to the manner of preferring and hearing such charges. No person shall be twice removed by the council from the same office for the same cause, but proceedings before the council shall not be a bar to proceedings in the district court as in this chapter provided. [36 G. A. (S. F. 469, § 1.)] [25 G. A., ch. 13, § 2.] [25 G. A., ch. 15, § 5.] [22 G. A., ch. 3, § 2.] [22 G. A., ch. 16, § 1.] [17 G. A., ch. 20, § 1.] [16 G. A., ch. 33, § 1.] [C. '73, § 516.] [R., § 1087.]

SEC. 1258-c. By district court or judge—for what causes.

The law relating to removal from office is not to be strictly construed against the officers sought to be removed but the court should be reasonable and just in construing and applying it and where there is doubt whether a given act is unlawful and the question has not been determined by the Supreme Court of this state, the mayor and chief of police of a city, in refusing to prosecute persons for doing the act, after having been advised by the legal department of the city that such act is not unlawful, cannot be said to wilfully neglect or refuse to perform

the duties of their office. *State v. Roth*, 162-638, 144 N. W. 339.

An officer is intoxicated within the meaning of this section when he is so under the influence of liquor as not to be himself, so as to be excited from it, and not to possess that clearness of intellect or control of himself that he otherwise would have. *State v. Baughn*, 162-308, 143 N. W. 1100.

An officer such as described in this section can only be removed for one of the grounds specified. *Ibid.*

SEC. 1258-i. Appeal—procedure—bond shall not restore to office—expenses—costs.

A final judgment of ouster proceedings against a public officer should not be suspended pending appeal, when the is-

sue of law is apparently conclusive against the right to hold the office. *State ex rel Jebens v. Noth*, 151 N. W. 822.

CHAPTER 12.

OF GENERAL PROVISIONS AS TO COMPENSATION.

SECTION 1290-a. Appraisers—compensation of generally. That the compensation of appraisers appointed to appraise property belonging to any estate as a basis for the assessment of the collateral inheritance tax shall be three dollars per day for each appraiser and mileage as hereinafter provided and in other cases where the compensation of appraisers is not now fixed by statute, shall be two dollars per day for each appraiser and five cents a mile for the distance traveled in going to and returning from the place of appraisal, to be paid out of the property appraised or by the owner or owners thereof. [36 G. A. (H. F. 122, § 1.)] [29 G. A., ch. 55, § 1.]

SEC. 1301. Report of fees.

The statutory limitation of three years commences to run in bar of an action against a justice of the peace from the

time when a report should have been made as required by this section. *Polk County v. Roe*, 145 N. W. 868.

TITLE VII.

OF THE REVENUE.

CHAPTER 1.

OF THE ASSESSMENT OF TAXES.

SECTION 1303. Levy—amount of. The board of supervisors of each county shall, annually, at its September session, levy the following taxes upon the assessed value of the taxable property in the county:

1. For state revenue, such rate of tax as shall be fixed by the executive council as hereinafter provided;

2. For ordinary county revenue, not more than six mills on a dollar in counties having a population of less than forty thousand, and in counties having a population of forty thousand or more, four mills, with a poll tax in either case of fifty cents on each male resident over twenty-one years of age. But in any county in which the levy is limited to four mills the board of supervisors may, at any general election, submit the question of increasing such levy to six mills or less to a vote of the electors, and if such proposition is adopted the board of supervisors may make the next general levy at the proposed rate; provided, however, that in any county where, by reason of extraordinary or unusual litigation the rates herein fixed for ordinary county revenue are found to be insufficient to pay the same, the board of supervisors may create an additional fund to be known as court expense fund, and may levy for such fund such rate of taxes as shall be necessary to pay all court expenses chargeable to the county. Such fund shall be used for no other purpose, and the levy therefor shall be dispensed with when the authorized levy for the ordinary county revenue is sufficient to meet the necessary county expenditures including such court expenses. Provided, further, that the levy for the purpose of providing an additional fund shall not exceed three mills on a dollar;

3. For support of schools, not less than one nor more than three mills on a dollar;

4. For making and repairing bridges, not more than five mills on a dollar; but such tax shall not be levied upon any property assessable within the limits of any city of the first class, and none of such bridge tax shall be used in the construction or repair of bridges within the limits of such city;

5. For the grading and building of roads two mills on a dollar, to be known as the county road building fund, but such tax shall not be levied upon any property assessable within the limits of any city or incorporated town and none of such road tax shall be used in the grading or building of any roads within the limits of such cities or incorporated towns. [36 G. A. (H. F. 139, § 1.)] [35 G. A., ch. 122, § 21.] [34 G. A., ch. 24, § 3.] [33 G. A., ch. 79, § 1.] [33 G. A., ch. 80, § 1.] [30 G. A., ch. 42.] [25 G. A., ch. 114.] [22 G. A., ch. 43.] [20 G. A., ch. 182.] [18 G. A., ch. 13.] [15 G. A., ch. 28.] [C. '73, § 796.] [R. § 710.] [C. '51, § 454.]

SEC. 1304. Exemptions. The following classes of property are not to be taxed:

1. The property of the United States and this state, including university, agricultural college and school lands; the property of a county, township, city, town or school district or militia company, when devoted entirely to public use and not held for pecuniary profit; municipal, school, and drainage bonds or certificates hereafter issued by any municipality, school district, drainage district or county within the state of Iowa; public grounds, including all places for the burial of the dead, crematoriums, the land on which they are built and appurtenant thereto not exceeding one acre, so long as no dividends or profits are derived therefrom; fire engines and all implements for extinguishing fires, with the grounds used exclusively for their buildings and meetings of the fire companies; no deduction from the assessment of the stock of any bank or trust company shall be permitted because of such bank or trust company holding such bonds and certificates as may be exempted above;

2. All grounds and buildings used for public libraries, including libraries owned and kept up by private individuals, associations or corporations for public use and not for private profit, for cemetery associations and societies, and for literary, scientific, charitable, benevolent, agricultural and religious institutions, and societies devoted solely to the appropriate objects of these institutions, not exceeding one hundred sixty acres in extent, and not leased or otherwise used with a view to pecuniary profit, but all deeds or leases by which such property is held shall be filed for record before the property above described shall be omitted from the assessment; the books, papers and apparatus belonging to the above institutions, used solely for the purposes above contemplated, and the like property of students in any such institution used for their education; moneys and credits belonging exclusively to such institutions, and devoted solely to sustaining them, but not exceeding in amount or income the amount prescribed by their charters or articles of incorporation; real estate to the extent of not to exceed one hundred sixty acres in any civil township, owned by any educational institution of this state as a part of its endowment fund, shall not be taxed;

3. The farm produce of the person assessed, harvested by him, and all wool shorn from his sheep, within one year previous to the listing; all poultry, ten stands of bees, all swine and sheep under six months of age; and all other domestic animals under one year of age not hereinbefore exempt; obligations for rent not yet due, in the hands of the original payees, private libraries, professional libraries to the actual value of three hundred dollars; family pictures; household furniture to the actual value of three hundred dollars and kitchen furniture; beds and bedding requisite for each family; all wearing apparel in actual use; and all food provided for the family; but the exemptions allowed in this subdivision shall not be held to apply to hotels and boarding houses except so far as said exempted classes of property shall be for the actual use of the family managing the same;

4. The polls or estates, or both, of persons who by reason of age or infirmity may in the opinion of the assessor be unable to contribute to the public revenue, such opinion and the fact on which it is based being in all cases entered on the assessment roll, and subject to reversal by the board of review;

5. The farming utensils of any person who makes his livelihood by farming, the team, wagon and harness of the teamster or drayman who

makes his living by their use in hauling for others, and the tools of any mechanic, not in any case to exceed three hundred dollars in actual value;

6. Government lands entered and located, or lands purchased from this state, for the year in which the entry, location or purchase is made;

7. The property, not to exceed fifteen hundred dollars in actual value, and poll tax, of any honorably discharged Union soldier or sailor of the Mexican War or of the War of the Rebellion or of the widow remaining unmarried of such soldier or sailor. It shall be the duty of every assessor annually to make a list of such soldiers, sailors [and] widows, and to return such list to the county auditor upon forms to be furnished by such auditor for that purpose; but the failure on the part of any assessor so to do shall not affect the validity of any exemption. All soldiers, sailors or widows thereof referred to herein shall receive a reduction of fifteen hundred dollars, the same to be made from the homestead of such soldier or widow, if he or she shall so own a homestead of the value of such exemption, otherwise out of such property as shall be designated and owned by the soldier, sailor or widow, such designation to be made either to the assessor or by writing filed with the county auditor on or before July first, each year;

8. The accumulations and funds held or possessed by fraternal beneficiary associations for the purposes of paying the benefits contemplated by section eighteen hundred twenty-two of the code, or for the payment of the expenses of such association. [36 G. A. (H. F. 307, § 1.)] [36 G. A. (H. F. 475, § 1.)] [35 G. A., ch. 117, § 1.] [35 G. A., ch. 116, § 1.] [35 G. A., ch. 115, § 1.] [34 G. A., ch. 61, § 1.] [34 G. A., ch. 62, § 1.] [33 G. A., ch. 81, §§ 1, 2.] [32 G. A., ch. 54.] [31 G. A., ch. 48.] [29 G. A., ch. 56, § 1.] [26 G. A., ch. 29.] [21 G. A., ch. 97.] [C. '73, § 797.] [R. § 711.] [C. '51, § 455.]

SEC. 1304-1a. Claimant of soldier's exemption to file statement. The beneficiary of the exemption allowed by subdivision seven of section thirteen hundred four, supplement to the code, 1913, shall file with the assessor a statement under oath that he is the owner of the real property on which such exemption is claimed. Such statement shall be returned by the assessor to the county auditor, and, if no such statement be so filed, no exemption shall be allowed by the assessor, but may be allowed by the board of supervisors if filed before September first of the year for which the same is claimed. [36 G. A. (H. F. 475, § 2.)]

SEC. 1322. National, state and savings banks—refusal to comply with statute—penalty.

This section together with sections 1310, 1311, 1321 and 1322-1a [embracing the amendments enacted by 34 G. A., ch. 63,] are not violative of the Federal statute, Sec. 5219. The deduction of United States bonds and stocks otherwise asses-

sed from the property to be assessed to private banks is not a discrimination in their favor and against the shareholders of national banks. *Head v. Board of Review*, 152 N. W. 600.

SEC. 1346-k. Electric transmission lines—annual statement—what to contain. That every company owning or operating a transmission line or lines for the conduct of electric energy and which line or lines are located within the state, and which said line or lines are also located wholly or partly outside cities and towns, shall on or before the first day of May in each year, furnish to the executive council of the state of Iowa a verified statement as to its entire line or lines within this state, when all of said line or lines are located outside cities and towns, and as to such portion of its line or lines within this state as are located outside cities

and towns, when such line or lines are located partly outside and partly inside cities and towns, showing:

1st. The total number of miles of line owned, operated or leased, located outside cities and towns within this state, with a separate showing of the number of miles leased;

2d. The location and length of each division within the state and the character of poles, towers, wires, sub-station equipment and other construction of each such division, designating the length and portion thereof in each separate county into which each such division extends. [36 G. A. (S. F. 610, § 1.)]

SEC. 1346-1. Additional statement—delay—penalty. Upon receipt of said statements from the several companies, the executive council shall examine such statements, and if it shall deem same insufficient, and that further information is requisite, it shall require the company making same to make such other or further statement as it may desire, notifying such company thereof by registered mail. In case of the total failure or refusal to make any statement required by this act to be made by May first in any year, or of failure or refusal to make such other or further statement within thirty days from the time the registered notice thereof is received by said company that the same is required by the executive council, such company shall forfeit and pay to the state of Iowa, one hundred dollars for each day the total failure or refusal to make any report is continued beyond the said first day of May of the year in which it is required, or in case of any such other or further report required by the executive council for each day the same is delayed beyond thirty days from the receipt of the notice by said company that same is required, such forfeiture to be sued for and recovered in any proper form of action in the name of the state and on relation of the executive council of the state of Iowa, and such penalty when collected, shall be paid into the general fund. [36 G. A. (S. F. 610, § 2.)]

SEC. 1346-m. Assessment by executive council. The executive council shall, at its meeting on the second Monday in July of each year, proceed to find the actual value of that part of such transmission line or lines referred to in section one of this act, owned or operated by any company, that are located within this state but outside cities and towns, including the whole of such line or lines when all of such line or lines owned or operated by said company are located wholly outside cities and towns, taking into consideration the information obtained from the statements required by or under this act, and any further information they can obtain, using the same as a means of determining the actual cash value of such transmission line or lines or parts thereof, within this state, located outside cities and towns. The executive council shall then ascertain the value per mile of such transmission line or lines owned or operated by each company specified in section one of this act by dividing the total value as above ascertained by the number of miles of line of such company within the state located outside cities and towns, and the result shall be deemed and held to be the actual value per mile of said transmission line or lines of each said company within the state located outside of cities and towns. The taxable value of such line or lines of which said executive council by this act are required to find the value, shall be determined by taking the percentage of the actual value so ascertained, as provided by section thirteen hundred five of the code, as amended, and the ratio between the actual value and the assessed or taxable value of the transmission line or lines of each of said companies located outside of cities and

towns shall be the same as in the case of the property of private individuals. At said meeting in July, any company interested shall have the right to appear by its officers, agents and attorneys before the executive council, and be heard on the question of the value of its property for taxation. [36 G. A. (S. F. 610, § 3.)]

SEC. 1346-n. Amount assessed to company—how determined—result certified to auditors. The executive council shall, for the purpose of determining what amount shall be assessed to any one of said companies in each county of the state into which the line or lines of the company extend, multiply the assessed or taxable value per mile of line of said company, as ascertained according to the provisions of this act, by the number of miles of line in each of said counties, and the result thereof shall be by said council certified to the several county auditors of the respective counties into, over or through which said line or lines extend. [36 G. A. (S. F. 610, § 4.)]

SEC. 1346-o. Duty of board of supervisors—levy and collection of tax. At the first meeting of the board of supervisors held after said statements¹ is received by the county auditor, it shall cause such statement to be entered in its minute book and make and enter therein an order stating the length of the lines and the assessed value of the property of each of said companies situated in each township or lesser taxing district in each county outside cities and towns, as fixed by the executive council, which shall constitute the taxable value of said property for taxing purposes. The county auditor shall transmit a copy of said order to the trustees of each township and to the proper taxing boards in lesser taxing districts into which the line or lines of said company extend in the county. The taxes on said property when collected by the county treasurer shall be disposed of as other taxes on real estate. [36 G. A. (S. F. 610, § 5.)]

NOTE: "Statement" probably intended. REPORTER.

SEC. 1346-p. Tax rate same as of individuals. Such portions of the transmission line or lines within the state referred to in section one hereof, as are located outside cities and towns, shall be taxable upon said assessment provided for by this act at the same rate, by the same officers and for the same purposes as property of individuals within such counties, townships or lesser taxing districts, outside cities and towns, and the county treasurer shall collect said taxes at the same time and in the same manner as other taxes, and the same penalties shall be due and collectible as for the non-payment of individual taxes. [36 G. A. (S. F. 610, § 6.)]

SEC. 1346-q. Not otherwise assessed—exceptions. Every transmission line or part thereof, of which the executive council is required by this act to find the value, shall be exempt from other assessment or taxation either under section thirteen hundred forty-three of the code, or under any other law of this state except as provided in this act. Provided that all lands, buildings, machinery, poles, towers, wires, station and sub-station equipment and other construction owned or operated by any company referred to in section one of this act, and which such property is located within any city or town within this state shall be listed and assessed for taxation in the same manner as provided in section thirteen hundred forty-three of the code, for the listing and assessments of that part of the lands, building, machinery, tracks, poles and wires within the limits of any city or town belonging to individuals or corporations furnishing electric light or power, and whose such property, except the capital stock, is situated partly within and partly without the limits of a city or town. All personal

property of every company owning or operating any such transmission line referred to in section one of this act, used or purchased by it for the purpose of such transmission line shall be listed and assessed in the assessment district where usually kept and housed and under said section thirteen hundred forty-three of the code. [36 G. A. (S. F. 610, § 7.)]

SEC. 1346-r. Company defined—verification of statement. The word "company" as used in this act, shall be deemed and construed to mean and include any person, co-partnership, association, corporation or syndicate that shall own or operate a transmission line or lines for the conducting of electric energy located within the state and wholly or partly outside cities and towns, whether formed or organized under the laws of this state or elsewhere; and the verification of any statement required by this act or under the provisions thereof, shall, in the case of a person, be made by such person; in case of a corporation, by the president or secretary thereof; and in the case of a co-partnership, association or syndicate, by some member, officer, or agent thereof, having knowledge of the facts. [36 G. A. (S. F. 610, § 8.)]

SEC. 1346-s. Capital stock not taxed. The owner of the capital stock in any company owning or operating any transmission line or lines referred to in this act shall not be assessed for taxation upon such capital stock. [36 G. A. (S. F. 610, § 9.)]

SEC. 1346-t. Statutes made applicable. The provisions of sections thirteen hundred thirty-h and thirteen hundred thirty-i, supplement to the code, 1913, shall apply to the property of transmission lines included in and referred to under section one of this act. [36 G. A. (S. F. 610, § 10.)]

SEC. 1354. Duty of assessor—owner to assist.

Under section 1354, Code Supp., 1913, the duty of fixing the valuation on particular pieces of property rests primarily on the assessor and the state board has no

other duty than to equalize, among the several counties of the state. *Pierce v. Executive Council*, 146 N. W. 85-87.

SEC. 1370. Local board of review.

The provisions of this section as to when the duties of the board of review shall be completed are directory only, and an appeal from the action of the board taken within twenty days from the final adjournment of the board confers jurisdiction although the adjournment was not

taken until after the time prescribed herein. *Hawkeye Lumber Co. v. Board of Review*, 161-504, 143 N. W. 563.

The provisions of this section as to the time when the board of review shall complete its duties are directory only. *Ibid.*

SEC. 1373. Complaint to board of review—appeal.

The chairman or presiding officer of a town council sitting as a local board of review is the proper person on whom to serve notice of appeal from the action of such board although such chairman or presiding officer is someone other than the mayor. *Hawkeye Lumber Co. v. Board of Review*, 161-504, 143 N. W. 563.

The mayor is presumptively the presiding officer of the board of review for a city or town, but the board may select a different officer and when a different of-

ficer is selected, notice of appeal from the action of the board should be served upon him, and as the provisions of Code Sec. 1370 specifying the time when the board of review shall complete its duties are directory, an appeal may be taken within twenty days from the final action of the board on the assessment appealed from, irrespective of whether such action was had after the expiration of the time limit named in the statute. *Ibid.*

SEC. 1391. Penalty on taxes not brought forward—unavailable taxes—delinquent taxes. That section thirteen hundred ninety-one of the code be and the same is hereby repealed and the following enacted in lieu thereof:

No penalty or interest, except for the first four years, shall be collected upon taxes remaining unpaid four years or more from the thirty-first day of December of the year in which the tax books containing the same were first placed in the hands of the county treasurer, and the board of supervisors at the January meeting may declare such tax unavailable, and when so declared by the board, the amount shall be credited to the treasurer by the auditor as unavailable and he shall apportion such tax among the funds to which it belongs. Any portion of such tax belonging to the state shall be reported by him in his semiannual settlement sheets to the auditor of state as unavailable, whereupon the auditor of state shall credit the county with the amount so reported, but nothing in this act shall be construed to in any way release the county treasurer from any duty required of him in the collection of delinquent taxes, nor to release the taxpayer from his liability for the same. Should any of such tax afterward be collected, the county treasurer shall distribute the net amount collected among the several funds the same as though it had never been declared unavailable, and the portion belonging to the state shall be credited back to the state and included in the treasurer's remittance of other state taxes to the treasurer of state and shall be reported by the county auditor in his semiannual settlement sheets to the auditor of state, who shall recharge the same to the county. [36 G. A. (H. F. 142, § 1.)] [31 G. A., ch. 51.] [15 G. A., ch. 29, § 1.]

SEC. 1400. Lien of taxes.

Where a deed was deposited in escrow Dec. 1st under the terms of a contract of sale, but the possession and control of the land was not surrendered until after the 31st of December, the vendor is liable for taxes accruing against the prop-

erty in the absence of an agreement to the contrary. *Mohr v. Joslin*, 162-34.

Taxes on personal property are a lien against the homestead of the owner. *Tate v. Madison County*, 162-170, 143 N. W. 492.

CHAPTER 1-A.

OF THE LEVY OF SPECIAL TAXES FOR STATE INSTITUTIONS AND OTHER STATE PURPOSES.

SECTION 1400-q. State board of education—for erection, improvement and repair of buildings—repealed. That section fourteen hundred-q, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof: [36 G. A. (H. F. 248, § 1.)] [34 G. A., ch. 201, § 1.]

NOTE: The remaining portion of this section of the last above act is a biennial appropriation act and omitted from this volume under direction of H. F. 110, 36 G. A. REPORTER.

SEC. 1400-q1. Plans and specifications—how approved. No part of the said appropriation shall be expended for new buildings without first submitting to the general assembly for its approval plans and specifications prepared by the state architect, together with estimates of the cost of such buildings or betterments, and such plans and specifications, together with the said estimates of cost, shall be so submitted within thirty days from the first day of any regular session; provided that if the state board of education deems it advisable to make deviation from or additions to the plans, specifications, and estimated cost so submitted to the general assembly, the board shall first secure the approval thereof by a majority vote of the ex-

executive council; but the executive council shall not approve any deviation from such plans and specifications during any session of the general assembly nor costing more than twenty-five thousand dollars as to any one building. The executive council may, however, during the interim between sessions of the general assembly, on application of the state board of education, approve plans, specifications, and expenditures for buildings the necessity for which is created by fire or other casualty. The funds provided for by this act shall be drawn from the state treasury as provided in sections one hundred and nine and one hundred ten of the code. Nothing in this act shall be held to exclude the state board of education from employing an architect other than the state architect. [36 G. A. (H. F. 248, § 2.)] [35 G. A., ch. 326, §§ 1, 2.] [34 G. A., ch. 201, § 2.]

SEC. 1400-r. Board of control—for erection and improvement of buildings—repealed. That the law as it appears in section fourteen hundred-r, section fourteen hundred-r one, and section fourteen hundred-r two, supplement to the code, 1913, be and the same is hereby repealed and the following enacted as a substitute therefor: [36 G. A. (S. F. 555, § 1.)] [35 G. A., ch. 17, § 1.]

NOTE: The remaining portion of the last above act is a general biennial appropriation act and is omitted from this volume under direction of H. F. No. 110, Sec. 10, 36 G. A. REPORTER.

SEC. 1400-r1. Plans and specifications—how approved—repealed. [36 G. A. (S. F. 555, § 1.)] [35 G. A., ch. 17, § 2.]

NOTE: See § 1400-r.

SEC. 1400-r2. Acts in conflict repealed—repealed. [36 G. A. (S. F. 555, § 1.)] [35 G. A., ch. 17, § 3.]

NOTE: See § 1400-r.

CHAPTER 2.

OF THE COLLECTION OF TAXES.

SECTION 1409. Taxes certified to another county. That section fourteen hundred nine of the code be and the same is hereby repealed and the following enacted in lieu thereof:

In all cases of delinquent taxes in any county, where the person upon whose property the same were levied shall have disposed of or removed the said property and the treasurer of the county where the taxes were levied can find no property within said county out of which said taxes can be made, the treasurer of the county where said taxes are delinquent shall make out a certified abstract thereof, and forward the same to the treasurer of the county in which the delinquent resides or has property, when the treasurer transmitting the said abstract has reason to believe that said taxes can be collected thereby. [36 G. A. (S. F. 254, § 1.)] [C., '97, § 1409.] [C., '73, § 861.]

SEC. 1417. Refunding erroneous tax.

The duty to return taxes illegally exacted is none the less a duty because the tax was voluntarily paid, or because the illegality of the statute under which they were exacted was not discovered for several years. *Commercial Bank v. Board of Supervisors*, 150 N. W. 704.

The duty to return taxes illegally exacted may be enforced by mandamus. *Ibid.*

When money has been exacted "as taxes" it will not avail the public authorities to indulge in the refinement that such money was not "taxes" in order to

escape a duty to make return, nor will the mistake of a taxpayer in supposing that the law under which the tax was exacted was legal, lessen the duty to make restitution. *Ibid.*

The taxpayer from whom a tax has been exacted under an invalid law is not estopped to demand a return of the same because he listed the property with the assessor. *Ibid.*

CHAPTER 4.

OF ASSESSMENT AND COLLECTION OF COLLATERAL INHERITANCE TAX.

SECTION 1467. Rate—repealed.

This section is not in conflict with the treaty with Denmark in which it was agreed that no higher tax should be levied by either party upon any "personal property, money or effects" of the citizens

of the other party "either from inheritance or otherwise" than in case of its own citizens or subjects. *In re Anderson Estate*, 147 N. W. 1098.

SEC. 1481-a. Property subject to tax—rate—foreign beneficiaries—lien.

That part of this section undertaking to subject property bequeathed to or inherited by non-resident aliens to a collateral inheritance tax of 20% is invalid in so far as it affects non-resident subjects of Great Britain, by reason of the provisions of the treaty between this country and Great Britain. *McKeown v. Brown*, 149 N. W. 593.

No limitation on the power of the state to levy a collateral inheritance tax, and no limitation on the power of the state to discriminate or graduate such tax according to whether the property passes to residents or nonresident aliens, is contained in that clause of the treaty between the United States and Sweden, which provides that the subjects of the two countries "may freely dispose of their goods and effects by testament * * * in favor of

such persons as they may think proper, and their heirs * * shall receive the succession even *ab intestato* without *droit de deduction*". *In re Peterson's Estate*, 151 N. W. 66.

"Goods and effects", as they appear in the treaty between the United States and Sweden providing that "the subjects of the contracting parties in the respective states may freely dispose of their goods and effects, etc.", include real estate. *Ibid.*

The provisions of article II of the treaty between the United States and Great Britain forbids discrimination in succession taxes, (a) whether the inheritance consists of personal or real property, and (b) whether the deceased be an alien or citizen of the United States. *In re Moynihan's Est.*, 151 N. W. 504.

TITLE VIII.

OF ROADS, BRIDGES AND FERRIES, AND THE DESTRUCTION OF THISTLES.

CHAPTER 1.

OF THE ESTABLISHMENT, ALTERATION AND VACATION OF ROADS.

SECTION 1484. Petition.

The procedure for vacating a highway is the same as that for establishing one, and the board has no jurisdiction until a proper petition is filed. *McCarl v. Clarke*

Co., 148 N. W. 1015.

This section does not distinguish between the vacation and discontinuance of a highway. *Ibid.*

SEC. 1512. Consent highways.

"Written" consent is indispensable. The board has no jurisdiction to act on the written consent of a husband, the wife

owning the land, even though the husband signed his own name at the wife's direction. *Hatch v. Board*, 152 N. W. 28.

SEC. 1527-a. Encroachment of streams—purchase or condemnation of land—repeal. That section one thousand five hundred twenty-seven-a, supplement to the code, 1913, is hereby repealed. [36 G. A. (S. F. 98, § 8.)]

SEC. 1527-b. Water mains—supervisors may grant use to municipalities and others for construction of—damages. Upon application to the board of supervisors of any county by any municipality, corporation, co-partnership or individual desiring to serve the public with water, or with ice manufactured therefrom for permission to construct its water mains and lay its pipes in the public highway from such municipality to any stream, spring, river, lake or reservoir, the said board may grant the same upon condition that it shall not in any manner interfere with the public travel. The applicant shall be responsible for all damages that may arise from such construction, or from the same not being kept in repair. [36 G. A. (H. F. 49, § 1.)] [32 G. A., ch. 66.]

SEC. 1527-r1. Petition for change of highway or stream—survey by engineer—purchase of right of way. Ten freeholders of any county by a petition to the board of supervisors of said county or the county engineer may, at any time, recommend the expediency and advisability of changing the course of any part of any road or stream within any county, in order to avoid unnecessarily expensive bridges, grades or railroad crossings, or to straighten any road, or to cut off dangerous corners on the highway or to widen any road above statutory width, or for the purpose of preventing the encroachment of a stream upon a public highway, specifying clearly the change recommended, and whether any part of any highway already established should be vacated and abandoned, and what part. The board may, thereupon, order the engineer to make a survey and report on such proposed change, and in order to comply with such order, the engineer shall have a right to enter upon the premises proposed to be taken and make said survey. If, from a consideration of the survey and report on such proposed change, the board deems the change advisa-

ble, it shall have power to buy such right of way and take conveyance thereof in the name of the county and to pay for the same out of either the county road or bridge fund or out of both of said funds, as may appear advisable. [36 G. A. (S. F. 98, § 1.)]

SEC. 1527-r2. Condemnation—procedure. If, for any reason, the board is unable to acquire such right of way by agreement with the owner, the county auditor shall appoint three disinterested appraisers who shall appraise the damages sustained by the land owners through whose land said proposed right of way extends and who shall within ten days make return of their appraisal to the county auditor, and the board shall fix a day at such place in the county as it may determine, at which it will hear all objections to said change and at which time it will determine all damages to each claimant by reason of such proposed change. Such hearing shall not be less than ten days after completed service on the owner. All owners of land bordering or abutting upon such proposed change, of road or stream and all owners through whose land such change will extend, as shown by the transfer books in the office of the county auditor, shall be served with notice of such hearing. Such owners who are residents of the county shall be personally served in the manner original notices are required to be served. Such owners who do not reside in the county and such owners who reside in the county, when the officer returns that they cannot be found in the county, shall be served by publishing the notice in some newspaper in the county, once each week, for two weeks, and in addition, notice shall be served personally upon the actual occupant of the land. Personal notice outside the county but within the state, in the manner original notices are required to be served, shall be deemed personal service and shall take the place of publication service. [36 G. A. (S. F. 98, § 2.)]

SEC. 1527-r3. Hearing on objections—hearing on damages—payment—appeal from allowance—change for benefit of township system. Service shall be deemed complete on the date when personal service is made, or on the date of the last publication, as the case may be. All objections to said change and all claim for damages by reason thereof, must be filed on or before the expiration of ten days from the date of completed service or the same will be waived. Different dates may be fixed for hearing the objections and claims for damages of different owners. At the time and place fixed for such hearing as to any owner, the board shall meet and proceed to a hearing on the objections or claims for damages of any such owner of whom it has acquired jurisdiction by proper service of notice or, if there be such owners over whom jurisdiction has not been acquired, the board may adjourn such hearing until such date (of which all parties must take notice), when jurisdiction will be complete as to all owners. At such final hearing, the board shall pass upon the objections filed. If the objections or any of them be sustained, the proceeding to effect the change shall be dismissed. If the objections be overruled, the board shall then proceed to a determination of the damages to be awarded to each claimant who has filed such claim. If the amount of damages so awarded are, in the opinion of the board, excessive, the proceedings shall be dismissed. If such damages, in the opinion of the board, be not excessive, the board may, by proper order, establish such proposed change in the road or stream, as the case may be, and pay such damages as in case of right of way secured by agreement. Provided, however, that if by the change of any road herein contemplated, any part of the highway abandoned reverts to the owner of the land condemned, then and in that case the owner, by reason of the relocation

of such highway, shall be entitled to such damages for the locating of such new highway which exceeds the damages sustained by reason of the old highway, taking into consideration the value of the premises immediately before and after such old road is abandoned and the new road established. The board shall order the auditor to issue warrants in favor of each claimant for the amount of damages awarded, and in such case shall have the right to enter upon such right of way and improve the same. The damages thus awarded shall be paid for out of the county road or bridge fund or out of both of said funds. Claimants for damages may appeal to the district court from the award of damages, in the manner and time for taking appeals from the establishment of highways generally. The acceptance at any time of the amount awarded shall constitute a waiver of the right to appeal. If possession of the right of way is not taken and improved prior to the determination of the amount of damages on appeal, the board may, on the appeal being determined, dismiss the proceeding to effect the change, if, in the opinion of the board, the damages finally awarded are excessive. The making of a change in a stream shall be done by the board of supervisors and paid for out of either the county road or bridge fund or out of both of said funds. When the change of a road is made upon or for the benefit of the township road system, the improvement shall be made as now provided for the doing of road work upon the township road system. [36 G. A. (S. F. 98, § 3.)]

SEC. 1527-r4. Orchards, etc., not to be disturbed. No such change shall be established through any orchard or ornamental grounds contiguous to any dwelling house or so as to cause the removal of buildings, without the consent of the owner, nor through any burying ground. [36 G. A. (S. F. 98, § 4.)]

SEC. 1571-r5. Delays. Should delay occur in the acquisition of such right of way, such delay shall not prevent the board from proceeding with the improvement of any part of the highway, not effected¹ by the proposed change. [36 G. A. (S. F. 98, § 5.)]

NOTE: "affected" probably intended. REPORTER.

SEC. 1527-r6. Notice—form. The notice herein provided for shall be in substantially the following form:

"To Whom It May Concern:

The engineer appointed by the board of supervisors of County to make survey and report of the road (describe the same in a general way) has made report and has recommended that the following change be made in said road: (Here clearly describe the proposed change and the location and course thereof and give the names of the owners of the land through and abutting upon which the proposed change will extend.) And the said board of supervisors propose to establish said change as above described, and all objections to said change and all claims for damages by reason of said change must be filed in the office of the county auditor before the expiration of ten days from the service of this notice or the same will be waived. You will take further notice that said board will, on the day of, 19...., at, or as soon thereafter as possible, proceed to determine all objections to said change and all damages caused thereby and will, in case such objections are overruled and the damages awarded be not excessive, establish said change.

.....
County Auditor."

[36 G. A. (S. F. 98, § 6.)]

SEC. 1527-r7. Abandonment of highway—notice to owner affected. The foregoing provision with reference to changes in the highway shall not be construed as compelling the board to abandon any part of a highway already established, but if it be proposed to abandon any part of a highway already established, notice shall be served as herein provided, upon the said record owners as aforesaid through which or abutting upon which said highways so proposed to be abandoned, extends. [36 G. A. (S. F. 98, § 7.)]

CHAPTER 1-A.

OF THE STATE HIGHWAY COMMISSION.

SECTION 1527-s. Members—term—removal—office—counsel. The office of the state highway commission is hereby located at the state college of agriculture and mechanic arts. Said commission shall be composed of three members, one of which shall be the dean of engineering of said college, and the other two members of the commission shall be appointed by the governor immediately upon taking effect of this act, from different political parties for the period of two and four years, from July first, nineteen hundred thirteen, and terms of office shall thereafter be four years. Each commissioner shall give bond in the penal sum of five thousand dollars for the faithful performance of his duties as hereinafter provided, which bond shall be approved by the executive council and filed with the secretary of state. Each commissioner shall be subject to removal from office as provided by chapter¹ seventy-seven, laws of the thirty-third general assembly. If for any reason, a vacancy occurs in the membership appointed by the governor, he shall fill such vacancy for the remainder of the unexpired term, from the same political party from which the vacancy occurred. The attorney-general shall act as attorney for the commission, and shall advise them upon all legal questions arising with reference to the duties of said commission. [36 G. A. (S. F. 567, § 1.)] [35 G. A., ch. 122, § 1.]

[¹§ 1258-b. EDITOR.]

SEC. 1527-s1. Compensation. Each of the commissioners appointed by the governor shall receive for his services the sum of ten dollars per day for each day actually employed in the work of the commission and each of the three commissioners shall receive all necessary traveling and other expenses incurred while in the performance of his duties as such commissioner, but the commission shall not incur any expense to the state by sending out road lecturers. The total compensation to such commissioner shall not exceed ten hundred dollars per annum. [36 G. A. (S. F. 567, § 2.)] [35 G. A., ch. 122, § 2.]

SEC. 1527-s2. Duties. The duties of said commission shall be:

1. To devise and adopt plans of highway construction and maintenance suited to the needs of the different counties of the state, and furnish standard plans to the counties in accordance therewith.

2. To disseminate information and instruction to county supervisors and other highway officers, answer inquiries and advise such supervisors and officers on questions pertaining to highway improvements, construction and maintenance and of reasonable prices for materials and construction.

3. To keep a record of all important operations of the highway commission, and to annually report the same to the governor by the first day

of January, which report shall be printed as a public document; but the summary report of the county highway engineers shall be reported not later than February first.

4. To appoint such assistants as are necessary to carry on the work of the commission, define the duties and fix the compensation of each, and terminate at will the terms of employment of all employees, provide for necessary bonds, and fix the amount of same.

5. To make investigation as to conditions in any county, and to report any violation of duty, either of commission or omission, to the attorney-general, who shall take such steps as are deemed advisable by him to correct the same.

6. The state highway commission shall have general supervision of the various county and township officers named in this act in the performance of the duties here enjoined, and shall have full power and authority to enforce the provisions of this act.

7. To make surveys, plans and estimates of cost for the elimination of danger at railroad crossings on highways and streets, and to confer with local officials, railroad officials and the Iowa railroad commission in the elimination of such dangers at railroad crossings.

8. The state highway commission shall assist the county board of supervisors and the attorney general in the defense of patent suits relative to road or bridge construction, make surveys for the state board of control when so requested, and perform all other duties required by law. [36 G. A. (S. F. 567, § 3.)] [35 G. A., ch. 122, § 3.] [30 G. A., ch. 105, § 1.]

SEC. 1527-s3. Engineers—compensation—discharge—highway systems defined—corporate line highways—how improved—bridge and culvert system—scope—state line highways. That section fifteen hundred twenty-seven-s three, supplement to the code, 1913, be repealed and the following enacted in lieu thereof:

“The board of supervisors of each county shall employ a competent engineer or engineers for such length of time, not exceeding one year, and at such compensation, to be paid out of the county funds, as may be fixed by the board of supervisors. Said engineer or engineers shall work under the direction and instructions of the board of supervisors in the performance of the duties hereinafter provided, and each shall give bond for the faithful performance of his duties in a sum not less than one thousand dollars, nor more than five thousand dollars. The tenure of office of any engineer may be terminated by the board of supervisors for cause or by the state highway commission for incompetency. The highways now designated as county roads by the plans and records now on file in the county auditor’s office of each county and all county highways from time to time added thereto, shall be known as the county road system. All other highways in the county shall be known as the township road system. The system of road construction herein provided shall apply only to highways outside of the limits of cities and towns; provided, however, that whenever any public highway, located along the corporate line of any city or town, is partly within said city or town and partly without the same, the said highway or any part thereof, may be included in and made a part of the county road system, and when so included it may be improved by the board of supervisors as are other parts of the county road system. The system of bridge and culvert work herein provided for shall apply to all highways throughout the county outside of the limits of cities of the first class; provided, however, that when any part of any public highway located along the corporate line of a city of the first class

is included in the county road system, as herein provided, the board of supervisors and the city council shall meet jointly and adopt plans and specifications with the approval of the highway commission for the construction of bridges and culverts, one-half of the cost of the same to be paid by the city and one-half by the county, and in case the city council and the board of supervisors are unable to agree upon any question or questions involved in the construction of the same it shall be referred to the state highway commission, whose decision therein shall be final and binding upon each party.

In matters involving highway improvements upon or across state lines or in determining continuous routes for interstate roads, the state highway commission shall be authorized to confer with authorities of bordering states and to agree upon proper connections or plans and the apportionment of cost of such improvements." [36 G. A. (S. F. 567, § 4.)] [35 G. A., ch. 123, § 1.] [35 G. A., ch. 122, § 4.]

Neither the county nor the members of a public road, as distinguished from a of the board of supervisors are liable for county bridge. *Sneathen v. Harrison Co.*, the negligent construction or maintenance 152 N. W. 12.

SEC. 1527-s5. Approval by commission—return to auditor. The state highway commission shall, upon receipt of said maps, petitions and plats, proceed to examine the same, with a view of determining the correct lines to be followed by the county highway, having regard for volume of traffic, continuity and cost of construction. Such portions of said map as meet with the approval of said commission may be approved and returned as a preliminary map for immediate use and the original map, when completed in accordance with the decisions of said commission (which decisions shall be final), shall be returned to the county auditor not later than March first, nineteen hundred fourteen, and a copy of same retained in the office of the highway commission. Provided that the board of supervisors of any county may at any time make application to the said commission for a change or modification of the established county road system when such change is proposed for the purpose of eliminating from such road dangerous crossings or curves, or when such change would materially decrease the cost of improving or maintaining the road, and in such case the commission may reopen such matter and authorize such change as may seem advisable. [36 G. A. (S. F. 567, § 5.)] [35 G. A., ch. 122, § 6.]

SEC. 1527-s8. Surveys and reports—submission to and approval by commission—supervisors to maintain bridges and culverts—trustees to grade and fill—road funds consolidated—township funds—how employed. That section fifteen hundred twenty-seven-s eight, supplement to the code, 1913, be stricken out and the following enacted in lieu thereof:

"The survey and report of each section, as soon as completed and approved by the board of supervisors, shall be submitted to the state highway commission, and the board of supervisors may designate to the said commission what sections, in their estimation, should be first passed upon by said state highway commission. The said commission is hereby charged with the duty of passing upon such reports and plans, and in so doing, shall take into consideration the thoroughness, feasibility and practicability of such plans, and may approve or modify the same. After such survey and plan for each section is passed upon by the state highway commission, they shall be returned to the county auditor with full and explicit directions as to modifications, if there be any. The county auditor shall, upon receipt of the approved and modified survey and plans,

record the same at length in a county road book, and the board of supervisors shall thereupon proceed to the construction of the road, bridge, tile and culvert work in accordance therewith, and as herein provided. The duty to construct and maintain all bridges and permanent culverts throughout the county is imposed upon the board of supervisors. All culverts and bridges shall be paid for out of the county bridge fund, except as provided in section thirteen of this act. Where conditions are such as to warrant or necessitate the same, the board of supervisors shall furnish township trustees metal or other temporary culverts authorized by the state highway commission to be placed by them on their township road system. Said culverts to be purchased by the board of supervisors and paid for out of the county bridge fund and shall not exceed in size thirty-six inches in diameter, or its equivalent. The county, however, shall be at no expense for placing, filling or transportation of said temporary culverts other than their delivery at a railroad station to be designated by the board of supervisors. Immediately upon the completion by the board of supervisors of any bridge or culvert situated upon the township road system, or the installation of a temporary culvert furnished to the township by the board of supervisors, it shall be the duty of the township trustees to properly fill over with dirt all such culverts and fill in and uniformly grade the approaches to all such bridges. Should the trustees fail for a period of two weeks after notification to make such fill, or fail to fill in and grade over such culvert, as herein provided, the board of supervisors shall proceed to do so, and the engineer shall report the actual cost of so doing and such amount, not exceeding one hundred fifty dollars, for any such bridge or culvert, shall be certified by the board of supervisors to the county treasurer who shall transfer said amount to the county road cash fund from the first collection of road funds belonging to said township.

The county road fund, the county road building fund, the county drainage fund, and all other moneys received by the board of supervisors for road purposes, except as otherwise provided, shall be placed in the county road cash fund, and shall be paid out only on order of the said board of supervisors for the purchase of tools, machinery and equipment, or for tile and tiling, or for filling on culverts and bridge approaches as herein provided, or for work done on the county road system, or for the elimination of dangers at railroad crossings on both county and township roads, at the discretion of the board of supervisors on an adjustment of such dangerous conditions by negotiations between the railroad and the board of supervisors, or upon an order and finding of the railroad commission. All money received by the township trustees for road purposes shall be expended for and upon the township road system, or for the elimination of dangers at railroad crossings on the township roads, at the discretion of the township trustees, on an adjustment of such dangerous conditions by negotiations between the railroad company and the township trustees, or upon an order and finding of the railroad commission." [36 G. A. (S. F. 567, § 6.)] [35 G. A., ch. 122, § 9.]

SEC. 1527-s9. Township roads—addition to county system. That section fifteen hundred twenty-seven-s nine, supplement to the code, 1913, be stricken out and the following enacted in lieu thereof:

"Whenever all the roads of the county road system have been improved according to the plans herein provided, the board of supervisors shall add such roads from the township road system as have been improved by the township in accordance with the general plans and specifications furnished by the engineer and in accordance with the requirements of

this act, and if the township roads so improved be not sufficient to use all county funds available for that purpose, the board of supervisors may select additional county roads, but no increase shall be made in the mileage of the county road system until that system is completed, except that the board of supervisors may at any time add such roads from the township road system as will materially shorten the direct lines of travel between market towns. In all cases of additions the same proceedings shall be followed in all regards as herein provided for the original selection and improvement of county roads." [36 G. A. (S. F. 567, § 7.)] [35 G. A., ch. 122, § 10.]

SEC. 1527-s10. Cost—how paid—repair work—liability of auditor. All bills for road work, tile and tiling culvert and bridge construction or for repairs designated by the engineer, shall be filed in itemized form and certified to by the engineer before being allowed by the board and before warrants in payment therefor are drawn by the county auditor. Before any warrant shall be issued by the county auditor upon the funds of the county road system in payment for any work or construction of highways, except for dragging, maintenance or repairs not designated by the engineer, he must secure on this bill the certificate of the engineer employed by the board of supervisors, that such improvement has been made in accordance with the plans and specifications as herein provided, and when so endorsed, warrants may be drawn for the amount so certified by the county engineer; but if said engineer make said certificate when said work was not done in accordance with the plans and specifications, and same be not properly made good without additional cost, then the full cost of making same good may be recovered upon said engineer's bond, and his bond shall be liable therefor. Partial payments may be allowed by the board on contract work on the basis of the engineer's certified estimates and the percentages specified in the standard specifications of the state highway commission. Repair work shall be known as work not designated by the highway engineer, all road construction work costing not in excess of sixty dollars per mile, work of a temporary character or of immediate necessity, and work necessary to maintain finished roads completed under this act. A violation of this section shall render the county auditor liable on his bond for the amount of said work. [36 G. A. (S. F. 567, § 14.)] [35 G. A., ch. 122, § 11.]

SEC. 1527-s11. Standard specifications—bids—approval of commission—construction by day labor. That section fifteen hundred twenty-seven-s eleven, supplement to the code, 1913, be repealed and the following enacted in lieu thereof:

"Standard specifications for all bridges and culverts, railroad overhead crossings or subways shall be furnished without cost to the counties and railroad companies by the state highway commission, and work shall be done in accordance therewith, and when said bridge and culvert work is completed and approved a duplicate statement of the cost thereof shall be filed at once with the state highway commission by the county auditor. All culverts and bridge construction, tile and tiling and repair work or materials therefor, of which the engineer's estimated cost shall be one thousand dollars or less, may be advertised and let at a public letting, or may be let privately at a cost not to exceed the engineer's estimate, or may be built by day labor. All culvert and bridge construction, grading, tile and tiling and repair work, or materials therefor of which the engineer's estimated cost shall exceed one thousand dollars shall be advertised and let at a public letting, provided, that the board shall have the power to reject all bids, in which event they may readvertise, or let pri-

vately by submitting contract to the state highway commission for approval, or build by day labor, at a cost not to exceed the lowest bid received. All bids received shall be publicly opened, at the time and place specified in the advertisement, and shall be recorded in detail, in a book kept for that purpose, by the county auditor; said book shall at all times be open to the public for inspection. Any proposed contract which shall exceed the sum of two thousand dollars for any one bridge or culvert, or repairs thereon, shall be first approved by the state highway commission before the same shall be effective as a contract. Before beginning the construction of any permanent bridge or culvert by day labor or by contract, the plans, specifications, estimate of drainage area, estimates of cost and their specific location shall be filed in the county auditor's office by the engineer. Bridges erected over drainage ditches shall, where necessary, be so constructed to allow the superstructure to be removed for cleaning said ditches with as little damage to the removal and permanent parts of said bridge as practicable. On completion, a detailed statement of cost, and of any additions or alterations to the plans shall be added to the above records by the engineer, all of which shall be retained in the county auditor's office as permanent records, and when said work is completed and approved, a duplicate statement of the cost thereof shall be filed at once with the state highway commission by the county auditor. The board of supervisors may authorize the county auditor to draw warrants for the amount of pay rolls for labor furnished under the day labor system, when said pay rolls are certified to by the engineer in charge of the work. Said bills shall be passed upon by the board at the first meeting following said payment." [36 G. A. (S. F. 567, § 8.)] [35 G. A., ch. 122, § 12.]

SEC. 1527-s12. Resolution of necessity—notice—publication—hearing—new resolution—repeal. That section fifteen hundred twenty-seven-s twelve, supplement to the code, 1913, be and the same is hereby repealed. [36 G. A. (S. F. 567, § 9.)] [35 G. A., ch. 122, § 13.]

SEC. 1527-s13. Draggable roads—superintendent of township road system—bond—duties—compensation—amount expended—report. That section fifteen hundred twenty-seven-s thirteen, supplement to the code, 1913, be repealed and the following enacted in lieu thereof:

"At every February meeting, or as soon thereafter as possible, the township trustees of each township shall select from its township road system the roads to be dragged for the year, to be known as draggable roads, which shall include all roads in consolidated school districts and all mail routes, and shall employ a superintendent or superintendents, not exceeding four in number, for the township road system, who shall give bond for the faithful performance of their duties in such sum as the township trustees may direct. Said superintendent or superintendents shall have general supervision of all dragging and repair work on the township road system, including the placing of temporary culverts, and the term of office and compensation of such superintendent or superintendents shall be at the discretion of the township trustees. The superintendent shall see that the approaches to all bridges on the said roads are maintained in such manner as to present smooth and uniform surfaces, and keep the openings to all culverts and ditches free from weeds, brush and other material that will in any manner prevent the free discharge of surface water. He shall have charge of all draggable roads of the township road system and make contracts for dragging, and shall see that all draggable roads of the township road system are properly dragged at such times as are necessary to maintain such roads in smooth condition, at such

price as is reasonable and necessary to secure such contracts, to be fixed by the township trustees. For this purpose there shall be expended, under the direction of the township trustees, through the road superintendent, upon the township road system not less than the one mill drag tax now authorized by law. The township trustees shall not allow any bills for dragging, maintenance, or repairs work, nor shall warrants in payment therefor be drawn by the township clerk upon funds of the township road system until itemized bills therefor have been certified to by the township road superintendent. A violation of this section shall render the township clerk liable on his bond for the amount of said warrant. The compensation of such superintendent for all duties except any dragging actually performed by him, and the cost of all equipment for dragging, shall be paid for out of the township road funds. He shall at least once a year, or on demand, furnish the township trustees a report of all work done under and by him." [36 G. A. (S. F. 567, § 10.)] [35 G. A., ch. 122, § 14.]

SEC. 1527-s13a. Drag fund—transfer—approval of transfer. If, at the February meeting, a balance remains in the drag fund for the preceding year or years, the said balance may be transferred to the general township road fund provided the draggable roads of such township have been regularly dragged in compliance with the law during the preceding year and said transfer approved by the board of supervisors. [36 G. A. (S. F. 567, § 16.)]

SEC. 1527-s14. Survey, plans and specifications for township work. Before beginning any work upon the township road system, other than hereinbefore described as repair work, the trustees shall make application to the board of supervisors, who shall furnish them with an engineer, to be paid out of the county fund, who shall survey and lay off such roads according to the plans and specifications as hereinbefore provided for the county road system, and the work shall be done in accordance therewith. Providing the trustees may contract with the board of supervisors for the construction of any work on the township road system, provided the county shall not make any charge for the use of the county's road equipment except the actual cost of operating the same. [36 G. A. (S. F. 567, § 11.)] [35 G. A., ch. 122, § 15.]

SEC. 1527-s16. Report by township clerk—recommendation of trustees. That section fifteen hundred twenty-seven-s sixteen, supplement to the code, 1913, be repealed and the following enacted in lieu thereof:

"Not later than the first day of January, or at any time upon the demand of the township trustees, the township clerk shall report the work accomplished on the township road system in his township, including number of culverts installed, location thereof and the number and size of culverts on hand and not installed. Said township trustees shall, as nearly as practicable, recommend what is to be done upon the township road system for the succeeding year, and shall also prepare a list of the culverts and bridges which in their judgment should be constructed by the board of supervisors in their township during the succeeding year, giving the proposed location of such culverts, the material of which such culverts should be constructed, and the approximate size of same, together with any and all recommendations concerning such culverts as the board of township trustees see fit to give, which list, report and recommendation shall be filed on or before the first day of January of each year, or oftener if the emergency requires, in the office of the county auditor, and a copy of the same shall be forthwith mailed by the township clerk to each mem-

ber of the board of supervisors." [36 G. A. (S. F. 567, § 12.)] [35 G. A., ch. 122, § 17.]

SEC. 1527-s21a. Plans—specifications—approval. In all cases wherein plans, specifications and profiles are submitted to the state highway commission, proposing and setting forth the plans and specifications for improving any portion of a road system, if, except as to cuts, fills, and decreases in inclines such plans and specifications meet with the approval of the state highway commission, the said commission shall not refuse to approve such plans and specifications in full if the proposed cuts, fills, or decreases in inclines set forth in such plans propose to decrease the hills or inclines at least twenty per cent of the existing incline. [36 G. A. (S. F. 567, § 15.)]

SEC. 1527-s21b. Engineers and assistants to file itemized account. All county engineers, employed in drainage or road work for the county or any drainage district, and all their assistants engaged in such work, shall file an itemized and verified account, before the board of supervisors, stating the time actually employed each day, the place where such work was done, the character of the work done, and also file vouchers for any expense, with such account. [36 G. A. (S. F. 414, § 1.)]

SEC. 1527-s21c. Penalty for false oath. Any false statement wilfully made in said account shall subject the person filing the same to the pains and penalties of perjury. [36 G. A. (S. F. 414, § 2.)]

CHAPTER 2.

OF WORKING ROADS.

SECTION 1556. Shade trees—timber—drainage.

Township authorities have authority, and it is their duty under this statute, to provide for the drainage of surface water on the highway even though in so doing their road ditches and culverts tend to converge the surface water within a more closely confined channel as it crosses the land of an abutting property owner. *Hayes v. Oyer*, 146 N. W. 857.

SEC. 1565-a. Weeds—destruction of. It shall be the duty of each owner, occupant, person, company or corporation in control of any lands within the state of Iowa, whether the same shall consist of improved or unimproved lands, town or city lots, lands used for railway right of way or depot grounds, lands in which the public has an easement for road, street or other right of way, or lands used for any other purpose whatsoever, to cut, burn, or otherwise entirely destroy all noxious weeds as defined in section two hereof at such times in each year and in such manner as shall prevent the said weeds from blooming or coming to maturity, and to keep the said lands free from such growths of other weeds as shall render the streets or highways adjoining the same unsafe for public travel or shall interfere in any manner with the proper construction or repair of the said streets or highways, and shall cause to be cut, near the surface, all weeds on the streets or highways adjoining said lands between the first day of July and the first day of August of each year. But nothing herein shall prevent the land owner from harvesting the grass grown upon the roads along his land in proper season. [36 G. A. (H. F. 72, § 1.)] [35 G. A., ch. 128, § 1.]

SEC. 1569. Turning to right—rule when approaching from rear—penalty.

Under this section before its amendment by Ch. 131, Laws 35 G. A., held that "meeting each other" meant not merely passing in opposite directions but coming together in such a manner that there would be a collision or an apparent danger of one if the persons on horseback or in vehicles pursued their course without change of direction. *Hubbard v. Bar-*

tholomew, 144 N. W. 13.

In an action for personal injuries from plaintiff's horse being frightened by defendant's automobile, the fact that defendant passed plaintiff's buggy on the wrong side of the street was prima-facie evidence of his negligence, but did not constitute negligence as a matter of law. *Herdman v. Zwart*, 149 N. W. 631.

CHAPTER 2-B.

OF REGISTRATION OF MOTOR VEHICLES.

SECTION 1571-m2. Application—information contained. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as herein otherwise expressly provided, cause to be filed in the office of the secretary of state an application for registration on a blank to be furnished by the secretary of state for that purpose, containing: (a) a brief description of the motor vehicle to be registered, including the name of the manufacturer and factory number of such vehicle, the character, and if the motive power be derived from the products of petroleum, the amount of the motive power stated in figures of horse power in accordance with the rating established by the association of licensed automobile manufacturers, and the number of cylinders, bore and stroke of each; (b) the name and post-office address, with street number if in a city, including county and business address of the owner of such motor vehicle. When said application is for the registration of a motor vehicle which has been previously registered, said application shall obtain¹ in substance only the following:

Name of owner with post-office address and residence; former registration number with factory number and make of car. [36 G. A. (S. F. 606, § 1.)] [34 G. A., ch. 72, § 3.] [33 G. A., ch. 103, § 1.] [32 G. A., ch. 68, § 1.] [30 G. A., ch. 53, § 2.]

NOTE: ¹"contain" probably was intended. REPORTER.

NOTE: The changes made by S. F. 606 do not become effective until Jan. 1, 1916, except that the secretary of state is required to give the notices, provided in the act, during 1915. See Sec. 8 of the act, being Sec. 1571-m15a of this volume. REPORTER.

SEC. 1571-m5. Number assigned—certificate—number plates—duplicate plates. That section six of chapter seventy-two of the acts of the thirty-fourth general assembly be and the same is hereby repealed and the following enacted in lieu thereof:

Upon the filing of such application and the payment of the fee hereinafter provided, the secretary of state shall assign to such motor vehicle a distinctive number and, without expense to the applicant, issue and deliver or forward by mail or express to the owner a certificate of registration, in such form as the secretary of state shall prescribe, and two number plates. In the event of the loss, mutilation or destruction of any number plate, the owner of a registered motor vehicle, or manufacturer or dealer, as the case may be, may obtain from the secretary of state a duplicate thereof upon filing in the office of the secretary of state an affidavit showing such facts and the payment of a fee of fifty cents for each plate; duplicate certificates

of registration may be issued by the secretary of state, in like cases, without the payment of any fee therefor. The executive council shall purchase all motor vehicle number plates required under this chapter either by letting contract therefor to the lowest bidder upon specifications and samples, or by having same made for the state at state institutions under the state board of control. A record of all bids submitted shall be kept and the samples submitted shall be preserved until the next subsequent letting. The successful bidder shall be required to execute to the state a good and sufficient bond in such amount as the executive council shall require conditioned upon the plates furnished being in accordance with the samples and specifications upon which the contract was let. [36 G. A. (H. F. 86, § 1.)] [36 G. A. (S. F. 606, § 2.)] [35 G. A., ch. 130, § 2.] [34 G. A., ch. 72, § 6.]

NOTE: The changes made by S. F. 606 do not become effective until Jan. 1, 1916, except that the secretary of state is required to give the notices, provided in the act, during 1915. See Sec. 8 of the act, being Sec. 1571-m15a of this volume. REPORTER.

NOTE: The change in price of plates was made by H. F. 86 and is effective July 4, 1915. REPORTER.

SEC. 1571-m7. Fee—payable annually—half rate—manufacturer's or dealer's report—lien of fee—action to collect—penalties—notice. That section eight of chapter seventy-two of the acts of the thirty-fourth general assembly be and the same is hereby repealed and the following enacted in lieu thereof:

The following fee shall be paid to the secretary of state upon the registration or reregistration of a motor vehicle in accordance with the provisions of this act; eight dollars upon the registration of a motor vehicle having a rating of twenty horse power or less; and for each such vehicle which shall exceed twenty horse power in rating, the owner shall pay at the rate of forty cents per horse power; provided, that if a motor vehicle shall have been licensed for four separate successive years under the laws of this state, and for which there shall have been paid four registration fees as provided by statute therefor, or any motor vehicle which shall have been in use for a period of not less than four years prior to August first of such registration period for which registration is about to be made, the annual registration fee thereafter shall be one half that amount; and further provided, that the annual fee for the registration or reregistration of any electric or steam motor vehicle in accordance with the provisions of this act shall be fifteen dollars; and further provided, that the annual fee for the registration or reregistration of a motor bicycle or motor cycle in accordance with the provisions of this act shall be three dollars; and provided further, that the fee for registering any theretofore unregistered motor vehicle under the provisions of this act, which motor vehicle shall be purchased on or after August first of any year, shall be one half of the annual fee therefor, for the remainder of that calendar year; and provided further, that each manufacturer or dealer selling or otherwise disposing of motor vehicles, theretofore unregistered in this state, to residents of this state shall report to the secretary of state each such sale made on or after August first of each calendar year; such reports shall be made on blanks to be furnished by the secretary of state upon request, and shall be made in such manner as he may direct; and provided further, that no motor vehicle shall be registered for less than the annual fee because of its having been purchased on or after September first until such manufacturer's or dealer's report shall have been filed as herein provided. All registration fees herein provided for shall be and continue a lien against the motor vehicle for which said fees are payable until such time as they

are paid as provided by law with any accrued penalties. The lien of the original registration fee shall attach at the time the same is first payable as provided by law and the lien of all renewals of registration shall attach on January first of each year thereafter. The collection of same may be enforced against said motor vehicle as may other liens or it may be collected by suit against the owner who shall remain personally liable therefor until such time as transfer thereof shall be reported to the motor vehicle department or until such time as said vehicle ceases to be in use and all fees and penalties to such date shall be paid. On April first of each year a penalty of ten per cent shall be added to all fees not paid by that date and on May first of each year the secretary of state shall send to the county attorney of each county a list of all motor vehicles in said county on which registration fee has not been paid showing the amount of delinquent fee, registration number, make and factory number, the amount of delinquent fee, registration number, make and factory number,¹ together with the name of the owner of each such car as disclosed by his records. It shall be the duty of the county attorney to collect these fees including all penalties provided by law, the county attorney to receive ten per cent of the fees and penalties thus collected by him as his full compensation in the matter. An additional penalty of ten per cent shall be added on the first day of April and an additional penalty of five per cent shall be added on the first day of each month thereafter until paid to become a part of the original motor vehicle fund. Should it be necessary to seize the car for the purpose of enforcing said lien, the sheriff is given all of the right and authority now given to him or to special tax collecting agents in the collection of personal property taxes and in addition to the ordinary costs payable in such cases, shall be added an attorneys fee to be paid to the county attorney in the sum of ten per cent upon the amount of tax and penalty so collected, which attorneys fee shall be taxed as a part of the costs. All fees and penalties collected by the county attorney shall be remitted to the secretary of state on the first day of the following month, except such sums as may be due the county attorney hereunder which he may retain.

Immediately upon collecting any license fee, the said county attorney shall execute to the party paying same a receipt therefor showing name of person paying the amount thereof and a general description of the car upon which paid, giving make of car and factory number and the person so paying same may forward said receipt to the secretary of state with his application for registration and the secretary of state shall thereupon register said car, charging the county attorney so issuing said receipt with the amount thereof, proper credit to be made when remittance is made by said county attorney.

On or before January first of each year the secretary of state shall cause to be mailed to each owner of a motor vehicle subject to registration as disclosed by his records, a notice and blank for return calling attention to the annual tax, when due and accruing penalties in case of failure to pay, but failure to give such notice shall not constitute a defense against proceedings hereunder. [36 G. A. (S. F. 606, § 3.)] [35 G. A., ch. 130, § 4.] [34 G. A., ch. 72, § 8.] [33 G. A., ch. 103, § 1.] [32 G. A., ch. 68, § 1.] [30 G. A., ch. 53, § 2.]

NOTE: "The clause, "the amount of delinquent fee, registration number, make and factory number," appears to be a repetition. REPORTER.

NOTE: The changes made by S. F. 606 do not become effective until Jan. 1, 1916, except that the secretary of state is required to give the notices, provided in the act, during 1915. See Sec. 8 of the act, being Sec. 1571-m15a of this volume. REPORTER.

SEC. 1571-m11. Number plates—conspicuously displayed.

This section, in connection with preceding sections, must be so construed, in order to give effect to the evident intent, that the owner's right to operate his vehicle remains unimpaired until the secretary of state is able to, and does, furnish the plates. *State v. Gish*, 150 N. W. 37.

SEC. 1571-m12. Number plates each three years. That the law as it appears in section fifteen hundred seventy-one-m twelve is hereby repealed and the following enacted in lieu thereof:

Such number plates shall be retained permanently upon the car to which assigned during such portion of the period remaining unexpired from the date assigned to January 1, 1919, and on January 1, 1919 new number plates shall be issued to be the permanent number plates for the period of three years thereafter and in each instance for such unexpired portion of the three-year period as may remain at the time such number shall be assigned and thereafter such number plates shall be assigned for three-year periods or unexpired portion of such three-year periods. [36 G. A. (S. F. 606, § 4.)] [34 G. A., ch. 72, § 13.]

NOTE: The changes made by S. F. 606 do not become effective until Jan. 1, 1916, except that the secretary of state is required to give the notices, provided in the act, during 1915. See Sec. 8 of the act, being Sec. 1571-m15a of this volume. REPORTER.

SEC. 1571-m12a. Plates to be detached after expired period—penalty. At the expiration of said periods for which said number plates are issued as hereinbefore prescribed, said number plates shall be detached from the machines for which issued and shall not be thereafter used by any person, and any person who shall thereafter make use thereof upon any vehicle or who during the period for which issued shall use same upon any car other than the car for which issued and any person who shall make application for the registration of any machine under erroneous description for the purpose of avoiding payment of taxes or securing a lighter tax shall be guilty of a misdemeanor and punished accordingly. [36 G. A. (S. F. 606, § 5.)]

NOTE: The changes made by S. F. 606 do not become effective until Jan. 1, 1916, except that the secretary of state is required to give the notices, provided in the act, during 1915. See Sec. 8 of the act, being Sec. 1571-m15a of this volume. REPORTER.

SEC. 1571-m14. Dealer's number—application for—duplicates. That section fifteen of chapter seventy-two of the acts of the thirty-fourth general assembly, be and the same is hereby repealed and the following enacted in lieu thereof:

Every person, firm, association or corporation manufacturing or dealing in motor vehicles may, instead of registering each motor vehicle so manufactured or dealt in, make a verified application upon a blank to be furnished by the secretary of state, for a general distinctive number for all the motor vehicles owned or controlled by such manufacturer or dealer, such application to contain:

(a) A brief description of each style or type of motor vehicle manufactured or dealt in by such manufacturer or dealer, including the character of the motive power, the amount of such motive power stated in figures of horse power in accordance with the rating established by the association of licensed automobile manufacturers; and

(b) The name [and] residence, including county and business address, of such manufacturer or dealer.

On the payment of a registration fee of fifteen dollars such application shall be filed and registered in the office of the secretary of state in the manner provided in section three¹ of this act. The secretary of state shall

thereupon assign and issue to such manufacturer or dealer a general distinctive number, and without expense to the applicant, issue and promptly deliver to such manufacturer or dealer a certificate of registration in such form as the secretary of state shall prescribe, and two number plates with a number corresponding to the number of such certificates of registration. Such number plates or duplicates thereof shall be displayed by every motor vehicle of such manufacturer or dealer when the same is operated or driven on the public highways. Such manufacturer or dealer may obtain as many duplicates of such number plates as may be desired upon the payment to the secretary of state of one dollar for each duplicate set, provided that if a manufacturer or dealer has an established place of business in more than one city or town, such manufacturer or dealer shall secure a separate and distinct certificate of registration and number plates for each such place of business. Nothing in this section shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for private use or for hire, which said motor vehicle or vehicles shall be individually registered as provided in sections seven² and eight³ of this act, but no dealer or manufacturer shall be required to keep more than one car registered for his private use. The secretary of state shall furnish to each dealer registering, blanks to be by him used in notifying the secretary of state of each car by him sold and it shall be the duty of the dealer so selling to forthwith fill out said blank showing the name and address of the purchaser, date when sold, make of car sold, and the factory number thereof and forward same by mail to said secretary of state. [36 G. A. (S. F. 606, § 7.)] [35 G. A., ch. 130, § 6.] [34 G. A., ch. 72, § 15.]

[^{1,2} §§ 1571-m2, ³ §§ 1571-m6, 1571-m7. EDITOR.]

NOTE: The changes made by S. F. 606 do not become effective until Jan. 1, 1916, except that the secretary of state is required to give the notices required in the act during 1915. See § 8 of the act, being § 1571-m15a of this volume. REPORTER.

SEC. 1571-m15. Dealers to register annually. That section sixteen of chapter seventy-two of the acts of the thirty-fourth general assembly be and the same is hereby repealed and the following enacted in lieu thereof:

Registration provided for in section fifteen¹ shall be renewed annually in the same manner and on the payment of the same fee as provided in section fifteen¹ for original registrations, such renewal to take effect on the first day of January of each year. The provisions of section seven² relating to renewals and duration of renewals under this act shall apply to registrations and reregistrations under this section. [36 G. A. (S. F. 606, § 6.)] [35 G. A., ch. 130, § 7.] [34 G. A., ch. 72, § 16.]

[^{1,2} §§ 1571-m14, 1571-m6. EDITOR.]

NOTE: The changes made by S. F. 606 do not become effective until Jan. 1, 1916, except that the secretary of state is required to give the notices required in the act during 1915. See § 8 of the act, being § 1571-m15a of this volume. REPORTER.

SEC. 1571-m15a. When Senate File 606 becomes effective. The provisions of this act shall have no application to the year 1915 and shall become effective January first, 1916, except that the secretary of state shall give the notices herein provided for during 1915 and to that extent this act shall take effect July fourth, 1915. [36 G. A. (S. F. 606, § 8.)]

NOTE: The last above section is the last section of an act known as Senate File 606. Said act effects changes in §§ 1571-m2, 1571-m5, 1571-m7, 1571-m12, 1571-m14 and 1571-m15. § 1571-m12a is new and is also a part of said act. REPORTER.

SEC. 1571-m17. Brakes—signal apparatus—lights.

The failure of an automobilist to light the lamps of his car before the time required by this section does not constitute negligence. *Turner v. Bennett*, 161-379.

[This holding was under Sec. 1571-j, Sup. Code, 1907.]

One leaving his motor vehicle standing on the public street without lights more than one-half hour after sunset, and not parallel with the curb, does not violate this statute, nor a city ordinance in substantially the same words, since said automobile is not being "operated or driven", neither is it "proceeding" in any "direc-

tion". *City of Harlan v. Kraschell*, 146 N. W. 463.

This statute is criminal in character and should be strictly construed, yet so construed as to make effectual the purpose and object to accomplish which it was enacted. The front lights provided for need not be on the extreme front of the vehicle but it is sufficient if they are on that portion of the vehicle in front of the driver and at such point as will make the lights visible in the direction in which the vehicle is proceeding for at least 500 feet. *State v. Read*, 162-572, 144 N. W. 310.

SEC. 1571-m20. Powers of local authorities—speed limitations.

Whether the failure to erect signboards, as provided for in this section, affects the validity of a speed-limit ordinance enacted thereunder, or relieves from the penalty of the ordinance those misled by the absence of such signs, or affects the rule as to neg-

ligence *per se, quaere*. *Pilgrim v. Brown*, 150 N. W. 1.

A fair interpretation of this section does not require the warning signs to be placed exactly "where" the town line crosses the highway. *Ibid*.

SEC. 1571-m32. Apportionment of fees—county motor vehicle road fund—how expended—proportion to highway commission. That section fifteen hundred seventy-one-m thirty-two, supplement to the code, 1913, be stricken out and the following enacted in lieu thereof:

"Ninety per cent. of all moneys paid into the state treasury pursuant to the provisions of this act shall be apportioned among the several counties in the same ratio as the number of townships in the several counties bear to the total number of townships in the state, said apportionment to be made by the state treasurer on the first day of April and the first day of August of each year. When such apportionment has been made the state treasurer shall forthwith remit to the county treasurers of the several counties of the state the amount of money so apportioned to the respective counties, and the county treasurer of each county immediately upon receipt of such money shall charge himself therewith and forthwith give notice to the county auditor of the amount of money so received. The county treasurer shall pay into the treasury of the cities and incorporated towns in such county a portion of said motor vehicle fund to be determined as follows: Each city or incorporated town shall receive a share to be determined by the ratio of miles of unpaved streets within the limits of said city or incorporated town to the total number of miles of public roads and unpaved streets within the county; provided, however, that in no case shall the aggregate amount apportioned to the various cities and towns exceed ten per cent. of the total amount apportioned to the county. And such apportionment to cities and towns shall be expended by them only for the purpose of improving the unpaved streets and roads connecting directly with the county or township road systems, or by order of the city or town council or commission the apportionment may be transferred to the county road cash fund and be expended on the county road system. For the purpose of making such apportionment the city or town clerk shall file in the office of the county treasurer ten days before the date of the apportionment from the state treasurer a certified statement of the number of miles of unpaved streets within such city or town, and the county auditor shall make a like statement of the number of miles of highway in such county outside the limits of cities and incorporated towns. The treasurer of each city or town shall charge himself with the sum received from

said apportionment and shall forthwith give notice to the city or town auditor or clerk of the amount of money so received. The total amount of funds so received by the county treasurer, less the amount apportioned to the various cities and towns, as herein provided, shall constitute the county motor vehicle road fund and shall be expended for the following purposes only: the crowning, drainage, dragging or gravelling of public highways outside the limits of cities and towns, and for the building of permanent culverts on such highways. Such fund shall be paid out on warrants drawn by the county auditor, duly authorized by the board of supervisors and entered of record. The same procedure shall apply to the expenditure of this fund as to the expenditure of other road and bridge funds. Five per cent. of all moneys paid into the state treasury on and after the taking effect of this act and pursuant to its provisions, shall be set aside and shall constitute a maintenance fund for the state highway commission. Said five per cent. shall be used for no other purpose than as a maintenance fund for said state highway commission, and shall be drawn out only on warrants drawn by the auditor of state on itemized vouchers approved by the state highway commission, the expenditures of which commission shall be audited by the executive council, and a full and complete report of all said expenditures shall be published in the annual report under the act creating the state highway commission. At the end of each biennial period ending January first, 1917, the funds remaining in the highway maintenance fund shall be placed to the credit of the general fund." [36 G. A. (S. F. 567, § 13.)] [35 G. A., ch. 133, § 1.] [34 G. A., ch. 72, § 33.]

TITLE IX.

OF CORPORATIONS.

CHAPTER 1.

OF CORPORATIONS FOR PECUNIARY PROFIT.

SECTION 1611. Limit of indebtedness. Such articles must fix the highest amount of indebtedness or liability to which the corporation is at any one time to be subject, which in no case, except risks of insurance companies, and liabilities of banks not in excess of their available assets, not including their capital, shall exceed two-thirds of its capital stock. But the provisions of this section shall not apply to the bonds or other railway or street railway securities, issued or guaranteed by railway or street railway companies of the state, in aid of the location, construction and equipment of railways or street railways, to an amount not exceeding sixteen thousand dollars per mile of single track, standard gauge, or eight thousand dollars per mile of single track, narrow gauge, lines of road for each mile of railway or street railway actually constructed and equipped. Nor shall the provisions of this section apply to the debentures or bonds of any company incorporated under the provisions of this chapter, the payment of which shall be secured by an actual transfer of real estate securities for the benefit and protection of purchasers thereof; such securities to be at least equal in amount to the par value of such bonds or debentures, and to be first liens upon unincumbered real estate worth at least twice the amount loaned thereon. Nor to debentures or bonds issued by any corporation organized under this chapter for the purpose of manufacturing or selling gas, heat, steam or electricity, or constructing or operating interurban or street railways, or for any one or more of said purposes, when such debentures or bonds are not issued in an amount exceeding twice the amount of the paid up capital stock of such corporation. [36 G. A. (S. F. 532, § 1.)] [21 G. A., ch. 57.] [20 G. A., ch. 22.] [C. '73, § 1061.] [R., § 1153.] [C. '51, § 676.]

SEC. 1616. Individual property liable.

Parties who associate themselves together as a company but who do not attempt to incorporate or exercise corporate functions are not held liable under this section. *Schumacher v. Sumner Telephone Co.*, 161-326.

SEC. 1617. Dissolution—notice of.

This section is more liberal in its terms than Sec. 1066 of the Code of 1873, and the business of a corporation may be sold, good cause existing, upon the consent of a majority of the stockholders. *Beidenkopf v. Des Moines Life Ins. Co.*, 160-629.

SEC. 1618-1a. Renewals legalized. That in all instances where proper action has been taken prior to February 1, 1915, by the stockholders for renewal of any corporation for pecuniary profit and the certificate showing such proceedings together with the articles of incorporation have been filed and recorded in the office of the county recorder and later in the office of the secretary of state, although there has been failure to file such certificates and articles of incorporation in either or both

of the said offices within the time specified therefor by law; such renewals are hereby legalized and shall be held to have the same force and effect as though the filings of the said documents in the said offices had been made within the periods prescribed by the statute. [36 G. A. (H. F. 124, § 1.)]

SEC. 1618-1b. Pending litigation. This act shall not affect pending litigation. [36 G. A. (H. F. 124, § 2.)]

NOTE: The last two sections constitute "this act", known as H. F. 124, 36 G. A. RE-PORTER.

SEC. 1626. Transfer of shares.

In a particular case, held that the evidence did not show that the notice, herein

contemplated, had been given. *First National Bank v. Way*, 149 N. W. 503.

SEC. 1628. Non-user.

A corporate "life" is not absolutely terminated by (a) insolvency or (b) failure to elect officers or hold meetings for two years. The life at least continues for the

purpose of closing up the affairs, making distribution among stockholders, etc. *Cownie v. Dodd*, 149 N. W. 904.

SEC. 1641-r1. Co-operative plan authorized. Any number of persons, not less than five, may associate themselves as a co-operative association, society, company or exchange, for the purpose of conducting any agricultural, dairy, mercantile, mining, manufacturing or mechanical business on the co-operative plan. For the purposes of this act, the words "association", "company", "corporation", "exchange", "society", or "union", shall be construed to mean the same. [36 G. A. (H. F. 367, § 1.)]

SEC. 1641-r2. Articles of incorporation—what to state. They shall sign and acknowledge written articles which shall contain the name of said association and the names and residences of the persons forming the same. Such articles shall also contain a statement of the purposes of the association, and shall designate the city, town or village where its principal place of business shall be located. Such articles shall also state the amount of capital stock, the number of shares, and the par value of each. [36 G. A. (H. F. 367, § 2.)]

SEC. 1641-r3. Filing—certificate of incorporation. The original articles of incorporation of associations organized under this act, or a true copy thereof, verified as such by the affidavits of two of the signers thereof, shall be filed with the secretary of state. A like verified copy of such articles and certificates of the secretary of state, showing the date when such articles were filed with and accepted by the secretary of state, shall, within thirty days of such filing and acceptance, be filed and recorded with the recorder of deeds of the county in which the principal place of business of the corporation is to be located, and no corporation shall have legal existence until such articles be left for record. The recorder shall forthwith transmit to the secretary of state a certificate stating the time when such copy was recorded. Upon receipt of such certificate, the secretary of state shall issue a certificate of incorporation. [36 G. A. (H. F. 367, § 3.)]

SEC. 1641-r4. Fee for recording. For filing the articles of incorporation of associations organized under this act, there shall be paid to the secretary of state ten dollars, and for the filing of an amendment to such articles, five dollars; provided, that when the capital stock of such corporation shall be less than five hundred dollars, such fee for filing either the articles or incorporation or amendments thereto shall be one dollar. For recording copy of such articles, the recorder of deeds shall receive the usual fee for recording. [36 G. A. (H. F. 367, § 4.)]

NOTE: The word "or" is probably an oversight. "of" was probably intended. RE-PORTER.

SEC. 1641-r5. Board of directors—election—removal—officers. Every such association shall be managed by a board of not less than five directors, who shall be elected by and from the stockholders at such time and for such term of office as the by-laws may prescribe, and shall hold office for the time for which elected and until their successors are elected and qualify; but a majority of the stockholders shall have the power at any regular or special stockholders' meeting, legally called, to remove any director or officer for cause, and fill the vacancy, and thereupon the director or officer so removed, shall cease to be a director or officer of said corporation. The officers of every such association shall be a president, one or more vice-presidents, a secretary and a treasurer, who shall be elected annually by the directors, and each of said officers must be a director of the association. The offices of secretary and treasurer may be combined, and when so combined the person filling the office shall be secretary-treasurer. [36 G. A. (H. F. 367, § 5.)]

SEC. 1641-r6. Amending articles. The association may amend its articles of incorporation by a majority vote of its stockholders at any regular stockholders' meeting, or at any special stockholders' meeting called for that purpose, on ten days notice to all stockholders. Said power to amend shall include the power to increase or diminish the amount of capital stock and the number of shares. Provided, the amount of the capital stock shall not be diminished below the amount of paid-up capital at the time the amendment is adopted. Within thirty days after the adoption of an amendment to its articles of incorporation, an association shall cause a copy of such amendment adopted to be recorded in the office of the secretary of state and of the recorder of deeds of the county where its principal place of business is located. [36 G. A. (H. F. 367, § 6.)]

SEC. 1641-r7. Powers. An association created under this act shall have power to conduct any agricultural, dairy, mercantile, mining, manufacturing or mechanical business, on the co-operative plan, and may buy, sell and deal in the products of any other co-operative company heretofore or hereafter organized under the provisions of this act. [36 G. A. (H. F. 367, § 7.)]

SEC. 1641-r8. Ownership of shares limited. No stockholder in any such association shall own shares of a greater aggregate par value than one thousand dollars, except as hereinafter provided, nor shall he be entitled to more than one vote. [36 G. A. (H. F. 367, § 8.)]

SEC. 1641-r9. Association may hold shares in other like associations. At any regular meeting, or any regularly called special meeting, at which at least a majority of all its stockholders shall be present, or represented, an association organized under this act, may by a majority vote of the stockholders present or represented, subscribe for shares and invest its reserve fund, not to exceed twenty-five per cent of its capital, in the capital stock of any other co-operative association. [36 G. A. (H. F. 367, § 9.)]

SEC. 1641-r10. May issue its own shares in payment. Whenever an association created under this act shall purchase the business of another association, person or persons, it may pay for the same in whole or in part by issuing to the selling association or person shares of its capital stock to an amount, which at par value would equal the fair market value of the business so purchased, and in such case the transfer to the association of such business at such valuation shall be equivalent to payment in cash for the shares of stock so issued. [36 G. A. (H. F. 367, § 10.)]

SEC. 1641-r11. May act as trustee—stock to be fully paid before certificate issued. In case the cash value of such purchased business exceeds one thousand dollars, the directors of the association are authorized to hold the shares in excess of one thousand dollars in trust for the vendor, and dispose of the same to such persons, and within such times, as may be mutually satisfactory to the parties in interest, and to pay the proceeds thereof as currently received to the former owner of said business. Certificates of stock shall be issued to any subscriber until fully paid, but the by-laws of the association may allow subscribers to vote as stockholders; provided, part of the stock subscribed for has been paid in cash. [36 G. A. (H. F. 367, § 11.)]

SEC. 1641-r12. Voting by mail authorized. At any regularly called general or special meeting of the stockholders, a written vote received by mail from any absent stockholder, and signed by him, may be read in such meeting, and shall be equivalent to a vote of each of the stockholders so signing; provided, he has been previously notified in writing by the secretary of the exact motion or resolution upon which such vote is taken, and a copy of same is forwarded with and attached to the vote so mailed by him. [36 G. A. (H. F. 367, § 12.)]

SEC. 1641-r13. Apportionment of earnings. The directors, subject to revisions by the association at any general or special meeting, shall apportion the earnings by first setting aside not less than ten per cent of the net profits for a reserve fund, until an amount has accumulated in said reserve fund equal to fifty per cent of the paid-up capital stock, and five per cent thereof for an educational fund to be used in teaching co-operation, and a dividend upon the paid-up capital stock to be determined by the board of directors not exceeding ten per cent and the remainder of said net profits by uniform dividend upon the amount of purchases of shareholders, and upon the wages and salaries of employes; but in productive associations such as creameries, canneries, elevators, factories, and the like, dividends shall be on raw material delivered instead of on goods purchased. In case the association is both a selling and a productive concern, the dividends may be on both raw material delivered and on goods purchased by patrons. [36 G. A. (H. F. 367, § 13.)]

SEC. 1641-r14. Dividends—when distributed—dissolution for failure to declare dividend. The profits or net earnings of such associations shall be distributed to those entitled thereto, at such times as the by-laws shall prescribe, which shall be as often as once in twelve months. If such associations, for five consecutive years, shall fail to declare a dividend upon the shares of its paid-up capital, five or more stockholders, by petition, setting forth such fact, may apply to the district court of the county wherein is situated its principal place of business in this state, for its dissolution. If, upon hearing, the allegations, of the petition are found to be true, the court may adjudge a dissolution of the association. [36 G. A. (H. F. 367, § 14.)]

SEC. 1641-r15. Annual report—contents. Every association organized under the terms of this act shall annually, on or before the first day of March of each year, make a report to the secretary of state; such report shall contain the name of the company, its principal place of business in this state, and generally a statement as to its business, showing total amount of business transacted, amount of capital stock subscribed for and paid in, number of stockholders, total expense of operation, amount of indebtedness for liabilities, and its profits and losses. [36 G. A. (H. F. 367, § 15.)]

SEC. 1641-r16. Benefits of act extended to former co-operative companies. All co-operative corporations, companies, or associations heretofore organized and doing business under prior statutes, or which have attempted to so organize and do business, shall have the benefit of all the provisions of this act and be bound thereby, on filing with the secretary of state a written declaration, signed and sworn to by the president and secretary, to the effect that said co-operative company or association has by a majority vote of its stockholders decided to accept the benefits of and to be bound by the provisions of this act. [36 G. A. (H. F. 367, § 16.)]

SEC. 1641-r17. Use of term "co-operative" restricted. No corporation or association hereafter organized shall be entitled to use the term "co-operative" as part of its corporate or other business name or title, unless it has complied with the provisions of this act, and any corporation or association violating the provisions of this act may be enjoined from doing business under such name at the instance of any stockholder of any association legally organized under the provisions of this act. [36 G. A. (H. F. 367, § 17.)]

SEC. 1641-r18. Funds—use of restricted. None of the funds of any association organized under the provisions of this act shall be used in the payment of any promotion; as commissions, salaries or expenses of any kind, character or nature whatsoever. [36 G. A. (H. F. 367, § 18.)]

SEC. 1641-r19. Private property exempt. The private property of the stockholders shall be exempt from execution from the debts of the corporation. [36 G. A. (H. F. 367, § 19.)]

SEC. 1641-r20. Limit of indebtedness. The highest amount of indebtedness the corporation may contract shall not exceed two-thirds of its capital stock. [36 G. A. (H. F. 367, § 20.)]

CHAPTER 3.

OF DEPARTMENT OF AGRICULTURE, AGRICULTURAL AND HORTICULTURAL SOCIETIES AND STOCKBREEDERS' ASSOCIATIONS AND STATE DAIRY ASSOCIATIONS.

SECTION 1660. Appropriation from county—levy of tax for—question submitted—notice—title in county—control. When a county agricultural society shall have procured in fee simple, free from incumbrance, land for fair grounds, not less than ten acres in extent, or hold and occupy such amount of land by virtue of a lease, and own and have thereon buildings and improvements worth at least two thousand dollars, the board of supervisors of the county may appropriate and pay to it a sum not exceeding one hundred dollars for every thousand inhabitants in the county, to be expended by it in fitting up or purchasing such fair grounds, but for no other purpose; but the aggregate amount so appropriated shall not exceed ten hundred dollars to any one society. The board of supervisors are further authorized to purchase real estate for county fair purposes, in sums exceeding ten hundred dollars, providing however, that the board of supervisors shall first have submitted to the legal voters of the county a proposition therefor, and voted for by a majority of all persons voting for and against such proposition at a general or special election; notice to be given as provided in section four hundred twenty-three of the supplement

to the code. And the board of supervisors shall not exceed in the purchase of such real estate, the amount so voted for; the title of such real estate when purchased to be taken in the name of the county, and the board of supervisors shall place such real estate under the control and management of an incorporated county fair society, as long as an annual county fair is maintained by such corporation on said real estate. And said corporation is authorized to erect and maintain buildings and make such other improvements on said real estate as is necessary, but the county shall not be liable for such improvements, or the expenditures therefor. The right of such county fair society to the control and management of said real estate may be terminated by the board of supervisors whenever well conducted agricultural fairs are not annually held thereon. The board of supervisors of any county which has acquired real estate for county fair purposes and which has a county agricultural society using said real estate may submit, at any regular election, the question of aiding said agricultural society by a direct tax on all the property of the county, of not to exceed ten hundred dollars in any one year, for not to exceed ten years in succession; and if a majority of the votes cast on this proposition at such election are in favor of said tax, said board shall levy a tax for the benefit of said society, but such tax shall be expended only for the erection or repair of buildings or other permanent improvements on the fair grounds, or for the payment of debts contracted for the erection of such buildings or other permanent improvements. Shares of stock, nonassessable, shall be issued to the county at par value for amount of money received by said society from taxes raised under this act. [36 G. A. (H. F. 329, § 1.)] [35 G. A., ch. 142, § 1.] [32 G. A., ch. 17, § 2.] [C. '73, § 1111.]

SEC. 1661-a. State aid to district or county society—failure to report. That section sixteen hundred sixty-one of the code be and is hereby repealed and the following enacted in lieu thereof:

Any county or district agricultural society, upon filing with the auditor of state affidavits of its president, secretary, and treasurer showing what sum has actually been paid out during the current year for premiums, not including races, or money paid to secure games or other amusements, and that no gambling devices or other violations of law were permitted, together with a certificate from the secretary of the state society showing that it has reported according to law, shall be entitled to receive from the state treasury a sum equal to sixty per cent of the amount so paid in premiums, up to one thousand dollars, and twenty per cent additional of the amount paid in premiums over one thousand dollars, but in no case shall the amount paid to any society exceed the sum of eight hundred dollars. When any society fails to report, according to law, on or before the first day of November, that society shall not receive a warrant from the state auditor for that year, but the secretary of the state board of agriculture shall notify the county auditor of the county in which the society is located of such failure, and the board of supervisors may appoint a delegate to the annual meeting or state agriculture [agricultural] convention, said delegate to be a resident of said county. [36 G. A. (H. F. 269, § 1.)] [33 G. A., ch. 108, § 1.] [28 G. A., ch. 59, § 1.] [27 G. A., ch. 43, § 1.] [C. '73, § 1112.] [R. § 1704.]

SEC. 1683-a. Body corporate in each county—purposes. For the purpose of improving and advancing the science and art of agriculture, domestic science, animal husbandry and horticulture, a body corporate is hereby authorized in each county in the state. [36 G. A. (S. F. 354, § 1.)] [35 G. A., ch. 140, § 1.]

SEC. 1683-c. Articles—what included. The articles of incorporation shall be as follows: "We, the undersigned farmers, land owners and business residents of.....county, Iowa, do hereby adopt the following articles of incorporation:

Article 1. The objects of this incorporation shall be to advance and improve, in county, Iowa, the science and art of agriculture, domestic science, horticulture and animal husbandry.

Article 2. The name of this incorporation shall be..... (inserting the name of the county of which the incorporators are residents).

Article 3. The affairs of this incorporation shall be conducted by a president, a vice president, a secretary and a treasurer, who shall perform the duties usually pertaining to such positions, and by a board of directors of nine members all of which officers and directors shall be elected by the members of said incorporation at an annual meeting on the first Monday of January of each year. Not more than two directors shall be residents of the same township, when elected. All officers and directors shall hold their positions for one year and until their successors are elected. We, the said incorporators, have elected the following provisional officers to hold their respective positions until their successors are elected at the annual meeting in the year

- President
Vice president
Secretary
Treasurer

Board of Directors:

- 1
2
3
4
5
6
7
8
9

Article 4. The yearly dues of the members of this incorporation shall be one dollar, payable at the time of applying for membership and on the first Monday in January of each year thereafter. No member having once paid dues, shall forfeit his membership until his or her subsequent dues are six months in arrears.

Article 5. Any citizen of the county and any nonresident owning land in the county shall have the right to become a member of the incorporation by paying one year's dues and thereafter complying with the articles of incorporation and by-laws.

Article 6. This incorporation shall endure until terminated by operation of law. [36 G. A. (S. F. 354, §§ 2, 3.) [35 G. A., ch. 140, § 3.]

SEC. 1683-e. May maintain agricultural school—by-laws—may receive bequests—experts employed—general powers—dues—prizes. That section sixteen hundred eighty-three-e of the supplement to the code, 1913, be and the same is hereby repealed, and the following enacted in lieu thereof:

"Such body corporate shall have power to establish and maintain a permanent agricultural school, in which the science of agriculture, horticulture, animal industry, and domestic science shall be taught; to employ one or more teachers, experts or advisers to teach, advance and improve

agriculture, horticulture, animal industry, and domestic science, in said county, under such terms, conditions and restrictions as may be deemed advisable by the board of directors; to adopt by-laws; to take by gift, purchase, devise or bequest, real or personal property; to have, and exercise all powers necessary, appropriate and convenient for the successful carrying out of the objects of said corporation. It shall have authority to use part or all of the sum annually received as dues from its members in payment of prizes offered in any department of work, including agricultural fairs, short courses, or farmers institutes." [36 G. A. (S. F. 354, § 4.)] [35 G. A., ch. 140, § 5.]

CHAPTER 4.

OF INSURANCE OTHER THAN LIFE.

SECTION 1721. Foreign companies—capital required. No insurance company, association or partnership incorporated, associated or organized under or by the laws of any other state or any foreign government, for the purposes specified in this chapter, shall directly or indirectly take risks or transact any business of insurance in the state, unless possessed of two hundred thousand dollars of actual paid up capital, exclusive of any assets deposited in other states and territories for the special benefit or security of the insured therein; but the provisions of this section shall not apply to mutual insurance companies or associations specifically organized for the purpose of and insuring a single class of property only or mutual companies organized for the purpose of insuring the owners of automobiles against claims for damages to the person or property of others arising from the ownership or operation of an automobile providing such companies are possessed of a surplus in an amount to be approved by the commissioner of insurance; and companies organized to insure plate glass exclusively are not required to have a greater capital than one hundred thousand dollars; but such companies organized to insure the health of persons and against personal injuries, disablement or death resulting from traveling or general accidents by land or water, having an actual paid up capital of one hundred thousand dollars and surplus to be approved by the auditor of state, exclusive of any assets deposited in other states and territories for the special benefit or security of the insured therein, shall be deemed sufficient, within the meaning of this section. [36 G. A. (H. F. 429, § 1.)] [34 G. A., ch. 18, § 6.] [21 G. A., ch. 145.] [16 G. A., ch. 60.] [15 G. A., ch. 55.] [C. '73, § 1144.]

SEC. 1742-a. Proofs of loss.

An action is premature and abatable when brought within forty days after service of the notice of loss and proof thereof under a mutual policy of insurance issued under Ch. 5, Title 9, Supp. Code, 1913, even

though the company during said forty days denies all liability under the policy. *Salmon v. Farm Property Mut. Ins. Assn.*, 150 N. W. 680.

SEC. 1744. Time of bringing action—provision not affected by contract.

An action is premature and abatable when brought within forty days after service of the notice of loss and proof thereof under a mutual policy of insurance issued under Ch. 5, Title 9, Supp. Code, 1913, even

though the company during said forty days denies all liability under the policy. *Salmon v. Farm Property Mut. Ins. Assn.*, 150 N. W. 680.

SEC. 1758-b. Standard fire insurance policy—form.

The notice requisite to the cancellation of a policy by the insurance company may be waived by the insured. *Franklin Fire Ins. Co.*, 161-440, 143 N. W. 554. *Warren v.*

SEC. 1758-e. Policy must appear in name of issuing company only. That every fire insurance company and association authorized to transact business in this state shall conduct its business in the name under which it is incorporated, and the policies issued by it shall be headed or entitled only by such name. There shall not appear on the face of the policy or on its filing back, anything that would indicate that it is the obligation of any other than the company responsible for the payment of losses under the policy, though it will be permissible to stamp or print on the bottom of the filing back, the name or names of the department or general agency issuing the same. [36 G. A. (H. F. 516, § 1.)]

SEC. 1758-f. Misleading statements prohibited. No insurance company or department of general agency of an insurance company, doing business in this state, or its officers or agents, shall issue any false or misleading advertisement through newspapers or other periodicals, or any false or misleading representations by signs, cards, letter-heads, etc., tending to conceal or misrepresent the true identity of the insurer or insurance company, which is carrying the liability under any policy issued in this state.

Nor shall any insurance company or department or general agency of an insurance company, doing business in this state issue any advertisement or representation of any character, giving the appearance of a separate or independent insuring organization on the part of any department or general agency, and the type or lettering used in any advertisement or representation shall set forth the name of the company or organization assuming the risk more conspicuously than that of any department or general agency. [36 G. A. (H. F. 516, § 2.)]

SEC. 1758-g. Penalty. Any violation of this act shall be punished by a fine of not exceeding five hundred dollars. [36 G. A. (H. F. 516, § 3.)]

SEC. 1758-h. Agent may advertise individual business without mentioning company represented. Nothing herein contained shall be construed to prevent any representative of an insurance company from advertising his own individual business without specific mention of the name of the company or companies which he may represent. [36 G. A. (H. F. 516, § 4.)]

SEC. 1758-i. Insurer defined—mutuals affected. From and after the taking effect of this act, its provisions shall apply to all companies, associations, or aggregations of individuals hereinafter known as "insurer", transacting the business of insurance against the hazards of fire, lightning, windstorm, or hail, within the state of Iowa; except that section two of this act shall not apply to such mutual assessment associations as insure against either hail or tornado exclusively, and such other associations as confine their fire risks to churches, school houses, town dwelling and farm buildings and personal property. Such mutual associations shall in all other respects comply with and be within the provisions of this act, and shall file with the commissioner of insurance a statement in writing showing their plan of operation, and method of determining premium rates. The provisions hereof shall be in addition to any laws now in force relating to or regulating such business. [36 G. A. (H. F. 495, § 1.)]

SEC. 1758-j. Must use rates of a rating bureau—bureau defined. Every insurance company or association or other insurer authorized to effect insurance against the hazard of loss or damage by fire, lightning, windstorm or hail in this state shall be a member of a rating bureau, or adopt as its basis the rating of a bureau making insurance rates upon property in the state of Iowa. No insurer shall apply the rates of more than one rating bureau for the purpose of rating risks of like kind and hazard within the state of Iowa. A rating bureau may consist of any organization maintained for insurance rating purposes and not engaged in any way as an insurer, the services of which shall be available to any insurer desiring to adopt the rates of such bureau, without discrimination as to cost; or of one or more insurers, and when consisting of two or more insurers shall admit to membership any insurer applying therefor. The expense of a rating bureau consisting of insurers shall be shared in proportion to the gross premiums received by each member during the preceding year on fire risks located in this state, and to which said bureau's rates have been applied, and each member shall have one vote. Every rating bureau shall maintain an office within this state. Every insurance company, or other insurer aforesaid, shall on or before June first, 1915, and also in its application for its annual certificate of authority, specify the name and address of the rating bureau making rates upon property located in this state of which it is a member, or the rating bureau whose rates it has adopted and during the year shall file a written notice of any such other rating bureaus of which it shall become a member, or whose rates it may hereafter adopt. [36 G. A. (H. F. 495, § 2.)]

SEC. 1758-k. Commissioner of insurance may make inquiry concerning rates. The commissioner of insurance may address inquiries to any individual association or bureau, or any insurer or insurers, which is or has been engaged in making rates or estimates for insurance upon property in this state, in relation to its organization, maintenance, or operation, or any other matter connected with its transactions, and may require the filing of schedules, rates, forms, rules, regulations and other information, and it shall be the duty of every such individual, association, bureau or insurer, or some officer thereof, to promptly make such filing, and reply to such inquiries in writing. [36 G. A. (H. F. 495, § 3.)]

SEC. 1758-l. Commissioner of insurance may examine rating bureaus. The commissioner of insurance shall have power to examine any such rating bureau as often as he shall deem it expedient to do so, and shall do so not less than once every three years. A report thereof shall be filed in his office. The commissioner of insurance may waive such examination upon the filing with him of the report of such examination made by some other insurance department or proper supervising officer, within such three years. A statement with regard to such examination shall be made in the manner required by the commissioner of insurance. [36 G. A. (H. F. 495, § 4.)]

SEC. 1758-m. Discrimination forbidden. No insurance company or association or other insurer insuring against any of the hazards mentioned in this act, and no rating bureau shall fix or charge any rate for such insurance upon property in this state which discriminates unfairly between risks of essentially the same hazards and having substantially the same degree of protection against the hazards covered by the insurance. Every such company or association or other insurer shall, at least fifteen days in advance of any variation by it from the rates then in use, file with the insurance department and the bureau of which it is a member a schedule showing the variation, and all such variations shall be uniform in their

application to all of the risks in the class for which such variation is made. [36 G. A. (H. F. 495, § 5.)]

SEC. 1758-n. Ratings must be based upon inspections—record. Every rating bureau engaged in making rates or estimates for rates for insurance on property in this state shall inspect every risk specifically rated by it upon a schedule and shall make a written survey of such risk, and shall also specify all flat or classification rates for farm or town dwelling property, or other property not specifically rated, all of which shall be filed as a permanent record in the office of such bureau. A copy of such survey shall be furnished to the owner upon request. [36 G. A. (H. F. 495, § 6.)]

SEC. 1758-o. Commissioner of insurance may review rates. The commissioner of insurance shall have power upon written complaint, or on his own motion, to review any rate fixed by any bureau, or insurer, for insurance upon property within this state for the purpose of determining whether the same is discriminatory or unjust. He shall have power to order the discrimination removed or to fix and order substituted a rate which is not discriminatory or unjust. A review of such rate before the commissioner of insurance shall be had only after due notice and hearing, and his findings or order shall in all cases be subject to summary court review by a court of competent jurisdiction in this state. During such court review, the operation of the commissioner's order shall be suspended; but in the event of final determination against any insurer, any overcharges during the pendency of such proceedings shall be refunded to the persons entitled thereto. [36 G. A. (H. F. 495, § 7.)]

SEC. 1758-p. Rebating or discrimination forbidden. No insurer, however constituted, doing the business of insurance, mentioned in this act, within this state, and no officer, agent, or employe thereof shall, as an inducement to securing such business, or after the obligation has been issued, whether with or without the knowledge of such insurer, pay, allow, or give, or offer to pay, allow or give, directly or indirectly, any rebate, discount, or reduction of the premium paid or payable under such policy, nor in addition to the terms, credits and allowances therein contained, promise or give anything of value, whether part of a compensation for securing said business, or by making contracts of sale or purchase, or in any other manner whatsoever, or confer any special favor, benefit, valuable consideration, or inducement whatever not given on all its policies of like class. [36 G. A. (H. F. 495, § 8.)]

SEC. 1758-q. Penalty—non-compliance by company. Any insurer, if a company, association, or aggregation of individuals, found guilty of violating any of the provisions of this act, shall be subject to a penalty of not less than one hundred dollars, nor more than one thousand dollars to be sued for and recovered by the commissioner of insurance for the use of the state of Iowa, in any court of competent jurisdiction in any county in the state. [36 G. A. (H. F. 495, § 9.)]

SEC. 1758-r. Penalty—non-compliance by agent. Every agent, solicitor, or other representative of any such insurer, found guilty of violation of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty dollars, nor more than two hundred dollars, and ordered committed to the county jail until such fine and costs are paid; such commitment, however, not to exceed thirty days; and the commissioner of insurance may thereupon suspend the license of such agent. It shall be unlawful for any insurer

to pay, either directly or indirectly, the fine assessed against any of its agents, solicitors or other representatives, under this act. [36 G. A. (H. F. 495, § 10.)]

SEC. 1758-s. Enforcement by county attorney. It shall be the duty of the several county attorneys throughout the state to enforce the provisions of this act, and to prosecute those guilty of its violation. [36 G. A. (H. F. 495, § 11.)]

CHAPTER 5.

OF MUTUAL FIRE, TORNADO AND HAILSTORM ASSESSMENT INSURANCE ASSOCIATIONS.

SECTION 1759-a. Organization—purposes.

An action is premature and abatable when brought within forty days after service of the notice of loss and proof thereof under a mutual policy of insurance issued

under this chapter, even though the company during said forty days denies all liability under the policy. *Salmon v. Farm Property Mut. Ins. Assn.*, 150 N. W. 680.

SEC. 1759-m. Cancellation of policies.

The cancellation of the policy can only be effected by giving the five days' written notice of cancellation. The provision of the by-law providing that the association

is not liable when assessments are more than sixty days overdue does not effect a cancellation. *Salmon v. Farm Property Mut. Ins. Assn.*, 150 N. W. 680.

CHAPTER 6.

OF LIFE INSURANCE COMPANIES.

SECTION 1783-b. Medical examination. Said officials shall decline to approve any such form of policy or contract of insurance unless the same shall, in all respects, conform to the laws of this state applicable thereto, and unless the issuance of the same is based upon a satisfactory medical examination of the applicant by a physician duly authorized to practice medicine or by an osteopathic physician duly authorized to practice osteopathy in the state of Iowa, or the state where examined and no policy or contract of insurance shall be issued by any insurance company to any individual in this state until such examination shall have been passed and duly approved by the medical examiner or medical board of such company. [36 G. A. (H. F. 116, § 1.)] [30 G. A., ch. 59, § 2.]

CHAPTER 7.

OF ASSESSMENT LIFE INSURANCE ASSOCIATIONS.

SECTION 1788. Assessments.

The design of this section was not to compel the specification in the notices of assessment of particular items on which the moneys collected would be expended. A

general, but inclusive, statement of the objects or purpose of the assessment is sufficient. *Mulherin v. Bankers Life Ins. Co.*, 144 N. W. 1000.

SEC. 1798-b. Reincorporation as legal reserve company—stock company. Any existing domestic assessment company or association or fraternal beneficiary society may, with the written consent of the auditor

of state, upon a majority vote of its trustees or directors, amend its articles of incorporation and by-laws in such manner as to transform itself into a legal reserve or level premium company, and upon so doing and upon procuring from the auditor of state a certificate of authority, as prescribed by law, to transact business in this state as a legal reserve or level premium company, shall incur the obligations and enjoy the benefits thereof, the same as though originally thus incorporated, and such corporation, under its charter as thus amended, shall be a continuation of such original corporation, and the officers thereof shall serve through their respective terms as provided in the original charter, but their successors shall be elected and serve as in such amended articles provided; but such amendment or reincorporation shall not affect existing suits, rights or contracts. Any assessment company or fraternal beneficiary society reincorporated to transact life insurance business, shall value its assessment policies or certificates or benefit certificates as yearly renewable term policies according to the standard of valuation of life insurance policies prescribed by the laws of this state; provided that accident or health associations may take advantage of all the provisions of this section, in so far as applicable, and may thereupon transform themselves into stock companies. But no such company or association shall reorganize under the provisions of this section unless it shall have accumulated sufficient surplus to constitute a reinsurance reserve equal to the unearned premium on all outstanding policies or certificates, as prescribed by the statutes of this state relating thereto. [36 G. A. (S. F. 492, § 1.)] [34 G. A., ch. 18, § 17.] [32 G. A., ch. 83, § 2.]

CHAPTER 8.

OF PROVISIONS APPLYING TO LIFE INSURANCE COMPANIES AND ASSOCIATIONS.

SECTION 1806. Investment of funds. That the law which appears as section eighteen hundred and six, supplement to the code [1902], be and the same is hereby repealed and the following enacted in lieu thereof:

The funds required by law to be deposited with the commissioner of insurance by any company or association contemplated in the two chapters preceding, and the funds or accumulations of any such company or association organized under the laws of this state held in trust for the purpose of fulfilling any contract in its policies or certificates, shall be invested in the following described securities and no other:

1. The bonds of the United States;
2. The bonds of this state or of any other state when such bonds are at or above par;
3. Bonds or other evidences of indebtedness of any county, city, town or school district within the state or any other state, drainage district bonds of this state, improvement certificates issued by any municipal corporation of this state such certificates being a first lien upon real estate within the corporate limits of the municipality issuing the same, where such bonds or other evidences of indebtedness are issued by authority of and according to law and bearing interest, and are approved by the commissioner of insurance;

4. Bonds and mortgages and other interest-bearing securities being first liens upon real estate within this state or any other state worth at least double the amount loaned thereon and secured thereby exclusive of improvements, or two and one-half times such amount including the im-

provements thereon, if such improvements are constructed of brick or stone; but no such improvements shall be considered in estimating the value unless the owner shall contract to keep the same insured in some reliable fire insurance company or companies authorized to do business in the state, during the life of the loan, in a sum at least equal to the excess of the loan above one half the value of the ground exclusive of the improvements, the insurance to be made payable in case of loss to the company or association investing its funds, as its interests may appear at the time of loss; provided that before a company or association may invest any of its funds in such securities as are specified in this subdivision of this section in any state other than the state of Iowa it shall first obtain consent of the commissioner of insurance so to do; any mortgage lien upon real estate shall not, for the purposes of this section, be held or construed to be other than a first lien by reason of the fact that drainage or other improvement assessments may have been levied against the real estate covered by said mortgage, whether the installments of said assessment be matured or not, provided that in determining the value of said real estate for loan purposes, the amount of the drainage or other assessment tax unpaid, shall be deducted.

5. Loans upon its own policies, where the same have been in force at least two full years, in an amount not exceeding the net terminal reserve. If such loan is made, the company must describe in the note or contract taken, the amount of the loan, the name of the borrower, the number of the policy, and the terms of such note or contract shall make the amount loaned a lien against such policy and such note or contract shall be numbered, dated and signed, giving the post-office address of the insured.

6. Any such real estate in this state as is necessary for its accommodation as a home office and in the erection of any building for such purposes, it may add thereto rooms for rent; provided that before any company or association shall invest any of its funds, in accordance with the provisions of this subdivision it shall first obtain the consent of the executive council; and provided further that not to exceed ten per cent. of the lawful reserve of such company or association shall be so invested. Any company or association so investing its funds may use the value of any such home office as a part of the deposit of legal reserve in which case it shall convey the same to the auditor of state by deed, such property to be held by him in trust for the benefit of the policyholders or members of the company or association; the value thereof to be determined from time to time by the auditor of state.

All such securities shall be deposited with the auditor of state, subject to his approval, and shall remain with him until withdrawn in accordance with law. Any company or association receiving payments or partial payments on any securities deposited with the auditor of state shall notify him of such fact, giving the amount and date of payment, within thirty days after such payment shall have been made. The officers of any company or association which fails to report the receipt of payments or partial payments as above provided, shall be liable to a fine in double the amount collected and not reported within the time and in the manner above specified. It shall be the duty of the company or association and of the officers thereof to withdraw from deposit any loans made in accordance with the provisions of subdivision five of this section within fifteen days after the date of the lapsing or termination of any policy of insurance upon which any such loan is made. Any association making deposit with the auditor of state as herein contemplated, shall at the time of making request for the withdrawal of any securities designate for what purpose

the same are desired to be withdrawn. The auditor of state shall have authority to suspend or revoke the certificate of authority of any company or association failing to comply with any of the provisions of this section or for violating the same. [36 G. A. (S. F. 452, § 1.)] [36 G. A. (H. F. 610, § 1.)] [35 G. A., ch. 145, § 1.] [31 G. A., ch. 77.] [28 G. A., ch. 66, § 1.] [25 G. A., ch. 33.] [24 G. A., ch. 30.] [21 G. A., ch. 65, § 9.] [21 G. A., ch. 169.] [17 G. A., ch. 47.] [C. '73, § 1179.]

CHAPTER 9.

OF FRATERNAL BENEFICIARY SOCIETIES, ORDERS OR ASSOCIATIONS.

SECTION 1822. Defined—general provisions.

"Initiation" into a fraternal lodge is not a condition precedent to the validity of a certificate of insurance by reason of the language of this section. It may be made a condition precedent by the constitution or by-laws. *Schworm v. Frat. Bkrs. Res. Soc.*, 150 N. W. 714.

SEC. 1822-a. Membership confined to one religious denomination—heretofore organized. Any corporation heretofore organized under the laws of this or any other state, whose membership is confined to the members of any one religious denomination, and whose plan of business permits, may take advantage of this act by amendment to its articles of incorporation, and by complying with the provisions of section eighteen hundred thirty-two of the supplement to the code, 1907; provided, that such corporations as on March fifteenth, nineteen hundred and seven, were and have since continuously been doing business under chapter seven, title nine of the code, may take advantage of this act without raising their mortuary assessment rates or showing that their said rates are such as are required by section eighteen hundred and thirty-nine-j of the supplement to the code, 1907. [36 G. A. (S. F. 260, § 1.)] [34 G. A., ch. 81, § 2.]

SEC. 1839-m. Receiver on application of attorney general only. No application for the appointment of a receiver for, any fraternal beneficiary society, or branch thereof, shall be entertained by any court in this state, unless same is made by the attorney general. [36 G. A. (S. F. 491, § 1.)]

SEC. 1839-n. When proceedings may be commenced. No such proceedings shall be commenced by the attorney general against any fraternal beneficiary society until the commissioner of insurance has first made an examination of such fraternal beneficiary society, and completed a report upon its affairs, and not until after notice has been duly served on the chief executive officers of the society, and a reasonable opportunity given to it, on a date to be named in said notice, to show cause why such proceedings should not be commenced. [36 G. A. (S. F. 491, § 2.)]

SEC. 1839-o. Examinations and statements not public. Pending, during or after an examination or investigation of such fraternal beneficiary society, the commissioner of insurance shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society until a copy of such examination and investigation shall have been served upon such society, at its home office, nor until

such society shall have been afforded a reasonable opportunity to answer such financial statement, investigation, report or finding, and to make such showing in connection therewith, as it may desire. [36 G. A. (S. F. 491, § 3.)]

CHAPTER 10.

OF SAVINGS BANKS.

SECTION 1860. Reserve. Savings banks doing a commercial business, located in towns having a population of less than three thousand inhabitants, shall at all times keep a cash reserve fund equal to fifteen per cent. of their sight and demand deposits, and eight per cent. of their savings deposits and time certificates having a fixed and definite time of maturity, and all such banks located in cities and towns having a population of three thousand or over shall at all times keep a cash reserve fund equal to twenty per cent. of their sight and demand deposits, and eight per cent. of their savings deposits and time certificates having a fixed and definite time of maturity. Savings banks doing an exclusive savings bank business shall at all times keep a cash fund equal to eight per cent. of their deposits. Three-fourths of such reserve fund provided for in this section may be kept on deposit, subject to call, with other banks organized under state or national laws. [36 G. A. (H. F. 61, § 1.)] [C., '97, § 1860.]

CHAPTER 12.

OF BANKS.

SECTION 1870. Limit of liabilities. The total liabilities to any savings or state bank of any person, corporation, company or firm, for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed twenty per cent. of the actually paid-up capital and surplus of such bank; provided that they may loan not to exceed one half of their capital stock to any person, corporation, company or firm on notes or bonds secured by mortgage or deed of trust upon unencumbered farm land in this state, worth at least twice the amount loaned thereon; but the discount of bona fide bills of exchange drawn against actually existing value, and the discount of commercial or business paper actually owned by the person or persons, corporation, company or firm negotiating the same, shall not be considered money so borrowed. [36 G. A. (H. F. 357, § 1.)] [29 G. A., ch. 76, § 1.] [25 G. A., ch. 30, § 2.] [15 G. A., ch. 60, § 18.]

[The above section is made applicable to §§ 1889-d to 1889-n by § 1889-m. **EDITOR.**]

SEC. 1875. Examiners—how appointed—bond—compensation—fees—qualifications. That section eighteen hundred seventy-five, supplement to the code, 1913, be repealed and the following enacted in lieu thereof:

The auditor of state may appoint not less than six nor more than nine bank examiners, to hold office at his pleasure, who shall give bond to the state, conditioned for the faithful discharge of their duties, in the sum of four thousand dollars each, which shall be filed with and the sureties thereon approved by the said auditor. One of said examiners shall, under

the direction of the auditor of state, have charge of the department, examiners and reports, and shall receive as compensation for his services a salary of eighteen hundred dollars per annum. The field examiners shall receive a compensation for their services a salary of eighteen hundred dollars each per annum. The auditor of state and examiners shall be entitled to actual and necessary expenses incurred in the examination of banks and loan and trust companies, which shall be audited by the executive council and paid by the treasurer of state upon warrants drawn by the auditor of state, but the total amount of such expenses and salaries shall not in any one year exceed the amount of fees collected from such banks and loan and trust companies. Each of such banks and loan and trust companies shall pay to the auditor of state annually before the first of September, the following fees, which shall be by him turned into the state treasury as other fees of his office: Those having a paid-up capital of twenty-five thousand dollars or under, the sum of fifteen dollars those having a paid-up capital of not to exceed fifty thousand dollars and over twenty-five thousand dollars a fee of twenty-five dollars; those having a paid-up capital of one hundred thousand dollars and over fifty thousand dollars a fee of forty dollars; those having a paid-up capital of one hundred and fifty thousand dollars and over one hundred thousand dollars, a fee of seventy-five dollars; those having a paid-up capital exceeding one hundred and fifty thousand dollars, a fee of one hundred dollars and all those having a paid-up capital in excess of two hundred thousand dollars a fee of one hundred fifty dollars. No bank examiner shall be assigned by the auditor of state to examine a bank or loan and trust company in a county in which he is interested in the business of a bank or loan and trust company.

No person shall be appointed bank examiner under the provisions of this act who has not had at least five years' experience in the business of banking. [36 G. A. (H. F. 543, § 1.)] [33 G. A., ch. 115, § 1.] [31 G. A., ch. 81.] [30 G. A., ch. 64, § 1.] [23 G. A., ch. 50, §§ 1, 2.]

[The above section is made applicable to §§ 1889-d to 1889-n by §1889-m. EDITOR.]

CHAPTER 12-A.

OF ADDITIONAL POWERS CONFERRED UPON TRUST COMPANIES, STATE AND SAVINGS BANKS.

SECTION 1889-d. To act in fiduciary capacity—notes, bonds and mortgages—safe deposits. Trust companies, state and savings banks now existing or which shall be hereafter incorporated under the provisions of title nine of the code, in addition to the powers already granted to such corporations, shall have power, when so authorized by their articles of incorporation:

1. To be appointed assignee or trustee by deed, and guardian, executor or trustee by will, and such appointment, upon qualification as herein required, shall be of like force as in case of appointment of a natural person.

2. To be appointed receiver, assignee, guardian, administrator, or other trustee by any court of record in this state, and it shall be lawful for such court to appoint such corporation as such receiver, assignee, guardian, administrator, or other trustee, in the manner provided by law for the appointment of any natural person to such trust. Provided any such appointment as guardian shall apply to the estate and not the person.

3. To act as fiscal or transfer agents, or registrar for estates, municipalities, companies and corporations.

4. To take, accept and execute any and all such trusts and powers of whatsoever character and description, not in conflict with the laws of the United States or of the state of Iowa, as may be conferred upon or entrusted or committed to them by any person or persons or any body politic, corporation or other authority, by grant, assignment, transfer, devise, bequest or otherwise, or which may be intrusted or committed or transferred to them or vested in them by order of any court of record, and to receive and take and hold any property or estate, real or personal, which may be the subject of any such trust, and to manage and dispose of such property or estate in accordance with the terms of such trust or power.

5. Any court having appointed, and having jurisdiction of any receiver, executor, administrator, guardian, assignee or other trustee, upon the application of such officer or trustee, after such notice to the other parties in interest as the court may direct, and after a hearing upon such application, may order such officer or trustee to deposit any moneys then in his hands, or which may come into his hands thereafter, and until the further order of said court, with any such trust company, state or savings bank, and upon deposit of such money, and its receipt and acceptance by such corporation, the said officer or trustee shall be discharged from further care or responsibility therefor. Such deposit shall be paid out only upon the orders of said court.

6. Whenever, in the judgment of any court having jurisdiction of any estate in process of administration by any assignee, receiver, executor, administrator, guardian or other trustee, the bond required by law of such officer shall seem burdensome or excessive, upon application of such officer or trustee, and after such notice to the parties in interest as the court shall direct, and after a hearing on such application, the said court may order the said officer or trustee to deposit with any such corporation for safe keeping, such portions or all of the personal assets of said estate as it shall deem proper, and thereupon said court shall, by an order of record, reduce the bond to be given, or theretofore given by such officer or trustee, and the property as deposited shall thereupon be held by the corporation under the orders and directions of said court. When any deposit shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given to the corporation in the event of the death of the trustee, the same or any part thereof, together with the dividends or interest thereon, may be paid to the person for whom the said deposit was made, or to his or her legal representatives; provided that the person for whom the deposit was made, if a minor, shall not draw the same during his or her minority without the consent of the legal representatives of said trustee.

7. To issue drafts upon depositories, and to purchase, invest in, and sell promissory notes, bills of exchange, bonds and mortgages and other securities.

8. To exercise the powers conferred on and to carry on the business of a safe deposit company.

9. When so authorized by any law of the United States now in force or hereafter enacted, national banks may exercise the same powers and perform the same duties as are by this section conferred upon trust companies, state and savings banks. [36 G. A. (S. F. 479, § 1.)] [35 G. A., ch. 152, § 1.]

SEC. 1889-o. May become member of Federal Reserve Bank System. That any state bank, savings bank or trust company organized

under the laws of this state is authorized and empowered, upon a vote of the shareholders thereof owning not less than fifty-one per cent of the capital stock of such state bank, savings bank or trust company, to become a member of the federal reserve bank system and to invest their funds in the stock of the federal reserve bank in the federal reserve district in which such banks or trust companies are located, and to incur liability therefor. [36 G. A. (H. F. 48, § 1.)]

CHAPTER 13-B.

OF THE REGULATION AND SUPERVISION OF INVESTMENT COMPANIES.

NOTE: This entire chapter, consisting of §§ 1920-t to 1920-t18, supplement to the code, 1913, was repealed by H. F. 351, 36 G. A. See § 1920-u. REPORTER.

SECTION 1920-t. Sale of stocks and bonds—permit for.

This act is unconstitutional because it imposes a direct burden on interstate commerce, and because it imposes burdens on and denies privileges to citizens of other states, which burdens are not imposed on, and which privileges are granted, citizens of Iowa. *William R. Compton Co. v. Allen*, 216 Fed. 537.

NOTE: For repeal of act above referred to see Sec. 1920-u. REPORTER.

SEC. 1920-u. Permit to sell stock, etc.—repeal. That the law as it appears in chapter thirteen-B, title nine, supplement to the code, 1913, be and the same is hereby repealed, and the following enacted in lieu thereof:

Every person, firm, association, company or corporation that shall either directly or through representatives or agents, sell, offer or negotiate for sale, within this state, any stocks, bonds or other securities, shall be subject to the provisions of this act, except as herein otherwise provided; and shall, before doing or offering to do any such business in this state, be required to secure a permit of the secretary of state of the state of Iowa. [36 G. A. (H. F. 351, § 1.)] [35 G. A., ch. 137, § 1.]

SEC. 1920-u1. Stocks, bonds, etc., excepted from operation of act. The provisions of this act shall not apply to—

(a) Securities of this state, or of the United States, or of any state or territory thereof, or of any foreign government, or of any district, county, township, city, town or other public taxing subdivision of any state or territory of the United States, including all drainage, county, school or other municipal bonds of this state;

(b) Securities of state, savings or national banks of any state or territory of the United States, or of trust companies or building and loan associations of this state, including the unsecured commercial paper of such institutions;

(c) Securities of public or quasi-public corporations, the issue of which securities is regulated by any public board or commission now or hereafter created by the laws of this state;

(d) Promissory notes and the mortgages, contracts, collateral or other things, if any, securing the same, when said notes and securities have, in a bona fide way, been issued, given or acquired in the ordinary course of legitimate business, trade or commerce.

(e) The stock of any corporation organized under the laws of this or any other state or territory of the United States, or of the federal government, provided that under the laws of such state or territory or federal government no capital stock of a corporation can be legally issued unless

the par value of said stock is paid for in full in either cash or property at its actual value before the issuance of such stock and where all property and any other thing given in exchange for such stock other than cash must be valued at not more than its actual cash value by some duly appointed officer or commission of such state, territory or federal government under the laws of which such corporation is organized and where such stock has been issued in accordance with the provisions of such laws.

(f) The sale of stocks, bonds or other securities at judicial sale or by administrators or executors. [36 G. A. (H. F. 351, § 2.)] [35 G. A., ch. 137, § 1.]

SEC. 1920-u2. Permit—fee—papers, documents, etc., to be filed—verification. Before any person, firm, association, company or corporation, subject to the provisions of this act, shall secure a permit from the secretary of state of the state of Iowa to sell, offer or negotiate for sale any stocks, bonds or other securities, in this state, such person, firm, association, company or corporation shall pay to the secretary of state of the state of Iowa a filing fee of two dollars and an annual inspection fee of twenty dollars and file in the office of said secretary of state the following papers and documents, to wit:

1. A copy of its constitution and by-laws, or articles of co-partnership or association.
2. An itemized statement of its actual financial condition and the amount of its properties and liabilities.
3. A statement showing in full detail the plan upon which it proposes to transact business.
4. A copy of all bonds or other securities which it proposes to make with or sell to its contributors, including the price at which such stocks, bonds or other securities are to be sold or offered for sale.
5. Sample copies of all literature or advertising matter used or to be used by such person, firm, association, company or corporation.
6. A statement showing the name and location of its principal office of business and the names and addresses of its officers and directors.
7. If said person, firm, association, company or corporation is chartered to do business under the laws of any other state or territory than the state of Iowa, it shall file a copy of its charter or other instrument or documents authorizing it to do business in said state or territory, which copy shall bear the certificate of the secretary of state or other officer of such state having custody of such records to the effect that the same is a correct, true and complete copy of said charter or other instrument, together with the seal of such officer attached thereto, if such officer is possessed of a seal.

All of the above described papers shall be verified by the oath of the person receiving the permit, if the business is carried on by an individual, or by the oath of a member of a co-partnership or association, or by the president and secretary of a corporation, if the concern be incorporated; provided, however, that the secretary of state may, if in his judgment it becomes necessary in order to prevent fraud in the sale of any stocks, bonds or other securities in this state, require of such person, firm, association or corporation, or any of the officers, agents or representatives thereof, additional information in the form of reports or otherwise, duly verified. [36 G. A. (H. F. 351, § 3.)] [35 G. A., ch. 137, § 2.]

SEC. 1920-u3. Payment of inspection fee in part. If any person, firm, association, company or corporation, subject to the provisions of this act, desires to transact business in this state and does not desire to pay the annual inspection fee of twenty dollars by reason of the limited amount of

business to be transacted, or otherwise, said person, firm, association, company or corporation shall have the option of paying to the secretary of state the filing fee of two dollars incident to the cost of filing and recording said papers and documents and an inspection fee of one tenth of one per cent upon the face value of the securities for the sale of which application is made to the secretary of state of the state of Iowa; provided further, however, that any person, firm, association, company or corporation, paying the inspection fee of one tenth of one per cent upon the face value of the securities which it is proposed to sell within the state of Iowa, shall not be required to pay in the aggregate more than twenty dollars inspection fees to the said secretary of state in any one year. [36 G. A. (H. F. 351, § 4.)]

SEC. 1920-u4. Annual report of fees and expenses—legislature to reduce if excessive. The secretary of state shall keep an accurate account of all moneys received from each person, firm, association, company or corporation as filing and inspection fees under the provisions of this act, and a record of all money expended in the enforcement of the provisions of this act, and at the end of the biennial period a report shall be made to the governor and legislature showing the amount of fees received and the amount of the money expended in the administration of this act, and if from said report it shall appear that the inspection fees are in substantial excess of the cost of inspection and all expenses incidental thereto, the succeeding legislature shall then reduce the amount of said inspection fees in proportion to the amount of such excess collected hereunder. [36 G. A. (H. F. 351, § 5.)]

SEC. 1920-u5. Service of process on secretary of state—consent. Every non-resident person, firm, association, company or corporation subject to the provisions of this act shall, before receiving a certificate as provided for in section one hereof, file in the office of the secretary of state an agreement in writing signed by the person receiving the permit, if the business is to be carried on by an individual, and by the signature of a member of a co-partnership or company, if it be a co-partnership or company, and by the signatures of the president and secretary of the incorporated or unincorporated company or association, if it be a company or association, authenticated by the seal of said company, if possessed of a seal, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers of the corporation, authorizing the said president and secretary to execute the same; that thereafter service of notice of any action or process of any kind against such non-resident person, firm, association, company or corporation, growing out of the transaction of any business of said person, firm, association, company or corporation in this state may be made on the secretary of state of the state of Iowa, and when so made, such service of notice or process of any kind shall be valid, binding and effective for all purposes as if served upon said non-resident person, firm, association, company or corporation according to the laws of this or any other state, and waiving all claims or right to claim error by reason of such acknowledgment of service. Such notice or process, with a copy thereof, shall be mailed to the secretary of state of the state of Iowa at Des Moines, Iowa, in a registered letter addressed to him by his official title, and he shall immediately upon its receipt acknowledge service thereon on behalf of the non-resident person, firm, association, company or corporation to which the same is directed by writing thereon, giving the date thereof, and shall immediately return such notice or process in a registered letter to the clerk of the court in which the suit is pending, addressed to him by his official title,

and shall also forthwith mail such copy, with a copy of his acknowledgment of service written thereon, in a registered letter addressed to each person, firm, association or corporation who shall be named or designated as defendant in such written instrument. [36 G. A. (H. F. 351, § 6.)] [35 G. A., ch. 137, § 3.]

SEC. 1920-u6. Examination by secretary of state—refusing or granting permit. It shall be the duty of the secretary of state to examine the statements and documents so filed in his office and secure such further information as he deems necessary, if any, and if from such examination of all papers and documents submitted to him and from such other information as he may obtain, he finds that the sale within this state of stocks, bonds or other securities by any such person, firm, company, association or corporation would work a fraud upon the purchasers thereof, then and in that event he shall refuse to grant such permit; otherwise he shall grant such permit. [36 G. A. (H. F. 351, § 7.)] [35 G. A., ch. 137, § 4.]

SEC. 1920-u7. Business plan not to be changed without consent of secretary of state—cancellation of permit. Every person, firm, association, company or corporation having submitted to said secretary of state a detailed plan of its business, together with such other information required by section three of this act, and thereafter desiring to change its articles of association or incorporation or its proposed plan of business, or its proposed contract, the character of its securities or method of advertisement, shall, before such change is made, submit the same to the secretary of state of the state of Iowa, in writing, showing in full detail the new plan of transacting business, together with all changes made either in articles of association or corporation, by-laws, plan of business, proposed contract, or in the character of securities, and if the secretary of state after examination shall find that the proposed change will not work a fraud upon the purchasers of its stocks, bonds or other securities in this state, then he shall approve the same; otherwise he shall refuse to approve such change or amendment and require such a modification thereof as may be necessary to protect the people of this state against fraud, and if and in the event such person, firm, association, company or corporation submitting such proposed change shall refuse to so modify the plan of his business, including the character of securities sold, as to conform to the requirements of the secretary of state and to the end that no fraud may be perpetrated upon the purchasers of the stocks, bonds or other securities sold in this state, then said secretary of state shall be required and he is hereby directed to cancel the permit of said person, firm, association, company or corporation, and said person, firm, association, company or corporation shall be denied the right to transact business in this state, unless and until said person, firm, association, company or corporation shall so modify and change its business that the transaction of business in this state will not work a fraud upon the purchasers thereof. [36 G. A. (H. F. 351, § 8.)] [35 G. A., ch. 137, § 5.]

SEC. 1920-u8. Annual financial statement of condition—inspection fee. Every person, firm, association, company or corporation doing business within this state pursuant to the provisions of this act shall, on or before December thirty-first of each year, or at such time as they make their annual statement to their directors, but not less than once each year, file with the secretary of state a statement properly verified by the officers of said company, if a company or corporation, or by a member of a partnership, if a firm or co-partnership, or by the owner of said business, if the same is transacted by an individual, which statement shall set forth its

financial condition, the amount of its assets and liabilities and such other information concerning its financial affairs or its plan of business, including the character of securities sold, as the secretary of state may require in order to determine whether said person, firm, association, company or corporation is doing a legitimate and honest business within this state. Said statement shall be for the information of the secretary of state, the attorney general or any public officer who may be interested in an official way in receiving said information and shall not be open to public inspection, nor shall it be published or used for private purposes, but may be used in an official, legitimate way if need be. Said annual statement shall be accompanied by an annual inspection fee of twenty dollars for the year next succeeding; provided, however, that any person not desiring to pay the annual inspection fee of twenty dollars may pay the inspection fee of one tenth of one per cent on the amount of securities proposed to be sold as provided under the terms and conditions set forth in sections three and four of this act. [36 G. A. (H. F. 351, § 9.)] [35 G. A., ch. 137, § 6.]

SEC. 1920-u9. Failure to file statement or pay fee—penalty. Any person, firm, association, company or corporation failing to file said statement for the preceding year, or failing to pay the inspection fee as provided by this act, shall, in addition to the criminal punishment otherwise imposed in this act, be liable to a penalty of ten dollars per day for each and every day which said person, firm, association, company or corporation transacts business in this state in violation of the provisions of this act. Said penalty may be collected by a suit in the name of the state of Iowa upon the relation of the attorney general, instituted in any court of competent jurisdiction, and when collected shall be paid over to the secretary of state who shall cover the same into the general revenues of the state. [36 G. A. (H. F. 351, § 10.)] [35 G. A., ch. 137, § 6.]

SEC. 1920-u10. Accounts—how kept—open to inspection and examination—fee. The general accounts of every person, firm, association, company or corporation doing business in this state pursuant to the provisions of this act shall be kept in a business-like and intelligent manner and in sufficient detail that the secretary of state can ascertain at any time upon inspection and examination its financial condition, and any person, firm, association, company or corporation engaged in the business of buying or selling stocks, bonds or other securities and subject to the provisions of this act, shall keep its books of account during business hours, except Sundays and legal holidays, open to its members, stockholders and investors and to the secretary of state or his duly authorized agents or representatives, and the said secretary of state shall have the right to make an examination and inspection of the books, accounts and financial condition of any such person, firm, association, company or corporation engaged in the business of dealing in stocks, bonds and other securities pursuant to the provisions of this act. The right, powers and privileges of the secretary of state in connection with such examination shall be the same as is now provided with reference to examination of state and savings banks, and such person, firm, association, company or corporation so examined shall pay a fee to the secretary of state for each of such examinations not to exceed six dollars per day, or fraction thereof, spent by said secretary of state or his duly authorized representative while absent from the seat of government in making such examination, and shall further pay the actual traveling and hotel expenses of said examiner. Upon failure or refusal of any person, firm, association, company or corporation to pay the fees required by this act, upon the demand of the secretary of

state or his duly authorized representative, the secretary of state may suspend its right to sell, offer or negotiate for sale any of its stocks, bonds or other securities in this state until such fee or fees are paid. [36 G. A. (H. F. 351, § 11.)] [35 G. A., ch. 137, § 7.]

SEC. 1920-u11. Fraud appearing—cancellation of permit. If from such examination it shall appear that said person, firm, association, company or corporation is doing an illegitimate and fraudulent business in this state, that its plan of business is fraudulent or that the sale of its stocks, bonds, or other securities would work a fraud upon the purchasers in this state, said secretary of state shall have the right to cancel the certificate of such person, firm, association, company or corporation, and deny it the right to further transact business in this state until it changes its plan of business, including the character of its securities, so that the citizens and residents of this state or others dealing with it therein shall not be defrauded thereby. [36 G. A. (H. F. 351, § 12.)] [35 G. A., ch. 137, § 9.]

SEC. 1920-u12. Fees—account kept—clerks appointed—salaries—verification of claims. All fees herein provided for shall be collected by the secretary of state and by him covered into the state treasury on the first secular day of each month; and the secretary of state shall keep a record of the receipts and expenditures incurred in carrying out the provisions of this act. The secretary of state is hereby authorized to appoint such clerks and deputies as the executive council deem actually necessary to carry this act into full force and effect. The compensation of such clerks and deputies shall be fixed by the executive council. Before the salary and expenses of any such clerk or deputy shall be paid, a detailed and itemized statement of account shall be prepared by such claimant and duly verified, which verification shall aver that such claim is just, reasonable and wholly unpaid and that the amount therein stated is due such claimant. When said claim has been approved by the secretary of state and audited and allowed by the executive council, it shall be paid by warrant drawn by the auditor of state upon the state treasurer, and there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, an amount sufficient to meet said salaries and expenses. [36 G. A. (H. F. 351, § 13.)] [35 G. A., ch. 137, § 12.]

SEC. 1920-u13. Stocks held by bona fide owners—authorization by secretary of state for sale of same—registration of securities—bond. Nothing in this act shall be construed as to prohibit a bona fide owner of any stocks, bonds or other securities from selling, exchanging or otherwise disposing of the same when not made in the course of continuing or repeated transactions of a similar nature, or when said securities, including negotiable promissory notes, have been issued or given for goods, wares or merchandise purchased or dealt in by the issuer in the ordinary course of his business, or when sold, exchanged or otherwise disposed of to a bank subject to governmental supervision, trust company, insurance company, building and loan association, or to a person who has duly received a permit to transact business within this state pursuant to the provisions of this act, provided that the same are sold by said owner in good faith and not for the purpose of evading the provisions of this act; and the secretary of state may authorize in writing any such bona fide owner of any stocks, bonds, or other securities to sell in this state any other securities not included in the provisions set forth in the preceding portion of this section; provided said securities were acquired and held by the owner in good faith and not for the purpose of evading the provisions of this act, but before such authorization shall issue for the sale of

such additional securities, the owner of such securities shall register in a book kept for such purpose by the secretary of state a list of the stocks, bonds and other securities desired to be sold giving the character of the security, the par value thereof, the price at which such securities are to be sold, the date of issue and any other data concerning the same which the secretary of state may require in order to determine whether or not the sale thereof will work a fraud upon the purchaser; and provided further that the said secretary of state may, if he have reason to believe said securities will work a fraud upon the purchasers thereof, require the owner to file in his office a bond in the penal sum of not to exceed five thousand dollars running to the state of Iowa, conditioned that said owner thereof will not in the sale and disposition of said securities, knowingly make any false or fraudulent representations concerning the nature and character of such securities. Such owner shall pay to the secretary of state an inspection fee as is provided for in section four of this act. [36 G. A. (H. F. 351, § 14.)] [35 G. A., ch. 137, § 16.]

SEC. 1920-u14. Permit—form of—prominence given to statement that secretary does not recommend securities. Each and every certificate granted by the secretary of state under the provisions of this act shall be in substantially the following form:

“This is to certify that the..... has this date been given permission to sell \$......of its within the state of Iowa.
stocks, bonds or securities

THE SECRETARY OF STATE DOES NOT RECOMMEND THE PURCHASE OF THIS OR ANY OTHER SECURITY.

Dated at Des Moines, Iowa, this day of

IN WITNESS WHEREOF, I have hereunto affixed the corporate seal of the Secretary of State.

(SEAL)

.....
Secretary of State.”

The words “THE SECRETARY OF STATE DOES NOT RECOMMEND THE PURCHASE OF THIS OR ANY OTHER SECURITY” shall be printed in larger, bolder faced type than the other part of the said certificate.

Any person, firm, association, company or corporation that makes any reference in any statement, advertisement or printed matter to the fact that a permit has been received from the secretary of state to transact business in this state shall, with equal prominence, state in the same circular, advertisement or printed matter that “THE SECRETARY OF STATE DOES NOT RECOMMEND THE PURCHASE OF THE SECURITY OF THIS OR ANY OTHER COMPANY.” [36 G. A. (H. F. 351, § 15.)] [35 G. A., ch. 137, § 17.]

SEC. 1920-u15. Agent to register and file appointment with secretary—permit issued—fee—expiration of permit—cancellation. Every person, firm, association, company or corporation that has received a permit to transact business in this state and desires to appoint agents or representatives shall cause said agent or representative to register with the secretary of state and file with said officer his written appointment and authority to represent said person, firm, association, company or corporation as its agent in this state and receive from said secretary a certificate showing that the principal represented by said agent or representative has complied with the provisions of this act and received a certificate to

do business. All such certificates shall be subject to revocation by the secretary of state if upon examination or investigation the secretary finds that the agent is misrepresenting the kind and character of securities, the nature of the business or is thereby, or otherwise defrauding the people of this state, in the sale of stocks, bonds or other securities. All such certificates, unless sooner revoked, shall expire on the first day of July of each year. A charge of one dollar shall be made by the secretary of state for each certificate issued to such agent. [36 G. A. (H. F. 351, § 16.)] [35 G. A., ch. 137, § 14.]

SEC. 1920-u16. Broker's annual permit—list of stocks filed—cancellation of permit—investigation of securities—fee—bond—forfeiture—amount of liability. The secretary of state may issue to any broker, or dealer in stocks, bonds or other securities, an annual permit, which permit shall entitle such stock broker or dealer to sell, offer or negotiate for sale any stocks, bonds or other securities within this state, except those stocks, bonds or other securities, the sale of which would work a fraud upon the purchaser; provided, however, that such stock broker or dealer shall file on the first and fifteenth day of each month a detailed list of the stocks, bonds or other securities on hand for sale or listed for sale by him, and also those sold by him during the preceding one-half month and not previously reported; provided further, that the secretary of state shall refuse to grant a permit, or shall cancel a permit previously granted, to any such stock broker or dealer when he finds by investigation or otherwise that such stock broker or dealer is selling or offering for sale within this state any stocks, bonds or other securities which would work a fraud upon the purchasers thereof. In order that the secretary of state may determine the nature and kind of securities to be sold and the character of the applicant, he is authorized to make investigation as otherwise provided herein, the expenses incurred thereby to be paid as provided in section eleven of this act. The applicant shall also pay a fee of fifty dollars to the secretary of state for each of said annual permits, which permit, unless sooner revoked by the secretary of state, shall expire on the first secular day of July of each year. If said permit is issued after the first of January of any year, the fee shall be reduced one half. Before being granted such permit by the secretary of state the stock broker or dealer shall give a bond in the penal sum of five thousand dollars to the state of Iowa, conditioned upon a strict compliance with this act which bond shall be approved by the executive council and filed with the secretary of state. Said bond shall be forfeited by a violation of the terms or conditions of this act, or by a conviction for such violation, and the attorney general of this state may institute suit in the name of the state of Iowa in any court of competent jurisdiction for a forfeiture thereof at any time within two years from the time the cause of action accrues; provided that if it appears such violation was not intentional and no fraud was shown then only so much of said bond shall be forfeited as shall be equal to the amount of damages sustained. [36 G. A. (H. F. 351, § 17.)] [35 G. A., ch. 137, § 15.]

SEC. 1920-u17. Denial of permit—appeals allowed. Any person, firm, association, company or corporation that is denied a certificate to transact business in this state, or whose certificate is cancelled pursuant to the provisions of this act shall have the right to appeal to the executive council of the state of Iowa from any decision of the secretary of state affecting a substantial right under the provisions of this act within twenty days from the entry or the pronouncement of the decision of said secretary by serving notice of such appeal upon the secretary of the executive coun-

cil. Such appeal shall be heard and determined by the executive council under such rules and regulations as they may prescribe giving full notice and opportunity to be heard by all persons interested therein.

Any person, firm, association, company or corporation perfecting said appeal to said executive council, may upon receiving an adverse decision by said executive council, appeal to the district court at the seat of government, by the service of a written notice of appeal on the attorney general, and thereupon the cause may be docketed and the case may be tried in the district court as a special equitable action by the filing of such transcript and such pleadings as the court may prescribe in order that an intelligent hearing may be had and a just decision rendered thereon free from any technical objections or irregularities in the matter of procedure or the introduction of evidence. [36 G. A. (H. F. 351, § 18.)] [35 G. A., ch. 137, § 13.]

SEC. 1920-u18. Supersedeas allowed—bond—conditions. A supersedeas may be had by any person denied a permit to do business in this state and who has thereafter perfected an appeal by the execution and filing of a penal bond to the state of Iowa for the use and benefit of the state of Iowa for any costs or damages incurred by reason of said appeal and for the use and benefit of any purchaser of any stocks, bonds or other securities from the appellant during the pendency of said appeal; said bond shall be in the sum fixed by the judge of the district court to which said appeal is taken and approved by the clerk of said court, and shall provide that if the order appealed from is affirmed, the party appealing shall pay to the state all costs and damages by reason of said appeal, and shall pay to the secretary of state for the use and benefit of any purchaser who has suffered damage by reason of the purchase of any security during the pendency of such appeal the amount fixed in said bond or so much thereof as may be necessary. It shall be the duty of the clerk of the district court to transmit a certified copy of said bond to the secretary of state of the state of Iowa immediately upon the filing and approval of said bond in the office of said clerk. [36 G. A. (H. F. 351, § 19.)]

SEC. 1920-u19. False statements, entries and representations prohibited—penalty. Any person, firm, association, company or corporation subject to the provisions of this act that shall subscribe or cause to be made any false statement or false entry in any book required to be kept or relating to any business to be transacted in this state pursuant to the provisions of this act, or make or subscribe to any false statement, exhibit or paper filed with the secretary of state of the state of Iowa, or shall make to the secretary of state, his deputy, agent or representative any false or fraudulent statement concerning the proposed plan of business to be transacted, or the nature, value or character of securities to be sold in this state, or shall make to said secretary of state, his deputy, agent or representative any false statement as to the financial condition of such person, firm, association, company or corporation shall be deemed guilty of a felony, and upon conviction shall be fined in the sum of not more than five thousand dollars, or imprisoned not to exceed five years in the penitentiary or reformatory, or by both such fine and imprisonment in the discretion of the court. [36 G. A. (H. F. 351, § 20.)] [35 G. A., ch. 137, § 10.]

SEC. 1920-u20. Sales without paying inspection fee—general violations—penalties. Any person, firm, association, company or corporation subject to the provisions of this act that shall sell or negotiate for the sale of any stocks, bonds or other securities within this state without first paying the inspection fee and otherwise complying with the provisions

of this act, or that continues to sell, offers for sale, or negotiates for the sale of stocks, bonds or other securities in this state after his certificate or permit to do business has been cancelled by the secretary of state, unless a supersedeas bond has been filed as and according to the provisions of section nineteen hereof, or that shall otherwise neglect or refuse to comply with any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed five thousand dollars or by imprisonment in the county jail not to exceed six months or by both such fine and imprisonment. [36 G. A. (H. F. 351, § 21.)] [35 G. A., ch. 137, § 11.]

SEC. 1920-u21. False representations punished—penalty. Any person, firm, association, company or corporation, or any agent or representative thereof, whether subject to the provisions of this act or otherwise, that sells, offers for sale or negotiates for the sale of any stocks, bonds, or other securities within this state, and knowingly makes any false representations or statement as to the nature, character or value of such security, or the amount of the earning power of such security whether in the nature of interest, dividends or otherwise, or knowingly makes any false or fraudulent representation concerning the financial condition, the assets or the property of the company, firm or corporation issuing said security, or knowingly makes any other false or fraudulent representation to any person for the purpose of inducing said person to purchase said security, or conceals any material fact in the advertisement or prospectus of such security for the purpose of misleading or defrauding the purchaser, shall be guilty of a misdemeanor and upon conviction be punished by a fine of not more than two thousand dollars or by imprisonment of not to exceed six months in the county jail, or by both such fine and imprisonment. [36 G. A. (H. F. 351, § 22.)] [35 G. A., ch. 137, §§ 10, 11.]

SEC. 1920-u22. If declared unconstitutional in part—effect. Should any section of this act or any part thereof be held by any court of competent jurisdiction to be unconstitutional, such decision shall affect the specific provision only which it is held offends against the constitution and said unconstitutional part shall not be held to be an inducement to the passage of any other section or provision of this act. [36 G. A. (H. F. 351, § 23.)]

TITLE X.

OF INTERNAL IMPROVEMENTS.

CHAPTER 1.

OF MILL DAMS AND RACES.

SECTION 1927. Cause shown.

Where plaintiff filed a petition asking a license to rebuild a dam, formerly built under legislative grant, which had been washed out, and filed with same waivers from all who were affected thereby, as he claimed, and parties other than those

named voluntarily appeared and filed objections, held that such objections, though somewhat irregular, were not prematurely filed. *Iowa Power Co. v. Hoover*, 147 N. W. 858.

CHAPTER 2-A.

OF LEVEES, DITCHES, DRAINS AND WATERCOURSES.

SECTION 1989-a1. Board of supervisors to establish drainage district.

Under evidence, held that the character of the land within the drainage district was such that the board of supervisors had

authority to establish a drainage district. *Mittman v. Farmer*, 162-364.

SEC. 1989-a3. Notice of hearing—approval of plan—fees and mileage for serving notice.

This section is not invalid as prescribing too short a time of publication or of interval between the publication and hearing. *Taylor v. Drainage District*, 148 N. W. 1040.

A notice requiring claims for damages to be filed on or before a certain date which is six days before the hearing is not inconsistent with the provisions of this act. *Ibid.*

This omission of the notice to state that the engineer's report might be amended before final action is a mere defect, not affecting the fact of giving notice. *Ibid.*

The establishment of drainage districts on notice by publication is not unconstitutional as authorizing the taking of property without due process of law. *Goepfinger v. Board*, 152 N. W. 58.

SEC. 1989-a4. Claims for damages.

This section is not unconstitutional under section 6, Art. 1, of the Constitution of Iowa, providing that all laws shall be of uniform operation, nor under section 18,

Art. 1, prohibiting the taking of private property for public use, without making just compensation. *Taylor v. Drainage District*, 148 N. W. 1040.

SEC. 1989-a6. Assessment of damages—appeal.

It is not necessary that the notice of appeal to be filed with the county auditor be marked "filed", as the filing is a ministerial act and such notice is filed when it is left with the proper officer and by him received to be kept on file, but where such notice is served on the auditor as an orig-

inal notice, and an unsigned copy of the notice left with him, the copy where it may be treated as filed must be regarded as the notice and an unsigned notice is insufficient. The filing of the original of the notice with the clerk is ineffective and cannot be referred to, to correct defects in the

copy left with the auditor. The filing of the notice of appeal with the auditor is jurisdictional, and neither consent nor special appearance on appeal to object to the jurisdiction confers jurisdiction. *Bedford v. Board of Supervisors*, 162-588, 144 N. W. 301.

A county will not be enjoined from filling a culvert as a part of a drainage system, at the suit of a party aggrieved by such action, as the remedy was by objection before the board of supervisors and a claim for damages, and if not satisfactory, an appeal. *Elliott v. Woodbury Co.*, 162-473.

SEC. 1989-a8. Letting work—notice—bids. The board shall cause notice to be given by publication, once each week, for two consecutive weeks in some newspaper published in the county wherein such improvement is located and such additional publication elsewhere as they may direct, of the time and place of letting the work of construction of said improvement, and in such notice they shall specify the approximate amount of work to be done in each section and the time fixed for the commencement and completion thereof; and when the estimated cost of said improvement exceeds fifteen thousand dollars the board shall make additional publication for two consecutive weeks in some contracting journal of general circulation, of such notice as they may prescribe, and they shall award contract or contracts for each section of the work to the lowest responsible bidder or bidders therefor, bids to be submitted, received and acted upon separately as to the main drain and each of the laterals, exercising their own discretion as to letting such work as to the main drain as a whole, or as to each lateral as a whole, or by sections as to both main drain and laterals, and reserving the right to reject any and all bids and readvertise the letting of the work. Each person bidding for such work shall deposit in cash or certified check a sum equal to ten per centum of the amount of the bid, not in any event however to exceed ten thousand dollars, said deposit to be returned to him if his bid is not successful, and if successful to be retained as a guarantee only of his good faith in entering on said contract. The successful bidder shall be required to execute a bond with sufficient sureties in favor of the county for the use and benefit of the levee or drainage district in an amount equal to twenty-five per centum of the estimated cost of the work so let, or he may deposit such amount in cash with the auditor as security for the performance of his contract and for the payment as they become due of all just claims for labor performed and material used in the completion of said contract, and upon the execution of such bond, or the making of such deposit, the deposit originally made with his bid shall be returned to him. [36 G. A. (S. F. 411, § 1.)] [34 G. A., ch. 89, § 1.] [34 G. A., ch. 87, § 3.] [33 G. A., ch. 118, § 8.] [31 G. A., ch. 85, § 5.] [31 G. A., ch. 9, § 30.] [30 G. A., ch. 68, § 8.]

SEC. 1989-a10. Failure to perform work—penalty—completion of work.

Section applied. *Humboldt County v. Ward Bros.*, 145 N. W. 49.

SEC. 1989-a11. Change in dimensions—notice—objections—appeal.

Section 10 of Ch. 118, Laws 33 G. A., as hereby amended, prescribes the procedure to be taken by a party aggrieved on account of the action of a county in constructing a drainage system, and the county will not be enjoined from filling a culvert in an embankment, as plaintiff's remedy is by objections before the board of supervisors and a claim for damages and appeal if not satisfied by the action of the board. *Elliott v. Woodbury County*, 162-473, 143 N. W. 826.

The board of supervisors in establishing drainage districts may make changes in ditches, drains, or laterals and may eliminate a culvert even though the board had been enjoined from interfering with the culvert before the drainage district was established. The remedy of a party complaining of such change is to appear before the board and object to the plan, and that being unavailing, to file and establish his claim for damages. *Ibid.*

Section applied. *Humboldt County v. Ward Bros.*, 145 N. W. 49.

SEC. 1989-a.12. Assessment of costs and damages—apportionment. When the levee or drainage district or other improvement herein provided for shall have been located and established as provided for in this act, or when it shall be necessary to cause the same to be repaired, enlarged, reopened or cleared from any obstruction therein, unless such repairs, reopening or clearing of obstructions can be paid for as hereinafter provided, the board shall appoint three commissioners, one of whom shall be a competent civil engineer and two of whom shall be resident freeholders of the state not living within the levee or drainage district and not interested therein or in a like question, nor related to any party whose land is affected thereby; and they shall within twenty days after such appointment begin to personally inspect and classify all the lands benefited by the location and construction of such levee or drainage district, or the repairing or reopening of the same, in tracts of forty acres or less according to the legal or recognized subdivisions in a graduated scale of benefits, to be numbered according to the benefit to be received by the proposed improvement; and they shall make an equitable apportionment of the costs, expenses, costs of construction, fees and damages assessed for the construction of any such improvement, or the repairing or reopening of the same, and make report thereof in writing to the board of supervisors. In making the said estimate the lands receiving the greatest benefit shall be marked on a scale of one hundred and those benefited in a less degree shall be marked with such percentage of one hundred as the benefit received bears in proportion thereto. This classification when finally established shall remain as a basis for all future assessments connected with the objects of said levee or drainage district, unless the board, for good cause, shall authorize a revision thereof. In the report of the appraisers so appointed, they shall specify each tract of land by proper description and the ownership thereof as the same appears on the transfer books in the auditor's office, and the auditor shall cause notice to be served upon each person whose name appears as owner and also upon the person or persons in actual occupancy of any such land in the time and manner provided for the establishment of a levee or drainage district, which notice shall state the amount of special assessments apportioned to such owner, upon each tract or lot, the day set for hearing the same before the board of supervisors and that all objections thereto must be made in writing and filed with the county auditor on or before noon of the day set for such hearing. When the day set for hearing shall have arrived, the board of supervisors shall proceed to hear and determine all objections made and filed to said report and may increase, diminish, annul or affirm the apportionment made in said report or in any part thereof as may appear to the board to be just and equitable; but in no case shall it be competent to show that the lands assessed would not be benefited by the improvement, and when such hearing shall have been had the board shall levy such apportionment so fixed by it upon the lands within such levee or drainage district; and all installments of the tax shall be levied at that time, and shall bear interest at six per cent. per annum from that date; provided that if the owner of any parcel of land, lot or premises against which any such levy shall have been made and certified, shall, within twenty days from the date of such assessment, promise and agree in writing filed in the office of the county auditor that in consideration of his having the right to pay his assessments in installments he will not make any objection of illegality or irregularity as to the assessment of benefits or levy of such taxes upon or against his property, but will pay said assessment, then said taxes levied against said land, lot or premises of such owner shall be payable without interest, as follows: one third of the amount of said assessment at the time of filing

the above agreement; one third within ten days after the engineer in charge of said drainage improvement shall file a certificate in the office of the county auditor that said improvement is one half completed, and the remaining one third within ten days after the said improvement shall have been accepted by the board of supervisors, and if said installments are not paid as above provided, the failure to pay any installment shall cause the whole sum to become due and payable at once with interest at the rate of one per cent. per month from the date of filing said agreement, and such assessments shall thereupon be collected as other taxes on real estate, which rate may be later reduced to correspond with the rate specified in the certificates or bonds, as the case may be. Provided, however, that no deferred installment of the amount assessed, as between vendor and vendee, mortgagor and mortgagee, shall become a lien upon the property against which it is assessed and levied, until the thirty-first day of December of the year next preceding that in which it is due and payable; and in case the board of supervisors shall increase said apportionment, service of notice thereof shall be made upon the owner of such tract or lot of land as shown by the transfer books in the auditor's office, in the same manner in which original notices are required to be served, where such owner is a resident of the county, and in case such owner is a nonresident of the county such notice as to him shall be served on the actual occupant of the tract or lot of land; provided that in case any railroad company shall be affected by such increased apportionment said notice shall be served upon the station agent of the said railroad company nearest the proposed improvement. If the first assessment made by the board of supervisors for the original cost or for repairs of any improvement as provided in this act is insufficient, the board may make an additional assessment and levy in the same ratio as the first for either purpose. [36 G. A. (H. F. 565, § 1.)] [34 G. A., ch., 87, § 5.] [33 G. A., ch. 118, § 11.] [30 G. A., ch. 68, § 12.]

Notice to landowner of intention of board of supervisors to make an additional assessment to meet deficit is not necessary. *Plummer v. Pitt, Co. Treas.*, 149 N. W. 878.

In a particular case, held that the court on appeal properly considered special conditions which were urged as a reason why appellant's assessments should be reduced. *Monson v. Board of Supervisors*, 149 N. W. 624.

The assessments made pursuant to this section are at best a matter of approximation and the Supreme Court as a rule does not interfere with the trial court in affirming or reducing them, particularly when the testimony relating to comparative benefits is conflicting. *Hill Drainage Dist. No. 115 v. Board of Supervisors*, 162-182, 143 N. W. 991.

Assessments draw interest from the date of the original assessment by the board, whether the amount is fixed by the board of supervisors or by the court on appeal. *Rystad v. Buena Vista Co.*, 152 N. W. 364.

Invalidity of an assessment of benefits cannot be predicated on the fact that the

appraisers first classified the land as "dry", "low", "wet", and "swampy" in order to more intelligently mark the lands as herein provided, nor on the fact that one assessment covered both the main drain and branches. *Obe v. Board*, 151 N. W. 453.

The fact that the landowner has already constructed a system of drainage prior to the construction of the public drain should be given due consideration in assessing benefits for the public drain. *Ibid.*

Approximate accuracy is all that can be hoped for in an assessment of benefits. Evidence reviewed and held to show assessment was not excessive. *Ibid.*

In determining the assessment of benefits for a drainage improvement, due consideration should be given (a) to the system of drainage already provided by the landowner, (b) the relative amount of land actually drained by the new improvement, and (c) the extent the improvement affords outlet for lateral drainage. In the instant case, held, the assessment should be reduced one-third. *Harriman v. Board*, 151 N. W. 468.

SEC. 1989-a14. Appeal—drainage record—counsel—establishment rescinded—new hearing.

Notice of appeal in a particular case held sufficient. *Hill Drainage Dist. No. 115 v. Board of Supervisors*, 162-182, 143 N. W. 991.

The filing of a petition by an appellant on or before the first day of the term next succeeding the appeal is not jurisdictional; the provision that unless it is so filed the appeal shall be dismissed is in the nature of a penalty; and a discretion rests in the

lower court to refuse a dismissal, and such dismissal should be denied where the appellant has been diligent and files his petition within a reasonable time. *Reichenbach v. Getty*, 143 N. W. 842.

SEC. 1989-a19. Construction across highway—interest on assessments.

The provisions of this act are mandatory, and the board of supervisors can be compelled by mandamus to erect a bridge

where a drainage ditch crosses a highway. *Ruffcorn v. Chatburn*, 147 N. W. 1110.

SEC. 1989-a21. Control—repairs—cost.

Condemnation of land for a drainage improvement does not oust the power of the fence viewers to order the erection of

line fences which will in no way interfere with the drainage plan. *Barton v. Boie*, 151 N. W. 1064.

SEC. 1989-a26. Special assessment—how paid—improvement certificates—waivers.

An assessment does not become delinquent in such sense that penalties will attach, during the time consumed by the

supervisors in prosecuting an appeal from an order reducing the assessment. *Rystad v. Buena Vista Co.*, 152 N. W. 364.

SEC. 1989-a29. Establishment through two or more counties—voting powers of boards of supervisors equalized.

Notice need not be published in a county, no lands of which are proposed to be included in the district by the report of the commissioners even though the petition proposed to include such lands. *Goep-*

pinger v. Board, 152 N. W. 58.

A landowner cannot complain that notice was not served on his tenants, the landowner having been served as by law provided. *Ibid.*

SEC. 1989-a30. Claims for damages—where filed.

Waiver of all claim for damages is the penalty for failure to file the claim as in

this section provided. *Goepfinger v. Board*, 152 N. W. 58.

SEC. 1989-a32. Assessment of costs and damages—improvement certificates—bonds.

Ascertainment of the cost to be provided for, and apportioning the same among the several parcels of land benefited by the improvement, constitute the "assessments" herein referred to. *Greines*

v. Swartz, 149 N. W. 598.

A vendor is liable to the purchaser for the amount of such "assessments" under a contract providing for payment of the lien of assessments. *Ibid.*

SEC. 1989-a46. Defects in proceedings.

Section applied. Substantial compliance with the law is all sufficient. *Goepfinger v. Board*, 152 N. W. 58.

Appeal is the exclusive remedy for the review of all errors and irregularities. *Ibid.*

SEC. 1989-a49. Pumping stations—petition.

Where a petition for the establishment of a drainage district and pumping station was filed prior to the passage of Ch. 87, 34 G. A., and proceedings had been taken before the board of supervisors thereon, section 8 of said Ch. 87 excepted such proceedings from the requirements of the amendment. *Mittman v. Farmer*, 162-364.

this section, requesting the establishment of a drainage district and pumping station, need not contain one-third of the land owners to be benefited thereby as was required by an amendment to this section made some time after the petition had been filed and proceedings had been taken before the board of supervisors. *Ibid.*

A petition filed under the provisions of

SEC. 1989-a52. Pumping stations.

This being an amendment to Ch. 2, Title 10, of the Code, it was unnecessary

to procure fifty per cent of the land owners to be benefited by a drainage district

to authorize establishing a pumping station in connection therewith, as the proceedings were commenced under Sec. 1989-a1 of the Code Supplement, 1907, and fol-

lowing sections, which is a procedure independent and additional to Ch. 2, Title 10, of the Code. *Mittman v. Farmer*, 162-364.

SEC. 1989-a52a. Pumping stations and levees—petition for management by trustees. That section nineteen hundred eighty-nine-a fifty-two a, supplement to the code, 1913, be and the same is hereby repealed, and the following enacted as a substitute therefor:

“That in all drainage or levee districts having and operating a pumping station or maintaining a levee, or both heretofore established or which may be hereafter established under the laws of the state of Iowa, after the completion of the construction work of such district, any three or more persons who own land within the district which has been assessed for benefits may file in the office of the county auditor a petition signed by a majority of the persons owning land within the district which has been assessed for benefits, asking that said district be placed under the control and management of three trustees, residents of the county or counties in which the said district is located and land owners in said district, to be elected by the persons owning land in said district that has been assessed for benefits.” [36 G. A. (H. F. 152, § 1.)] [35 G. A., ch. 158, § 1.]

SEC. 1989-a52d. Term of office—vacancy. The trustees shall hold office for a period of two years and until their successors are elected and qualify. Should there be a vacancy in the board of trustees by death, removal or resignation, the remaining members of the board shall have power to fill the vacancy, by appointment, for the unexpired portion of the term. [36 G. A. (H. F. 484, § 2.)] [35 G. A., ch. 158, § 4.]

SEC. 1989-a52f. Powers and duties of trustees—costs and expenses. The said trustees shall qualify in the same manner as township trustees, and upon their election and qualification they shall have control and supervision of said district in the same manner and with the same powers as are conferred upon the board of supervisors for the control and supervision of drainage districts by sections nineteen hundred eighty-nine-a twenty-one, nineteen hundred eighty-nine-a forty-nine and nineteen hundred eighty-nine-a fifty-two of the supplement to the code, 1907, and all costs and expenses necessary to carry out the powers and duties hereby conferred upon said trustees shall be levied and collected upon the land in said district in the same manner as the same are now levied and collected, upon certificate by the trustees to the board of supervisors, of the amount necessary therefor. The said fund when so levied and collected shall be held by the county treasurer of the county in which the same is collected, subject to the order of the trustees of said district, and shall be expended only upon their order upon warrants drawn by the county auditor upon certificates approved by the said board of trustees, signed by the president of the board; and the said trustees shall have power, if in their judgment it is necessary, to employ a clerk for said district and to fix his compensation. The members of the board of trustees shall receive as compensation for their services three dollars, per day, each, for time actually spent in looking after the affairs of the district, and their necessary traveling expenses. [36 G. A. (H. F. 484, § 1.)] [35 G. A., ch. 158, § 6.]

SEC. 1989-a53. Owners may drain.

It is not necessary, to constitute a “natural water course”, that the flow of water through it shall be sufficient to wear out a channel with defined sides and banks, but is sufficient if the surface water uni-

formly flows off over a given course having reasonable limitations. *Miller v. Hester*, 149 N. W. 93.

This section is not limited by Chapter 117, 33 G. A., now known as sections 1955

and 1956 of the supplement of 1913. *Ibid.*

This section does not authorize a landowner to divert water collected in ponds on his land away from its natural flow by cutting through a natural barrier and discharging the water on or close to lower

land of his neighbor. *Kaufmann v. Lenker*, 146 N. W. 823.

This section vindicates the right to tile into a regular water course. *Pascal v. Donahue*, 152 N. W. 605.

SEC. 1989-a61. Drainage district under trustees—procedure. That in all drainage or levee districts heretofore established or which may be hereafter established and not containing a pumping station and costing for establishment and construction one hundred thousand dollars or more and less than twenty-five per cent of which has been spent for tile construction, any three or more persons who own land within the district which has been assessed for benefits, may, after the completion of the construction work of such district file in the office of the county auditor or county auditors if the district is in more than one county a petition signed by a majority of the persons owning land within the district assessed for benefits and who in the aggregate own a majority of the number of acres of land assessed for benefits asking that such district be placed under the management and control of three trustees, who are owners of land assessed for benefits in the district and residents of the county or counties in which the district is situated to be elected by the persons owning land assessed for benefits in such district, such trustees shall be agents for the property owners for the management of the business of the district but shall not be considered public officers. [36 G. A. (H. F. 600, § 1.)]

SEC. 1989-a62. Inter-county district—petition where filed. If the district is located in more than one county, the petition shall be presented to the boards of supervisors of the several counties in which the district is located. [36 G. A. (H. F. 600, § 2.)]

SEC. 1989-a63. Canvass of petition—election ordered—election board—election of trustees. Upon the filing of said petition, the board of supervisors shall, at their next regular meeting, canvass the same and if it shall be determined that the same is signed by a majority of all the persons owning land in said district that has been assessed for benefits, and owning, in the aggregate, a majority of the acres of land assessed for benefits in such district, the board of supervisors shall order an election to be held at some convenient place in the district, at some time not less than thirty days nor more than sixty days from the date of the canvass of said petition, for the election of said trustees, and shall name from the residents of the district owning land assessed for benefits three judges and two clerks of election and shall cause notice of said election, together with the time and place of holding same, to be published in the county in which the district is situated, in which the official proceedings of the board of supervisors are published and if any district is located in more than one county, it shall be published in one such newspaper in each county. If the district is located in more than one county, the boards of the several counties shall meet in joint session as soon as possible after the petition is filed and canvass same in the same manner and for the same purpose as would be done by one board if in one county, and if the petition is found to contain the names of a majority of the owners owning a majority of the area of the district, the joint boards shall call an election and perform all the same duties that would be discharged by one board if the district was located wholly within one county. [36 G. A. (H. F. 600, § 3.)]

SEC. 1989-a64. Canvass of vote—certification of result—certificates of election. On the date designated for said election, the polls

shall open at eight o'clock A. M. and remain open until seven o'clock P. M. and the judges of election shall canvass the vote and certify the result to the county auditor or auditors with whom the petition was originally filed and deposit the ballots cast and the poll books showing the names of the voters, with the county auditor of that county having the greatest part of the acreage of such district and such county auditor shall issue certificates to the trustees of their election. [36 G. A. (H. F. 600, § 4.)]

SEC. 1989-a65. Tenure of office. The trustees so elected, shall hold office until the fourth Saturday in January next succeeding their election and until their successors are elected and qualified and on the third Saturday in the January next succeeding their original election, an election shall be held at which three trustees shall be chosen, one for one year, one for two years, and one for three years, and each shall qualify and enter upon the duties of his office on the fourth Saturday of the same January. [36 G. A. (H. F. 600, § 5.)]

SEC. 1989-a66. Tenure of office. The term of the trustee shall be three years and each shall serve until his successor is elected and qualified. [36 G. A. (H. F. 600, § 6.)]

SEC. 1989-a67. Time of elections. On the third Saturday in January in each year, an election shall be held to choose a successor to the trustee whose term is about to expire, and fill any vacancies that may have occurred since the last election. [36 G. A. (H. F. 600, § 7.)]

SEC. 1989-a68. Vacancies. If any vacancy occurs in the membership of the board between the annual elections, the remaining members of the board shall have power to fill such vacancies by appointment of persons having the same qualifications as themselves, and the persons so appointed shall qualify in the same manner and hold office until the next annual election and until their successors are elected and qualified, and in the event all places on the board become vacant, then a new board shall be appointed by the county auditor of the county in which the greater portion of the acreage of the district is located and the persons appointed by him shall hold office until the next annual election and until their successors are elected and qualified. [36 G. A. (H. F. 600, § 8.)]

SEC. 1989-a69. Elections—how conducted. The trustees shall act as judges of election; the clerk of the board shall act as one of the clerks and some taxpayer of the district shall be selected by the board to act as another clerk. The trustees shall fill all vacancies in the election board. The result of all elections shall be certified to the county auditor or the several county auditors if the district is located in more than one county. [36 G. A. (H. F. 600, § 9.)]

SEC. 1989-a70. Organization—selection of clerk. As soon as the trustees have qualified, they shall organize by electing one of their own number as chairman and may select some other taxpayer of the district as clerk of the board and the clerk shall serve until the fourth Monday in January succeeding his election and qualification unless sooner discharged by the board. [36 G. A. (H. F. 600, § 10.)]

SEC. 1989-a71. Trustees—bond—duties—powers—readjustment of assessment—expenses. The trustees shall qualify by giving a bond in the sum of five thousand dollars each, conditioned for the faithful discharge of their duties, signed by two or more sureties to be approved by the county auditor of the county in which the greater portion of the area of the district is located but this bond shall be subject to be increased by order of the board or boards of supervisors under whose supervision the

change to the trustee system was made. Upon the election and qualification of the trustees, they shall have control and supervision of such district in the same manner and with all the same powers that are conferred on the board or boards of supervisors for the control and supervision of drainage and levee districts under the drainage and levee laws of Iowa and shall promptly and faithfully look after all business of the district. If a re-classification and readjustment of the assessment of property should ever be made, it shall be done under the board or boards of supervisors in the same manner as the original assessment. All costs and expenses incurred in making the change to the trustee system and all costs and expenses necessary to carry out the powers and duties hereby conferred upon said trustees shall, upon certificate of the trustees to the board or boards of supervisors of the amount of the same necessary therefor be levied and collected upon the land in said district in the same manner as taxes are levied and collected upon such lands for drainage purposes. [36 G. A. (H. F. 600, § 11.)]

SEC. 1989-a72. Trustees to report proceedings to auditor. Such trustees shall, from time to time, and with reasonable promptness, furnish the auditor of each county in which any part of said district is situated, with a correct record of their acts and proceedings, which statement must be signed by the chairman and the clerk of the board and shall be recorded by the auditor in the drainage record, and same shall be published as a part of the proceedings of the board of supervisors. [36 G. A. (H. F. 600, § 12.)]

SEC. 1989-a73. Voting by agent—votes cast in proportion to assessment. In all elections held under this act, the owner of each tract of land, if he or she is over twenty-one years of age, shall, without regard to sex, and any railroad or corporation owning property in such district and assessed for benefits shall, be entitled to at least one vote and anyone whose land is assessed for benefits in a sum exceeding ten dollars shall be entitled to one vote for each ten dollars of the original assessment for benefits against the land actually owned by him in such district at the time of the election and which has been assessed for benefits in such district, but in order to have his ballot counted for more than one vote he shall write his name upon his ballot. The vote of any resident of a county in which the district is located in whole or in part must be cast in person. The vote of any owner of land including railroads and corporations assessed within the district who is not a resident of a county in which the district is located in whole or in part may have his or its vote cast by some resident taxpayer of the district or agent of such railroad or corporation who is authorized by a power of attorney signed and acknowledged by such non-resident land owner or duly authorized officer of such railroad or corporation to cast the vote for him, but the power of attorney in such case shall be filed with the county auditor. [36 G. A. (H. F. 600, § 13.)]

SEC. 1989-a74. Compensation. The compensation of the trustees and the clerk of the board is hereby fixed at three dollars per day and necessary expenses to be paid out of the funds of the drainage district for each day necessarily expended in the transaction of the business of the district, but no one shall draw compensation for services as trustee and as clerk at the same time. [36 G. A. (H. F. 600, § 14.)]

SEC. 1989-a75. Certified copies of assessment to determine voting power. Before any election is held, the election board shall obtain from the county auditor or auditors a certified copy of so much of the record of the establishment of such drainage district and the assessment of lands

therein as will show what lands are embraced within such district, the classification of each tract and the amount of assessment levied against each tract for benefits in such district and the name of the person against whom same was so assessed for benefits and such certified record shall be kept by such trustees for use in subsequent elections and they shall, from time to time, procure from the county auditors additional certificates showing changes of title of lands assessed for benefits in the district and the name of the new owner, and anyone who has acquired ownership of assessed lands since the latest certificate from the auditor shall be entitled to vote for such lands if he presents to the election board for its inspection at the time he demands the right to vote the original recorded deed or a duly certified copy of the record of the deed under which he holds title. [36 G. A. (H. F. 600, § 15.)]

SEC. 1989-a76. Conflicting acts repealed. All acts or parts of acts in conflict with this act are hereby repealed. [36 G. A. (H. F. 600, § 16.)]

NOTE: The "act" referred to in last above section comprises sections 1989-a61 to 1989-a76 inclusive. REPORTER.

SEC. 1989-a77. Interstate drainage—co-operation with authorities of sister state—procedure. Whenever proceedings for the drainage of lands within this state and bordering upon the state line are had and the total cost, including all damage, of constructing the improvement in this state has been ascertained by the authorities of this state, and the engineer in charge, before the final establishment of the district, reports that the establishment and construction of such improvements ought to be jointly constructed with like proceedings for the drainage of adjoining lands in an adjoining state and that drainage proceedings are pending in such adjoining state for the drainage of such adjoining lands, then and in that case the said authorities of this state may enter an order continuing the hearing on the establishment of such district to the named date, of which all parties shall take notice, but shall have power, whenever the total cost, including damages, of constructing the improvement in such other state has been ascertained by the authorities of such other state, to enter into an arrangement or tentative agreement as to the separate amounts which the authorities of each state should in equity pay toward the construction of the joint undertaking. When such amount is thus determined, the authorities of this state shall enter the same in the minutes of their proceedings and shall proceed therewith as though such amount had been originally determined by them as the cost of constructing the improvement in this state.

When the bids for construction are opened, unless the construction work on each side of the line can go forward independently and without undue friction when let to contractors, no contract shall be let by the authorities in this state, unless by joint conference of the authorities of both states, the acceptance of a bid or bids for the construction of the whole project is first jointly agreed upon, but the contract or contracts for the construction of that portion of the improvement within this state shall be entirely distinct and separate from the contract or contracts let by the authorities of the neighboring state; provided that the contract or contracts for the construction of the work within this state shall not exceed an amount equal to the amount of the benefits assessed in this state less the damages allowed in this state and less the incidental expenses in this state. [36 G. A. (H. F. 576, § 1.)]

SEC. 1989-a78. Conditions precedent to letting contract or issuing bonds. No contract shall be let until the improvement shall be condi-

tionally and finally established in both states, and after final adjustment in both states of damages and benefits both as between individuals and lands. No bonds shall be issued until all litigation in both states arising out of said proceedings, has been finally terminated by actual trial and hearing, or by the expiration of all right of appeal. [36 G. A. (H. F. 576, § 2.)]

SEC. 1989-a79. Repairs and improvements. In so far as applicable, this act shall also apply to the repair and improvement of any work of drainage constructed under its provisions. [36 G. A. (H. F. 576, § 3.)]

CHAPTER 2-B.

OF THE DRAINAGE OF PUBLIC HIGHWAYS.

SECTION 1989-b. Drainage of highways—survey and report. That whenever in the opinion of the board of supervisors it is necessary to drain any part of any public highway under its jurisdiction and the land abutting upon or adjacent thereto in order that said highway may be preserved and improved, and made more convenient, it may direct the county engineer to make a survey and report on any part of said highway. In directing the engineer to make such survey the board shall specify in a general way what highway or part thereof they desire surveyed for the purpose of draining the same. [36 G. A. (H. F. 217, § 1.)]

SEC. 1989-b1. Survey—what it may include—names of landowners—plans. Upon receiving such direction the county engineer shall make a survey and report. He shall not be confined to the exact locality included in the direction of the board of supervisors. His survey and report may include any portion of the county road system or any portion of the township road system, or may include a portion of each of said systems. He shall include in his report a specific designation of such drainage district as in his opinion is necessary to be established in order to better preserve and improve said highway and to render the same of greater use and convenience. The report shall be made at the earliest reasonable time, and if his report recommends the establishment of a drainage district, it shall also include the names of the owners of all land situated within said district, as shown by the transfer books in the office of the county auditor. Said report shall also include the plans and specifications for doing the work recommended and the estimated cost thereof. [36 G. A. (H. F. 217, § 2.)]

SEC. 1989-b2. Notice—objections—damages—waiver. Upon the filing of said report, plans and specifications, the board of supervisors shall, if they deem it advisable to further proceed in said matter, cause notice to be given as hereinafter provided of their intention to establish such highway drainage district and of the report of the highway engineer thereon, and that they will at a specified time and place, hold a hearing for the purpose of determining the amount of damages which shall be allowed by reason of the construction of such highway drainage improvement and the advisability of establishing such drainage district, and that all objections to the establishment of such district and all claims for damages occasioned by the construction of such improvements, must be filed with the county auditor not less than five days before said hearing or the same will be waived. [36 G. A. (H. F. 217, § 3.)]

SEC. 1989-b3. Notice—how given. The notice herein provided for shall be given by publishing said notice once each week for two consecutive weeks in one or more of the official papers of the county, the last of said publications to be not less than ten days prior to said hearing. [36 G. A. (H. F. 217, § 4.)]

SEC. 1989-b4. Determinations by board—adjournment—establishing district. Should the board on the date fixed for such hearing be unable for any reason to hold such hearing, they may adjourn the same to a specified later date and place, of which all parties shall take notice. On such hearing the board shall first determine whether the establishment of such highway drainage district will be conducive to the public convenience and to the preservation and improvement of said highway, and if they so determine they shall make such determination of record and shall thereupon proceed to a determination of the amount of damages to be allowed by reason of the construction of such highway drainage improvement. If in the opinion of said board, the damages so allowed are not excessive, they may establish such district. [36 G. A. (H. F. 217, § 5.)]

SEC. 1989-b5. Commission—apportionment of cost—county, township and district to share costs—costs how paid. If said district is established, the board of supervisors shall appoint the highway engineer and two other resident freeholders of the county not residing within said drainage district as a commission to determine the proportion of the cost of such improvement to be paid on account of the public highway and to assess upon the lands within such district that portion of the cost of said improvement to be paid by special assessment. Said commission shall, within ten days after being appointed, begin the examination of the lands and public highways within said district, and as soon as possible shall make a report to the board of supervisors; first, as to the amount, if any, which should be paid by the county on account of the county road system; second, the amount, if any, which should be paid by the township or townships on account of the township road system, and third, the amount, if any, which each forty acre tract or less within said district shall pay. In making such apportionment the commissioners shall follow the method as nearly as possible now provided for by law in assessing benefits for the construction of levees, ditches, drains and water courses under chapter two-A, supplement to the code, 1913. The amount fixed by said commission to be paid upon the county road system shall be payable out of the county road funds and the amount fixed by said commission to be paid upon the township road system shall be payable out of the township drainage fund. All assessments made hereunder may be paid on the installment plan as provided by section nineteen hundred eighty-nine-a twenty-six, supplement to the code, 1913. [36 G. A. (H. F. 217, § 6.)]

SEC. 1989-b6. Report—hearing—levy—duty of auditor—collection. When the report of said commission is filed, as provided, the board of supervisors shall proceed to fix a time for hearing thereon, and shall cause notice to be served upon each person whose name appears as owner and also upon the person or persons in actual occupancy of any such land in the time and manner provided for the establishment of a highway drainage district. Such hearing may be adjourned from time to time, of which all parties should take notice. At such hearing the board shall have the power to confirm such assessments or to modify the same, as in their judgment may seem just and equitable, and upon the final determination of the respective amounts shall levy and assess the amount to be paid on account of the county road system to the county; that part to be paid on

account of the township road system to the township or townships and the remainder upon the lands within said districts, and the county auditor shall place said levy and assessment so made against the lands within said district upon the first succeeding tax books, and the same shall be collected at the same time and in the same manner as assessments are payable and collected under chapter two-A of title ten of the supplement to the code, 1913. [36 G. A. (H. F. 217, § 7.)]

SEC. 1989-b7. Special assessments to be advanced. The board of construction on such improvement, shall advance out of the county road fund that portion to be collected by special assessment, the amount so advanced to be replaced in said county funds as the special assessments are collected. [36 G. A. (H. F. 217, § 8.)]

SEC. 1989-b8. Appeals—how taken—how tried—abandonment of plan. Any person aggrieved by the decision of the board of supervisors in establishing said highway drainage district or in the fixing of amount of damages allowed to anyone by reason of the taking of land for the construction of said improvement, or in the amount assessed on said lands, shall have the right to appeal to the district court in the same manner in which appeals are now taken under chapter two-A, title ten of the supplement to the code, 1913. All appeals shall be tried at the first succeeding term of court in said county after the taking of said appeal, provided either party demands such trial, unless for sufficient cause the cause is continued by the court. The appeal to the district court from the establishment of said drainage district or from the order fixing the assessments, shall be tried in equity. An appeal from any award of damages shall be tried at law. Should the amount of damages for the taking of land aforesaid as determined in the district court, be adjudged by the board of supervisors to be excessive, they shall proceed no farther in carrying out said improvement. [36 G. A. (H. F. 217, § 9.)]

SEC. 1989-b9. Townships not within district may contribute. The township trustees of any township, whether any portion of the lands of said township are within said drainage district or not, shall have the right to contribute to such improvement such sum out of the township road funds as may appear to them to be equitable. [36 G. A. (H. F. 217, § 10.)]

SEC. 1989-b10. Costs in case of abandonment. After the coming in of said engineer's report, if said proceedings are dismissed or said improvement be abandoned, any costs of such proceeding up to the time of dismissal or abandonment, shall be paid out of the county road fund. [36 G. A. (H. F. 217, § 11.)]

SEC. 1989-b11. Engineering costs not included. Improvements herein contemplated shall be constructed by the board of supervisors under the supervision and expert knowledge of the county engineer, and no charge for the services of the county engineer shall be included in the cost of such improvement. [36 G. A. (H. F. 217, § 12.)]

SEC. 1989-b12. Deficit—how paid. Should the cost of constructing the improvement herein provided for be in excess of the total amount received from the board of supervisors and from the township trustees and the amount realized from special assessments, the board of supervisors shall make a new assessment to cover the unpaid balance of the said cost, using as a basis for such re-assessment the same percentages as were used by the commission in making the first assessment and shall make an additional levy on the lands within said district in accordance with such re-

assessment, and the additional amount thus charged against the county road system or the township road system shall be paid out of the same funds as was the original assessment. [36 G. A. (H. F. 217, § 13.)]

SEC. 1989-b13. Maintenance. The improvement, when completed, shall remain under the jurisdiction of the board whose duty it shall be to keep the same in repair and for such purpose shall make additional appropriations from the county road funds and additional levies in the same proportion as originally determined. [36 G. A. (H. F. 217, § 14.)]

CHAPTER 4.

OF TAKING PRIVATE PROPERTY FOR WORKS OF INTERNAL IMPROVEMENT.

SECTION 2009. Appeals—change of venue.

The provisions of this section provide not make him a party to the action. *Buck-*
ing for service of notice on the sheriff do *miller v. Creston Ry. Co.*, 146 N. W. 447.

SEC. 2017. Raising or lowering highways for crossings—railroad commission shall adjust disagreements. That section two thousand and seventeen of the code is hereby repealed and the following is enacted in lieu thereof:

“Any such corporation may raise or lower any turnpike, plank road, or other road, for the purpose of having its railroad cross over or under the same, and, in such cases, such corporation shall put such road, as soon as may be, in as good repair and condition as before such alteration. Whenever a railroad now crosses an established highway or when a new railroad crosses an established highway, or when it is desired to locate a new highway across an established railroad, or when it is desired by any citizen of or the board of supervisors of any county or by the township trustees of any township, or by any railroad company operating a railroad in this state, for the safety of the public using such highway, to change, alter, relocate, or vacate an established highway, where same crosses a railroad, and the railroad company and the board of supervisors of the county or township trustees of any township in which such highway crossing is located cannot agree in respect thereto, the board of railroad commissioners of this state, upon application of either the board of supervisors or township trustees of any township or of twenty-five freeholders of said county, or the railroad company interested, are authorized and empowered, after hearing upon reasonable notice, to determine the necessity for such crossings, location thereof, whether the same shall be at grade or otherwise, the manner in which the same shall be constructed, maintained, or changed, division of expense thereof, and generally to make such orders in respect thereto as are equitable and just, including the right to require condemnation proceedings to be instituted by the board of supervisors as may be necessary to carry out such order; providing, however, that any portion of such expense that is borne by any city, town, county, state, or other public body, shall forever be considered as held in trust by said railroad company receiving same, and no part of the same shall be considered a part of the value of the properties of said railroad company upon which it is entitled to receive a return.” [36 G. A. (S. F. 291, § 1.)] [35 G. A., ch. 162, § 1.] [19 G. A., ch. 122.] [15 G. A., ch. 47.] [C. '73, § 1262.] [R. § 1321.]

SEC. 2020. Crossing railways, canals and watercourses.

This section gives a railroad company without requiring payment of compensation. *Chicago, M. & St. P. Ry. Co. v. Old Colony Co.*, 216 Fed. 577.

SEC. 2028. Ways to lands which have none.

A coal mining company having access to its mining lands in part by public way and in part by private way cannot, under this section, condemn a right of way for a railway to its said lands. *Fisher v. Maple Block Coal Co.*, 151 N. W. 823.

CHAPTER 4-A.**OF INTERURBAN RAILWAYS.****SECTION 2033-b. What statutes apply.**

Interurban cars, when approaching highway crossings, must give the statutory signals. *Landis v. Interurban Ry. Co.*, 147 N. W. 318.

Cities may grant to interurban railways the right to lay their tracks and use the city streets as a street railway without

compensation to abutting owners, but cities cannot grant to them the right to use city streets for the ordinary commercial freight business without compensation to the abutting property owners. *Anhalf v. Waterloo Railway Company*, 147 N. W. 928.

SEC. 2033-g. Interurban railways entitled to use other tracks—relocation—compensation. Whenever any corporation has heretofore, or hereafter shall be authorized by any city of this state having not less than thirty thousand nor more than thirty-five thousand inhabitants according to the federal census of A. D. 1910, to construct and operate an interurban railway upon any of the streets of such city and shall desire to extend, construct and operate its said interurban railway upon other streets of said city upon which railroad track or tracks are located and shall be authorized by the city council of said city by resolution so to do and such streets are so occupied by railroad tracks that it is not practicable to construct and operate said interurban railway thereon, the owners, lessees and operators of said railroad tracks are authorized and required, if practicable, to relocate such of their tracks on said streets as are necessary to permit of the construction and operation of said interurban railway, and if it is not practicable to relocate said railroad tracks, then the owners, lessees and operators are authorized and required to permit said interurban railway to use such of their said tracks as are necessary for the operation and carrying on of the business of said interurban railway, and to permit to be made such alterations in, attachments to and connections with said railroad tracks and to be installed and maintained such trolley system or other construction or equipment as will permit the use in common of said railroad tracks by said interurban railway for railway purposes and by the owners, lessees or other operators thereof for ordinary steam railway purposes.

Where it is practicable to relocate said railroad tracks, and it is also practicable to operate said interurban railway over said tracks without relocating the same, the owners, lessees and operators of such railroad tracks, may elect to grant the use thereof to said interurban railway and permit to be made such alterations in, attachments to and connections with the same and to the installation and maintenance of such trolley system or other construction or equipment as will permit the use in common of said railroad tracks by said interurban railway and the said owners, lessees and operators thereof, and signify such election in writing, filed in the proceeding before the commencement of the hearing of said proceeding on appeal in the district court as hereinafter provided, then said tracks may be so used in place of being relocated.

The owner of said interurban railway shall pay just compensation to the owners, lessees or operators of any railroad tracks for the relocation or use and alteration of said railroad tracks and for the exercise of such other privileges as are granted such interurban railway under the provisions of this act. [36 G. A. (H. F. 327, § 1.)]

SEC. 2033-h. Railroad commission—disputes—hearing—procedure—modification of orders. If an agreement cannot be made between the said owner of said interurban railway and the owners, lessees and operators of such railroad tracks for the relocation or use of such railroad tracks or as to the alterations, attachments and connections that shall be made therein or thereto or as to the manner of the installation and maintenance of the trolley system or other construction or equipment such as will permit such common use of such tracks, or the terms and conditions of or the compensation to be paid for such relocation or use and the alterations or attachments to said railroad tracks and the exercise of such other privileges as are granted to such interurban railway under the provisions of this act, then all said matters shall be heard and determined by the board of railroad commissioners of the state of Iowa upon petition to said board by the owner of said interurban railway or other party to the controversy.

Upon filing of said petition said board shall fix a time for the hearing thereof, and twenty days notice of the filing of said petition and of the time fixed for the hearing thereof shall be given by the petitioner to the opposite parties. Said notice shall be served in the manner provided by law for the service of notices of the commencement of a civil action in the district court.

The commission shall have the power and upon the demand of any party appearing in said proceeding shall appoint a shorthand reporter who shall take the evidence offered or introduced upon the hearing, and the commission shall have power to require any party to said hearing to produce books, records, papers or other documents material to said inquiry, and shall have the power to subpoena and require the attendance of witnesses.

All orders of the commission or revisions or modifications of said orders shall be subject to revision or modification by the commission upon application of any party to the original proceeding, made in the same manner and under the same procedure as is provided for applications for original orders, provided that there shall be no revisions or modification of any order for the relocation of railroad tracks or of compensation, if the total compensation was fixed at one definite sum; provided further, that in the event of additional cost of construction or additional cost of maintenance occasioned by viaducts, track elevation or depression, crossing gates or other safety appliances or the installation of more expensive types of track construction, the compensation shall be subject to revision and modification in the manner and by the method as in this act provided. [36 G. A. (H. F. 327, § 2.)]

SEC. 2033-i. Appeal—how taken—service—record certified—consolidation of appeals—trial. Any party to said proceeding may appeal to the district court of the county where said city is located from any order made by the board of railroad commissioners under this act within twenty days from the date of the order appealed from.

Such appeal shall be taken and perfected by the party appealing by serving a notice in writing upon the other parties to said proceeding, specifying the order or part thereof appealed from and by filing in the office of the clerk of the district court of the county to which said appeal is taken, a petition stating the general nature of the proceeding before said

board of railroad commissioners and of the order or part thereof appealed from and that an appeal has been taken and asking the court to determine the matter in controversy.

Such notice of appeal shall be served and proof of service thereof made in the same manner as an original notice in a civil action, and shall be filed with the secretary of the board of railroad commissioners. Service of such notice of appeal may be made upon any attorney appearing for any party in the proceedings before the board of railroad commissioners with the same force and effect as if served upon such party.

Such petition filed in the office of the clerk of the district court to which an appeal is taken shall be entitled in the name of the interurban railway company as plaintiff and the other parties to the appeal as defendants.

Immediately after twenty days from the date of any order appealed from said board of railroad commissioners shall certify to the clerk of the district court to which an appeal or appeals have been taken, a transcript of the papers and proceedings before said board and its order thereon and all notices of appeal therefrom with proofs of service thereof.

All appeals growing out of a single order of said board of railroad commissioners shall be consolidated and tried together, provided that if the owners, lessees and operators of said railroad tracks have filed their election to permit the use of said tracks by said interurban railway after an appeal has been taken by any party to the proceedings as herein provided, each and all of the matters and things heard and determined by the board of railroad commissioners shall, subject to such election, be heard and determined by the district court the same as if each of the parties to said proceeding had appealed from the entire order of said board.

The proceedings upon appeal shall be in equity and subject to all of the rules of equity practice, except that the court shall require the issues to be made up at the first term after the petition is filed and give the proceedings precedence over other civil business and try the same thereat, if possible. The action shall be triable de novo upon said appeal; provided, however that the question of the amount of compensation for the relocation or use of any tracks and for the other privileges granted shall be tried in the same manner and with the same effect as trials upon appeal from assessments for the taking of private property for works of internal improvement, as provided in chapter four of title ten of the code and acts amendatory thereto.

Upon trial to determine the amount of compensation, the court shall first determine the basis, whether as rental or otherwise, upon which compensation shall be paid, and the terms and conditions of such payment, and all questions of the amount of compensation shall upon such appeal be tried before the same jury, who shall return a separate verdict fixing the amount of compensation to which each party to the proceedings is entitled, and in the event of appeal to the supreme court, the proceedings tried before a jury shall be heard and determined the same as in a law action. [36 G. A. (H. F. 327, § 3.)]

SEC. 2033-j. Order not suspended by appeal—bond. The appeal shall not suspend any order appealed from, if the interurban railway company in whose behalf any order is made by the board of railroad commissioners shall file in the office of the clerk of the district court of the county to which such appeal is taken, a bond in such amount and upon such conditions as the district court to which such appeal is taken, or a judge thereof, may, upon application of said interurban railway, require. [36 G. A. (H. F. 327, § 4.)]

SEC. 2033-k. Commission to inspect appliances—specifications for construction—commission to establish rules—enforcement of orders. The railway commission is hereby authorized, directed and empowered to inspect any and all wires and appliances authorized by this act and to condemn and order removed, or placed in safe condition, all wires and appliances erected or maintained in violation of the terms and conditions hereof.

No wire or cable used to conduct electricity for light and power shall be erected or maintained on any pole or appliance attached to such pole, within a less distance than thirteen inches from the center line of such pole; nor shall any wire or cable be erected or maintained in the vicinity of any pole, and unattached thereto, within the distance of thirteen inches from the center line of such pole.

Nor shall any wire or cable carrying less than six hundred volts of electricity be erected or maintained within a distance of forty inches from any wire or cable which carries at any time more than six hundred volts of electricity.

Nor shall any wire or cable which carries at any time more than six hundred volts of electricity, be erected or maintained within a distance of forty inches from any wire or cable carrying less than six hundred volts of electricity.

Nor shall any wire be erected or maintained running parallel, crossing or attached to same pole at a less distance than seven feet from any wire carrying thirteen thousand volts or more.

No wire or cable carrying more than thirteen thousand volts of electricity shall be erected or maintained across or above any wire or cable carrying less than thirteen thousand volts, at point of crossing without at all times maintaining approved methods of construction to prevent falling and coming in contact with wires of lesser voltage.

No guy wire or guy cable attached to any pole or appliance to which is attached any wire or cable used to conduct electricity for light and power shall be erected or maintained without causing such guy wire or guy cable to be kept effectively insulated by approved insulators placed in such wire or cable not less than nine feet, nor more than eleven feet, from each end thereof, provided, however, that the lower insulator shall not be less than eight feet, perpendicularly from the ground.

No wire or cable shall be erected or maintained vertically on any wooden pole, without causing such wire or cable to be at all times encased in a casing of wooden material not less than three-quarters of an inch in thickness, or of other insulating material approved by the railway commission; provided, however, that the provisions of this section shall not apply to any vertical wire which is more than thirteen inches from center line of pole.

Trolley span wires shall be insulated by not less than two approved insulators between such trolley wire and the pole or other support, such insulators shall be placed not less than two or more than four feet from point of attachment to wire or pole.

No pole or other structure used for the support of wires shall be erected or maintained at a less distance than six feet from the nearest rail of any steam, electric or other railway track over which freight cars may be operated.

All poles must be distinctly and permanently marked with owners name, at a point not less than five nor more than seven feet above the ground. All wooden poles of any lead must be as nearly as practicable

uniformly spaced, or uniform height, and not less than forty poles to the mile.

Wires or cables carrying electric current for light and power must not be erected or maintained on any bracket or knob attached directly to any pole or cross arm.

No trolley wire authorized by this act shall be erected or maintained at a less distance than twenty-two feet above any track.

All devices and materials, insulators, and other methods of insulation of wires shall conform to specifications approved by the railway commission. No wire shall be stretched within four feet of any building without being attached to and insulated therefrom. No wires shall hang within a less distance than twenty-two feet of the ground at the lowest point of sag. In case of leads crossing each other, each lead must pass above or below the other, and under no circumstances shall any wire of one lead run through the other lead.

Primary or high potential wire must be provided with approved line cut-outs on all branches, and at all transformers; and mains shall be divided into sections by approved cut-outs located as directed by the railway commission. All wires and cut-outs on same cross arm must be at least fourteen inches apart, except pole wires which must be twenty-six inches apart.

In any case where it is found impracticable to comply with the foregoing requirements or when to the satisfaction of the railroad commission it is found that in the advancement of the art or trade, improved methods, appliances, fixtures and requirements will the better conserve persons and property, including the operation of such property, the railroad commission is hereby empowered, upon application made in writing, to allow such reasonable deviation therefrom as may be deemed reasonably safe and necessary.

It shall be unlawful for any person, firm, association or corporation including a municipal corporation to place, construct, keep or maintain any fixture, appliance or other thing contrary to the terms and provisions of this act, and the railroad commission is hereby empowered to enforce the provisions of this act with reference to such matter.

The railway commission is hereby authorized and empowered to make such other rules and regulations and fix standards of and for appliances and fixtures as may be deemed reasonably necessary from time to time for the purpose of protecting persons and property; and such order made by the commission shall be deemed reasonable and necessary and the burden of proof shall rest upon any complainant to prove the contrary.

The railway commission shall give reasonable notice of any order or requirement within the contemplation of this act, and cause the same to be enforced by an action in equity.

The terms, conditions and provisions of section five, of this act shall only apply to such interurban railway construction and conditions contemplated by section one of this act. [36 G. A. (H. F. 327, § 5.)]

SEC. 2033-1. Interurban railways—access to water supply—condemnation—compensation—approval by railway commission a condition precedent. Any interurban railway corporation owning or operating or constructing an interurban railway, operated in whole or in part by electric power, shall have the power to acquire by condemnation the right of access to all necessary streams or other sources for the purpose of supplying its power house with water, and of making the necessary changes and improvements, and to repair or renew the same from time to time, in such streams, or upon the lands from which it is to obtain

said water supply, in the same manner as is provided by law for the taking of private property for works of internal improvement. The owners of the lands affected shall be compensated in the award for all damages resulting to their lands on account of the exercise by such interurban railway of any of its rights hereunder, including damages due to change of flow in, or the straightening of a stream. The owner of the land affected shall not be deprived of access to the water nor the use thereof in common with such interurban railway on his own land, and the dwelling house, outhouse, orchard, and garden of any such person shall not be overflowed or otherwise injuriously affected by any proceedings under this section. Before any proceedings shall be instituted therefor, such interurban railway shall make written application, accompanied by proper drawings and specifications showing the improvements and proposed changes in detail, to the railway commissioners, who shall give notice to the owners of lands to be affected, and examine into the matter, and report by certificate to the clerk of the district court in the county in which the land affected is situated. If said railroad commissioners find that the rights of the public are in any way affected by such changes or improvements, they shall give such notice as in their judgment will properly advise the public of said proposed change, the expenses thereof to be paid by the interurban railroad corporation. If the commissioners find that the exercise by the interurban railway of the power of eminent domain is reasonable and proper in the circumstances, they shall accompany their report with plans and specifications approved by them and showing in reasonable detail the nature of the changes, improvements and work and the extent thereof necessary for the present and prospective uses of such interurban railway; whereupon the interurban railway shall have power to acquire, by condemnation, the rights to the water and to do the work and make the improvements and changes approved by the commissioners, and so certified by them to the clerk. [36 G. A. (S. F. 390, § 1.)]

SEC. 2033-m. Statutes made applicable. All provisions of sections nineteen hundred ninety-six and nineteen hundred ninety-seven of the code, conferring upon railroads the right to condemn for reservoirs, and the laying of pipe lines, for the purpose of acquiring water for their engines, shall apply to interurban railways in respect to acquiring water supply for power house purposes. [36 G. A. (S. F. 390, § 2.)]

CHAPTER 5.

OF THE CONSTRUCTION AND OPERATION OF RAILWAYS.

SECTION 2054. Cattle guards—crossings—signs.

Parol evidence is competent to show an agreement by a railway company to furnish a railway crossing at a particular point, inasmuch as plaintiff was entitled to a crossing and the point in question was the only available place for a crossing. *Hemphill v. Light Co.*, 151 N. W. 449.

Railway company must maintain an under-crossing in a reasonably safe condition, it being shown that the company had agreed to provide the crossing at that point

and had left an opening in partial compliance with its agreement. *Ibid.*

Where the plaintiff shows that stock got upon the right of way of a railroad by reason of cattle guards or fences insufficient or defective either in construction or because of lack of repair, and were killed or injured, the burden is on the railway company to show its freedom from negligence. *Harper v. Chicago, R. I. & P. Ry. Co.*, 161-592, 143 N. W. 529.

SEC. 2055. Failure to fence—liability for stock killed—speed at depots.

The notice must be served thirty days before the suit is brought. *Kost v. Chicago, R. I. & P. Ry. Co.*, 149 N. W. 851.

Where the plaintiff shows that stock got upon the railroad right of way by reason of cattle guards or fences insufficient or defective either in construction or because of lack of repair, the burden is on the railway company to show its freedom from negligence. *Harper v. Chicago, R. I. & P. Ry. Co.*, 161-592, 143 N. W. 529.

The right to recover actual damages

exists independent of the provisions of this section. The notice provided is the foundation for double damages and where the claim in such notice is for an exorbitant or unreasonable amount and made in bad faith, the plaintiff can recover only actual damages and the amount claimed may be so extravagant and disproportional to the actual loss that the Court may find as a matter of law that the plaintiff acted in bad faith in making it. *Binder v. Chicago & N. W. Ry. Co.*, 162-550, 144 N. W. 358.

SEC. 2056. Damages by fire.

The construction of the state court that above section creates a presumption of negligence from proof that a fire was caused in the operation of the railroad, is

binding on the Federal Courts. *Iowa Cent. Ry. Co. v. Hampton Electric Light & Power Co.*, 204 Fed. 961.

SEC. 2063. Proposed crossing.

This section expressly recognizes the right of the two railroad companies to contract with respect to such crossings as are

herein referred to. *Chicago, M. & St. P. Ry. Co. v. Old Colony Co.*, 216 Fed. 577.

SEC. 2071. Liability for negligence or wrongs of employees.

Unloading rails from a standing car is not connected with the use and operation of a railway which includes the hazards of moving trains and machinery on the tracks, and a company is not liable in damages to an employe injured by the act of a co-employe while performing such labor. *Lammars v. Chicago, G. W. R. Co. Hough v. Ill. Cent. R. Co.*, 149 N. W. 885. 162-211.

Negligence in a particular case held connected with the operation of a railway. N. W. 466.

It is unnecessary for plaintiff to prove that he was engaged in the discharge of

some duty in connection with the use and operation of a railroad in order to recover for a personal injury. *Ill. Cent. R. Co. v. Nelson*, 212 Fed. 69.

The purpose and effect of this section was to abolish the common law fellow-servant rule and to render such corporations liable for the acts of employees to fellow employees to the same extent as to other persons, when such employe was engaged in labor in any way connected with the use and operation of the railway. *Moore v. Minneapolis & St. L. Ry. Co.*, 142 N. W. (Minn.) 152.

SEC. 2072. Signals at road crossings.

This section creates no new cause of action, but a rule of evidence as to what shall constitute negligence *per se*. Employees, as well as the railway company, are liable for damages resulting from a failure to observe the terms of the statute. *Hough v. Ill. Cent. R. Co.*, 149 N. W. 885.

The violation of this section is negligence *per se*. *Ibid*.

Whether permitting weeds and brush to grow along right of way so as to obstruct the view of trains constitutes negligence *per se, quaere. Ibid*.

No duty to sound whistle at crossings within cities and towns unless required

by ordinance. *Brossard v. Ry. Co.*, 149 N. W. 915.

The sounding of the whistle and bell will not necessarily satisfy the demands for care. *Bettinger v. Loring*, 150 N. W. 31.

The failure to give the statutory signals on approaching a crossing was not the proximate cause of the death of decedent, decedent having seen the train and stopped her horse, theretofore gentle, which took fright, ran away, met the engine at the crossing and decedent was killed. *Carri-gan v. Ry. Co.*, 151 N. W. 1091.

SEC. 2074. Contract or rule limiting liability.

An inter-state freight shipment is governed entirely by the regulations of Congress and this section is not applicable.

Heilman & Clark v. Chicago & N. W. Ry. Co., 149 N. W. 436.

SEC. 2074-f. Common carriers—less than carload shipments—liability—notice. That all companies, corporations, or individuals that

now, or hereafter, may own or operate any railroads, in whole or in part, in the state of Iowa, and all persons, firms or companies, and all associations of persons, whether incorporated or not, that shall do business as a common carrier upon any of the lines of railway in this state, shall be and remain liable as a common carrier upon all less than car load shipments until the consignee shall be notified of the arrival of the shipment and has reasonable time and opportunity to receive same. A deposit in the United States postoffice or public mailing box of a written notice addressed to the consignee at the address given upon the bill of lading will constitute service of the notice required by this act, and forty-eight hours from the date of the mailing of such notice shall be a reasonable time in which to receive said shipment. The provisions of this act shall not apply to shipments to stations or platforms where no agent is regularly employed. [36 G. A. (H. F. 57, § 1.)]

SEC. 2077. Passenger rates—expositions and fairs—railroad commission.

This section in so far as it attempts to fix a special fare for fairs and expositions, is unconstitutional, for the reason that it deprives railroad companies of property without due process of law and denies them the equal protection of the law; is discriminatory and in direct violation of the long and short haul principle; and the

legislature, while possessing the power to fix a maximum rate to be charged the public generally for transportation, does not have the power to lower rates in favor of a particular class of passengers or to a particular locality. *Chicago, R. I. & P. Ry. Co. v. Ketchum*, 212 Fed. 993.

SEC. 2082. Power brake on cars.

The brakes herein provided for need not, as a matter of law, be coupled up so as to be operated by the engineer, espe-

cially when the engine is switching or spotting cars. *Stearns v. Chicago Ry. Co.*, 148 N. W. 128.

SEC. 2091-b. Electric railroads—construction—electrification of steam railroads.

This law is in derogation of the common law, imposing a tax upon some of the property owners without their consent, and therefore should be construed most strongly against the railway. *Mitchell v. Charles City Ry.*, 148 N. W. 975.

This act does not definitely fix the district to be affected by the tax, that feature being left either to the petitioners or the

board of supervisors. There is nothing in the law requiring the tax to be a graduated one levied in proportion to benefits, nor must the district include all the land within five miles of the proposed railroad. *Ibid.*

This act is not unconstitutional as not being uniform in its operation. *Ibid.*

SEC. 2091-c. Petition—notice—election—certification—expense—levy—collection.

A tax in aid of the electrification of an old steam line and the new construction of an electric addition thereto, all to constitute one complete line, is authorized under this section. *Mitchell v. R. R. Co.*, 148 N. W. 975.

The legislature may delegate to other

bodies or persons the power to fix the limits of the taxing district wherein it is proposed to vote a tax in aid of a railroad under this section. In the absence of fraud or gross abuse of discretion such district will not be disturbed. *Ibid.*

SEC. 2110-b1. Semi-monthly payment of wages—contracts in avoidance prohibited. Every railway corporation operating or doing business in the state of Iowa shall as often as semi-monthly pay to every employe engaged in its business all wages or salaries earned by such employe to a day not more than eighteen days prior to the date of such payment. Any employe who is absent at the time fixed for payment, or who for any other reason is not paid at that time, shall be paid thereafter at any time upon six days' demand, and any employe leaving his or her employment or discharged therefrom shall be paid in full following his

or her dismissal or voluntary leaving his or her employment at any time upon six days' demand. No corporation coming within the meaning of this act shall by special contract with the employes or by any other means secure exemption from the provisions of this act. And each and every employe of any corporation coming within the meaning of this act shall have his or her right of action against any such corporation for the full amount of his or her wages due on each regular pay day as herein provided in any court of competent jurisdiction of this state. [36 G. A. (S. F. 105, § 1.)]

SEC. 2110-b2. Penalty for violation of preceding section. Any corporation, coming within the meaning of this act, violating section one of this act shall be deemed guilty of a misdemeanor and fined in a sum not less than twenty-five dollars, or more than one hundred dollars, for each separate offense and each and every failure or refusal to pay each employe the amount of wages due him or her at the time, or under the conditions required in section one of this act, shall constitute a separate offense. [36 G. A. (S. F. 105, § 2.)]

CHAPTER 6.

OF THE BOARD OF RAILROAD COMMISSIONERS.

SECTION 2121. Salaries. That section twenty-one hundred twenty-one of the code, is hereby repealed, and the following enacted in lieu thereof:

"The board shall keep an office in the capitol at the seat of government, and each commissioner shall receive a salary of three thousand dollars a year, and shall devote his whole time to the duties of his office." [36 G. A. (S. S. F. 106, § 1.)] [32 G. A., ch. 2, § 7.] [17 G. A., ch. 77, § 6.]

CHAPTER 7.

OF THE REGULATION OF CARRIERS BY RAILWAY.

SECTION 2125. Undue preference—switching charges—switching service defined. It shall be unlawful for any common carrier subject to the provisions of this chapter to make or give any preference or advantage to any particular person, company, firm, corporation or locality, or any particular description of traffic, in any respect whatsoever, or subject any particular person, company, firm, corporation or locality, or any particular description of traffic, to any prejudice or disadvantage in any respect whatsoever; but this shall not be construed to prevent any common carrier from giving preference as to time of shipment of live stock, uncured meats, or other perishable property. All common carriers subject to the provisions of this chapter shall, according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and switching of cars, and for the receiving, forwarding and delivering of passengers and property to and from their several lines, and to and from other lines and places connected therewith; and shall not discriminate in their accommodations, rates and charges between such connecting lines. Any common carrier may be required to switch and transfer cars for another, for the purpose of being loaded or unloaded, upon such terms and

conditions as may be prescribed by the board of railroad commissioners.

The switching service of common carriers is hereby defined to be the shifting of a car, or of cars, between two points, both of which points are within the industrial vicinity of an industry, a group of industries, a station, a village or a city, as such industrial vicinity may be defined by the board of railroad commissioners. [36 G. A. (H. F. 250, § 1.)] [34 G. A., ch. 95, § 1.] [22 G. A., ch. 28, § 4.] [15 G. A., ch. 18.] [C. '73, §§ 1292-6.]

SEC. 2145. Discrimination—punishment—schedule of switching charges.

Favoritism—special service—preferences, on interstate shipments, being unlawful, will not support an action. In instant case, held, whether a special serv-

ice was contracted for depended on a question of fact for the jury. *Stewart v. Ry. Co.*, 151 N. W. 485.

CHAPTER 8.

OF TELEGRAPH AND TELEPHONE LINES.

SECTION 2158. Right of way.

This section is limited, within municipalities, by sections 775, Code, and 776,

1913 Supp. *East Boyer Co. v. Town of Vail*, 147 N. W. 327.

SEC. 2162. Penalty.

Under the provisions of this and the following section, considered in connection with a telegraph company's duty as a common carrier of intelligence, the measure

of damages is the law of the forum. *Schmidt v. Postal Telegraph Co.*, 146 N. W. 467.

SEC. 2163. Liable for mistakes.

The doctrine of "avoidable consequences" has application in an action for damages for failure to deliver a telegram. *Bernstein v. W. U. T. Co.*, 151 N. W. 108.

Damages *ex contractu* must be (a) proximate and (b) such as were reasonably within the contemplation of the parties, etc. Damages *ex delicto* need only be proximate. This latter rule is not changed by this section. *Ibid.*

An action for damages for negligent failure to deliver a message may sound in contract or tort. *Ibid.*

A death message carries a common sense suggestion that negligent delay in delivering will bring grief to *some* one, and just how need not be brought to the attention of the one assuming the duty to deliver. *Albrook v. W. U. Tel. Co.*, 150 N. W. 75.

TITLE XI-A.

OF THE MILITARY CODE OF IOWA.

CHAPTER 1.

OF THE MILITARY CODE OF IOWA.

SECTION 2215-f4. Organization. The guard shall consist of at least three regiments of infantry, with such necessary complement of machine gun companies as may at any time be prescribed, one medical department consisting of a medical corps, and a hospital corps, and, at the discretion of the governor, two signal companies, one regiment of cavalry, four batteries, and such other staff corps or departments as may be prescribed by the governor; and to further conform to the national militia laws, the governor shall, from time to time, prescribe in regulations and orders the organization of the guard in such manner as to make the said organization conform to the requirements for the organized militia under the laws of the United States. [36 G. A. (S. F. 377, § 1.)] [33 G. A., ch. 131, § 5.]

SEC. 2215-f14. Staff of governor—how appointed—rank of members. The staff of the governor shall consist of an adjutant general, who shall be chief of staff, an assistant adjutant general, both of whom shall have served honorably in the regular or volunteer service of the United States, or for not less than one year in the guard, and twelve aides. The adjutant general and assistant adjutant general shall be appointed and commissioned by the governor, and shall hold office for a period of four years, which said first four year period shall begin July fourth, 1915, and until their successors are appointed and commissioned. The assistant adjutant general shall be appointed upon the recommendation of the adjutant general. The aides may, at the discretion of the governor, be appointed and commissioned by him or detailed for such service from the active membership of the guard, or their duties may be performed by United States army officers regularly or specially detailed by the war department for service with the guard. The adjutant general shall have the rank of brigadier general and the assistant adjutant general that of major. The aides shall have the rank of lieutenant colonel except that any person so appointed, who has held a higher rank for a period of one year or more in the guard, may be appointed with the rank of the highest grade so held by him, and those detailed from the active membership of the guard shall retain their rank in the guard and shall not be relieved from their regular duties by reason of such detail. United States army officers, regularly or specially detailed for service with the guard or stationed in the state, may be assigned positions on the staff with their rank in the United States service or such higher rank, not above that of lieutenant colonel, as the governor may designate. [36 G. A. (S. S. F. 376, § 1.)] [36 G. A. (S. F. 377, § 2.)] [33 G. A., ch. 131, § 15.]

SEC. 2215-f15. Adjutant general—duties—report—assistant. The adjutant general shall issue and transmit all orders of the governor, and shall keep a record of appointments, of all officers commissioned by the governor, of all the general and special orders and regulations, and of

such matters as pertain to the organization of the military force and his duties. He shall reside at the capital. He shall have charge of the state arsenal and grounds and all other property of the state kept or used for military purposes, and receive and issue all quartermaster and ordnance stores and camp equipage upon the order of the governor. The adjutant general shall furnish, at the expense of the state, such blanks and forms as shall be approved by the governor. He shall, in each year preceding a regular session of the general assembly, make out a detailed report of the transactions of his office, the expenses thereof and such other matters as shall be required by the governor for the period since the last preceding report, and the governor may, at any time, require a similar report. The assistant adjutant general shall be on duty with the adjutant general, and shall perform such duties under his direction as may be prescribed, and in the absence of the adjutant general shall perform the duties of that officer as acting adjutant general. [36 G. A. (S. F. 376, § 2.)] [33 G. A., ch. 131, § 16.]

SEC. 2215-f16. Salaries—increase in time of active service. The adjutant general shall receive an annual salary of twenty-seven hundred dollars in time of peace, and the assistant adjutant general shall receive an annual salary of fifteen hundred dollars, and there shall be appointed a record clerk in the adjutant general's office who shall have charge of the war records under direction of the adjutant general, who shall receive a salary of twelve hundred dollars per annum, and such assistance shall be employed in the adjutant general's and quartermaster's departments as shall, in the opinion of the governor, be actually necessary, and any person so employed shall receive for the time actually and necessarily on duty such compensation as the governor may prescribe. When requisition shall be made on the governor of Iowa by the president of the United States for troops, and during the time the Iowa troops are in the service of the United States under call of the president, the salary of the adjutant general shall be increased so that he shall receive in full compensation for his services, pay and allowances equal to that of brigadier general of the United States army, which shall be in lieu of all other compensation now provided for him by law, and during said time he shall not receive any other or additional compensation from the state, nor shall he perform any duties as custodian of the capitol grounds of the state or any buildings thereon, but the governor may appoint a custodian thereof who shall serve at a compensation to be fixed by the executive council during the time the adjutant general is in the service of the United States under call of the president. [36 G. A. (S. F. 436, § 3.)] [33 G. A., ch. 131, § 17.]

SEC. 2215-f17. Division, brigade and regimental staffs—noncommissioned officers—staff departments. The division staff shall be appointed and commissioned by the governor, upon the recommendation of the division commander. The brigade staff shall be appointed and commissioned by the governor, upon the recommendation of the brigade commander. The regimental staff shall be appointed and commissioned by the governor, upon recommendation of the regimental commander. The commissions of such division, brigade and regimental staff officers shall be for a period of eight years. The commander of each regiment shall appoint by warrant from the enlisted men of his regiment, the noncommissioned staff, and upon recommendation of the company commanders he shall appoint the noncommissioned officers of each company and issue warrants to the persons thus appointed. When staff corps or departments are authorized by the governor as contemplated in section five of this act, the governor shall appoint and commission the chief of the staff corps or de-

partment, and shall appoint and commission such officers for such staff corps or department as may be authorized by orders and regulations, upon the recommendation of the chief of the staff corps or department. [36 G. A. (S. S. F. 376, § 3.)] [33 G. A., ch. 131, § 18.]

SEC. 2215-f24. Annual allowance for office expense. There shall be allowed annually to each division, brigade, regimental, separate battalion or separate squadron commander the sum of three hundred dollars, which shall be paid in full in lieu of office rent, clerk hire, and for postage, stationery, issuing orders, making official records and all other papers or clerical work of such headquarters; and there shall be allowed annually to each company commander the sum of one hundred dollars, to each inspector of small arms practice, to the chief surgeon, to each major surgeon, and to each chief musician of bands, the sum of fifty dollars, for postage, stationery, issuing orders, making official returns, copying official records, and all other paper work required by regulations, which sum shall be payment in full for such services. All payments shall be made semiannually and in the amounts as herein provided. [36 G. A. (S. F. 375, § 1.)] [33 G. A., ch. 131, § 25.]

SEC. 2215-f25. Armory rent—how apportioned. There shall be allowed annually to each company for armory rent, lights, fuel and janitor service and like necessary expenses, not to exceed the sum of twelve hundred dollars; to each battery of field or horse artillery not to exceed the sum of two thousand dollars; to each field hospital or ambulance company not to exceed the sum of seven hundred dollars; to each band not to exceed the sum of five hundred dollars; and to each detachment of the hospital corps not to exceed the sum of three hundred dollars, or so much thereof as may be necessary, to be paid in such amounts, either in part or in whole, and under such regulations as a board of officers appointed by the governor shall prescribe, and approved by him. [36 G. A. (S. F. 375, § 2.)] [35 G. A., ch. 182, § 1.] [33 G. A., ch. 131, § 26.]

SEC. 2215-f27. Miscellaneous expenses for drill. There shall be allowed annually to each company for miscellaneous military uses not otherwise provided for by the state, not to exceed the sum of five hundred dollars, the same to be paid semiannually; companies showing full attendance and actual drill of those present of two hours each week shall be entitled to the full sum of five hundred dollars, and companies showing lesser attendance at drill shall be paid proportionately, provided that when a company's attendance at drill falls below fifty per cent. it shall be deemed inefficient and forfeit its right to any allowance under this section; and for like purpose and under like requirements, to each battery of field or horse artillery not to exceed the sum of ten hundred dollars; to each field hospital or ambulance company not to exceed the sum of three hundred and fifty dollars; to each regimental band the sum of two hundred fifty dollars, and to each detachment of the hospital corps under like requirements the sum of one hundred twenty-five dollars; the same to be paid under such regulations as the governor shall prescribe. [36 G. A. (S. F. 375, § 3.)] [33 G. A., ch. 131, § 28.]

SEC. 2215-f31. Military stores property of state—failure to account for—penalty. All arms, uniforms, equipments and other military property furnished or issued by the state, or for which an allowance has been made, shall belong to the state, and shall be used for military purposes only, and each officer and soldier, upon receiving a discharge, or otherwise leaving the military service of the state, or upon demand of his commanding officer, shall forthwith surrender such state military prop-

erty in his possession to said commanding officer. Every member of the guard who shall neglect to return to the armory of the company, or place in charge of the commanding officer of the company to which he belongs, any arms, uniforms, equipments or other military property, or portion thereof, belonging to the state within six days after being notified by said commanding officer to do so, shall be fined not more than fifty dollars or imprisoned not more than thirty days. [36 G. A. (S. S. F. 378, § 1.)] [33 G. A., ch. 131, § 32.]

SEC. 2215-f36. Absence without leave—unsoldierly conduct—fines—evidence—duty of county attorney—failure to report for duty—arrest. That section twenty-two hundred fifteen-f thirty-six, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“Every soldier absent from any tour of active service, parade, drill, encampment or inspection without leave or sufficient excuse, shall be fined two dollars for each day of absence; and for any unsoldierly conduct during any such service he may be fined not more than ten dollars. Such fines shall be collected by civil action in the name of the state for the use of the company to which the soldier fined belongs, and such action shall be prosecuted by the county attorney. Any company may impose such other fines upon its members as it may think proper in its by-laws, which may be enforced in the manner above provided. The findings of the court-martial provided in section thirty-nine of this act for the trial of soldiers charged with such offenses shall be conclusive evidence on the question of whether or not the soldier was absent without sufficient excuse or whether he was guilty of unsoldierly conduct or whether he was guilty of an infraction of the by-laws of the company. Upon the trial of the civil action above provided for, no evidence shall be competent on the part of the defendant except that he may show in defense that the court-martial that determined his guilt did not comply with the provisions of the law or was for any reason without jurisdiction to determine the question of his guilt. Whenever the governor, as commander-in-chief, has issued an order to the guard, or any portion thereof, to perform any military duty which may be required under the law and regulations, and any enlisted man fails to report for such duty, the sheriff or any peace officer shall upon a written request of the commanding officer of such troops accompanied by a copy of the order of the governor, arrest such enlisted man and deliver him in person to such commanding officer wherever he may direct. The sheriff or any peace officer shall be allowed the same fees and mileage for such service as is now allowed by law in criminal cases and the same shall be taxed accordingly.” [36 G. A. (S. S. F. 378, § 2.)] [33 G. A., ch. 131, § 37.]

SEC. 2215-f42. Appropriation. There is appropriated out of any moneys in the treasury not otherwise appropriated, the sum of one hundred sixty-five thousand dollars per annum or so much thereof as may be necessary, for the support of the guard under the provisions of this act not applying to active service, which shall be drawn by a warrant, drawn by the auditor of state on the state treasurer, upon the certificate of the adjutant general approved by the governor, showing for what purpose each draft is to be or has been used, and no indebtedness shall be created in excess of such annual appropriation. [36 G. A. (S. F. 379, § 1.)] [35 G. A., ch. 182, § 2.] [33 G. A., ch. 131, § 43.]

SEC. 2215-f43. Present commissions, enlistments, contracts—governor may change rank or terminate enlistments. That section

twenty-two hundred fifteen-f forty-three, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“The term of service and rank of officers, other than the adjutant-general, and the grades of enlisted men in the guard at the time of taking effect of this act, shall not be affected thereby, unless especially mentioned therein, but all officers and enlisted men shall be held to service for the full period of the commission or enlistment under which he is then serving; provided, however, that the governor may change the rank of such officers, or may terminate the enlistments of such enlisted men in the guard, or may transfer any such officers or such enlisted men to any organizations of the guard when necessary to conform to the regulations of the war department governing the organized militia of the United States; and provided that the provisions of this act shall not be construed to affect any contracts made by the guard or by any of its organizations.” [36 G. A. (S. S. F. 376, § 4.)] [33 G. A., ch. 131, § 44.]

TITLE XII.

OF THE POLICE OF THE STATE.

CHAPTER 1.

OF THE SETTLEMENT AND SUPPORT OF THE POOR.

SECTION 2224. Settlement—how acquired.

The legal settlement of an insane wife committed to the hospital for the insane from the county of her residence remains unchanged by any act on the husband's part, so long as such public restraint continues. *Polk Co. v. Clarke Co.*, 151 N. W. 489.

SEC. 2238. Contracts for support.

The bond herein provided for is intended to protect the county against the physician's non-performance of the contract and not to protect third persons furnishing medicines. *Johnson v. Hamilton County*, 149 N. W. 639.

SEC. 2241. County home established. The board of supervisors of each county may order the establishment of a county home in such county whenever it is deemed advisable, and also the purchase of such land as may be deemed necessary for the use of the same, and may make the requisite contracts and carry such order into effect, provided the cost of said county home and land, if in excess of ten thousand dollars, shall be first estimated by said board and approved by a vote of the people. [36 G. A. (H. F. 381, § 2.)] [33 G. A., ch. 29, § 1.] [C. '73, § 1372.] [R. § 1396.] [C. '51, § 828.]

The purchase of land at a cost of \$5000 for a county home for the purpose of erecting suitable buildings thereon for the purposes of a county home, the existing buildings thereon being unsuitable for that purpose, without submitting the question of the purchase to a vote of the electors, is *ultra vires* and void, and any payment or authorization of payment in furtherance of such purchase is also *ultra vires*. *Harris County v. Ogden*. 145 N. W. 681.

CHAPTER 2.

OF THE CARE OF THE INSANE.

SECTION 2270. Settlement in another county.

The special limitation provided in this section does not begin to run until the auditor of the county notified by the commissioners that an insane person probably has a residence in that county has complied with the statute in making an inquiry, and reporting an adverse finding as to legal settlement, to the superintendent of the hospital and the commissioners of the county from which such insane person was committed. *Buena Vista County v. Woodbury County*, 145 N. W. 282.

SEC. 2288. Discharge when cured.

In a suit involving the validity of a note executed by one shortly after his discharge, an instruction with reference to a given condition of health and sanity continuing, held sufficiently favorable to the maker of the note. *State Bank v. Gish*, 149 N. W. 600.

CHAPTER 2-A.

OF THE DETENTION AND TREATMENT OF DIPSOMANIACS, INEBRIATES AND THOSE ADDICTED TO THE EXCESSIVE USE OF NARCOTICS.

SECTION 2310-a37. Labor—credit for. All able-bodied patients of the hospital may be employed at labor on the farm, garden, grounds, in or on buildings, shops and other places owned or leased by the state and connected with said hospital when work can be provided, and each patient may be credited with the sum of one dollar for each full day's labor satisfactorily performed. Fifty cents of said sum shall be deducted for his maintenance and the balance, fifty cents, the superintendent shall pay monthly to those dependent upon him for support, if there be any; otherwise it shall be paid to said patient upon his legal release. All such payments shall be made from the general support fund of the hospital in the same manner as other obligations. Providing, however, that no patient shall be entitled to remuneration under this act until he is in the hospital ninety consecutive days, and then only during such time as he conforms to the rules and regulations of the hospital. [36 G. A. (H. F. 383, § 1.) [35 G. A., ch. 184, § 5.]

CHAPTER 3.

OF DOMESTIC ANIMALS.

SECTION 2340. Dogs killed.

Where the jury found that defendant's dog did attack and bite plaintiff, defendant was liable, and allegations of the violation of a city ordinance requiring dogs to be muzzled was surplusage. *Forsythe v. Kluckhohn*, 161-268.

SEC. 2341-g. Examination by veterinarian—certificate renewal—false report. The owner or keeper of each and every stallion or jack over two years old kept for public service, sale, exchange or transfer shall cause said stallion or jack to be examined by a duly qualified veterinarian who shall be a graduate of a recognized college and registered as a graduate veterinarian by the Iowa board of veterinary examiners, or veterinarian licensed by said board, who shall make affidavit that such animal is free from hereditary, infectious, contagious or transmissible disease or unsoundness, and shall file the same with the secretary of the state board of agriculture. Any veterinarian who knowingly or wilfully makes a false report upon the disease or freedom from disease, or soundness or unsoundness of the animal brought to him for examination or who fails to file with the department of agriculture a report of his findings on all stallions and jacks he is called upon to examine in accordance with the provisions of this act shall be punished by the revocation of his veterinarian certificate. The owner or keeper of each and every stallion or jack over two years old kept for public service or for sale, exchange or transfer shall between the dates of January first and April first of each year after their first enrollment make application for the renewal of the certificate in the form and manner as above described. [36 G. A. (H. F. 395, § 1.) [35 G. A., ch. 188, § 1.] [34 G. A., ch. 100, § 2.]

NOTE: The language of H. F. 395 is a direction to strike out the word "registration" in line *sixteen* and to insert the word "enrollment". Evidently the sectional headings were counted as one line. **REPORTER.**

SEC. 2341-h. Disqualification. That the law as it appears in section twenty-three hundred forty-one-h, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"The presence of any one of the following named diseases shall disqualify a stallion or jack for public service and no state certificate shall be issued by the secretary of the state board of agriculture: Glanders, farcy, maladie du coit (dourine), coital exanthema, urethral gleet, mange, melanosis, blindness, cataract and periodic ophthalmia (moon blindness).

Stallions or jacks possessing any of the following named unsoundnesses may receive a state certificate but each certificate and every advertisement shall state in large type or writing that the stallion or jack is unsound and shall specify the unsoundness or unsoundnesses which said stallion or jack has: Amaurosis, laryngeal hemiplegia (roaring or whistling), pulmonary emphysema (heaves, broken wind), bog spavin, bone spavin, ringbone, side bone, navicular disease, curb, with curby formation of hock, chorea (St. Vitus' dance, crampiness, shivering, string halt.) In cases where stallions or jacks possess any of the above named unsoundnesses in an aggravated or serious form, or if it is determined that any stallion or jack is transmitting any of the said unsoundnesses, the department of agriculture may upon investigation and examination, as provided for in section twenty-three hundred forty-one-j, supplement to the code, 1913, disqualify such stallion or jack from public service, if they consider him so unsound as to be unfit for breeding purposes." [36 G. A. (H. F. 395, § 2.)] [35 G. A., ch. 188, § 2.] [34 G. A., ch. 100, § 3.]

SEC. 2341-i. Posting certificate—grade stallion. Any owner or keeper of a registered stallion or jack over two years old offered for public service or for sale, exchange or transfer who represents or holds such animal as registered, shall keep a copy of the state certificate of enrollment and certificate of soundness upon the door or stall of the stable where such animal is usually kept, and where such animals are advertised each and every advertisement shall contain a copy of such certificates or the substance thereof. Where state certificate of enrollment have¹ heretofore been issued by the state board of agriculture an additional state certificate of enrollment shall not be required, but application for certificate of soundness shall be made as hereinbefore provided. Any owner or keeper of a stallion or jack over two years old other than registered offered for public service or for sale, exchange or transfer must secure certificates of soundness from the secretary of the state board of agriculture and advertise said stallion or jack by having and posting handbills or posters not less than five by seven inches in size, and said bills or posters must have printed thereon, immediately preceding or above the name of the stallion the words "grade stallion" (or jack) in type not smaller than one inch in height, said bills or posters to be posted in a conspicuous manner at all places where the said stallion or jack is kept for public service, sale, exchange or transfer, together with a copy of the certificate of soundness issued by the secretary of the state board of agriculture, and where such animals are advertised each and every advertisement shall contain a copy of the said certificate or the substance thereof and the words "grade stallion" (or jack). [36 G. A. (H. F. 395, § 3.)] [34 G. A., ch. 100, § 4.]

NOTE: ¹The failure to change the form of the verb after making the above change was probably an oversight. REPORTER.

SEC. 2341-k. Transfer of certificate—fee. If the owner of any stallion or jack shall sell, exchange or transfer the same, he shall file certificate, accompanying the same with a fee of fifty cents, with the secre-

tary of the state board of agriculture, who shall, upon receipt of the original state certificate, properly transferred, and the required fee, issue a new certificate to the then new owner of the animal, and all fees provided by this act shall go into the treasury of the department of agriculture. [36 G. A. (H. F. 395, § 4.)] [34 G. A., ch. 100, § 6.]

SEC. 2341-m. Admission from other states—certificates. No stallion or jack shall be brought into the state of Iowa from any other state, except for exhibition or racing purposes, unless accompanied by a certificate of soundness issued by a duly qualified veterinarian who must be approved by the state veterinarian of the state in which the animal is purchased, such examination to cover all diseases and unsoundnesses specified in section three of chapter one hundred of the acts of the thirty-fourth general assembly as herein amended. A copy of said certificate shall be filed with the secretary of the Iowa department of agriculture and one copy of said certificate shall accompany the bill of lading. [36 G. A. (H. F. 395, § 5.)] [35 G. A., ch. 188, § 5.]

SEC. 2341-o. Permanent certificate of soundness—fee. Any stallion or jack having successfully passed veterinary examination for soundness for two consecutive years shall be entitled to a permanent state certificate of soundness. The last examination must have been made within the year in which said certificate was granted, provided, however, that said permanent certificate must be returned each year to the secretary of the state board of agriculture with a fee of one dollar for renewal. [36 G. A. (H. F. 395, § 6.)] [35 G. A., ch. 188, § 7.]

SEC. 2341-q. False pedigrees of stock—penalty for publishing. Any person who shall fraudulently represent any animal, horse, cattle, sheep or swine to be registered, or any person who shall post or publish or cause to be posted or published any false pedigree or certificate of soundness, or shall use any stallion or jack over two years old for public service, or sell, exchange or transfer any stallion or jack over two years old, representing such animal to be registered, without first having such animal registered, and obtaining the certificate of enrollment and certificate of soundness from the state board of agriculture, as hereinbefore provided, or who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and be punished by a fine of not more than one hundred dollars, or imprisoned in the county jail not exceeding thirty days or by both fine and imprisonment. [36 G. A. (H. F. 395, § 7.)] [34 G. A., ch. 100, § 8.]

CHAPTER 4.

OF FENCES.

SECTION 2355. Partition fences.

An order requiring one landowner to build a specified number of rods of fence is complied with by measuring such distance over the undulating surface of the ground. *Myers v. Tallman*, 149 N. W. 258.

Whether the law with reference to partition fences and the requirement to keep the same "hog-tight" is applicable to fences across substantial streams, *quære*. *Ibid*.

SEC. 2356. Powers of fence viewers.

Condemnation of land for a drainage improvement does not oust the power of the fence viewers to order the erection of line fences which will in no way interfere with the drainage plan. *Barton v. Boie*,

151 N. W. 1064.

The fence viewers have no authority to establish or decide as to a disputed line. *McAvoy v. Saunders*, 161-651, 143 N. W. 548.

SEC. 2358. Default—damages and fees collected as taxes.

A finding and appraisement by the viewers of the value of such a fence, made without notice and in the absence of the opposite party is void for want of jurisdiction. *Pickerell v. Davis*, 146 N. W. 34.

the viewers had met and appraised the value of the fence is not sufficient to relate back and sustain the jurisdiction of the viewers to make an appraisement. *Ibid.*

A notice given the opposite party after

SEC. 2366. Fence on one side of line.

The provision relating to partition fences applies to fences standing wholly

on one side of a division line. *McAvoy v. Saunders*, 161-651, 143 N. W. 548.

SEC. 2367. Lawful fence defined—sheep and swine-tight fences.

Section construed and application made to the facts involved in the particular

case. *Myers v. Tallman*, 149 N. W. 259.

CHAPTER 6.

OF INTOXICATING LIQUORS.

SECTION 2382. Manufacture, sale or keeping for sale prohibited. No one, by himself, clerk, servant, employe or agent, shall, for himself or any person else, directly or indirectly, or upon any pretense, or by any device, manufacture, sell, exchange, barter, dispense, give in consideration of the purchase of any property or of any services or in evasion of the statute, or keep for sale, any intoxicating liquor, which term shall be construed to mean alcohol, ale, wine, beer, spirituous, vinous and malt liquor, and all intoxicating liquor whatever, except as provided in this chapter, or solicit, take, or accept any order for the purchase, sale, shipment, or delivery of any such liquor, or aid in the delivery and distribution of any intoxicating liquor so ordered or shipped, or own, keep, or be in any way concerned, engaged or employed in owning or keeping any intoxicating liquor with intent to violate any provision of this chapter, or authorize or permit the same to be done; and any clerk, servant, employe or agent engaged or aiding in any violation of this chapter shall be charged and convicted as principal. [36 G. A. (S. F. 424, § 1.) [28 G. A., ch. 74, §§ 1, 2.] [23 G. A., ch. 35, § 2.] [22 G. A., ch. 71, § 1.] [20 G. A., ch. 8, § 1.] [20 G. A., ch. 143, §§ 10, 11.] [17 G. A., ch. 119, § 4.] [C. '73, §§ 1523, 1540-2, 1554-5.] [R. §§. 1559, 1562, 1581, 1587.] [C. '51, §§ 929-31.]

NOTE: S. F. 424, 36 G. A., directs that the following clause be stricken from Sec. 2382, Supplement to the Code, 1913, to wit:

"Provided, that nothing herein shall prohibit traveling salesmen soliciting orders for the purchase, sale, and shipment of intoxicating liquor, from persons legally authorized to sell or dispense the same."

The first following section provides the time when said act takes effect. REPORTER.

The proprietor of a hotel neither "sells, barter, gives away, or dispenses" intoxicating liquors within the meaning of this section, and therefore cannot be enjoined (a) by permitting guests to drink such liquors with their meals, which liquors they themselves brought to the hotel, or (b) by permitting the waiters to serve to guests liquors so brought to the hotel by the guests, or (c) by the unauthorized and

forbidden act of waiters going out and buying liquors for guests, which guests sometimes paid for in advance and sometimes when the same was delivered, or (d) by the act of a tenant of the hotel going out and buying liquors for such guests, the proprietor keeping no liquors and deriving no advantage from such supplying of liquors. *Barber v. Kirkwood Hotel Co.*, 151 N. W. 446.

SEC. 2382-a. Time of taking effect of S. F. 424. This act shall go into effect January first, 1916. [36 G. A. (S. F. 424, § 2.)]

SEC. 2384. Nuisance—penalty—abatement—attorney's fee.

Where intoxicating liquors are found on premises used by defendant as a meat market, three full bottles in the refrigerator and a barrel of full bottles and an accumulation of empty ones in the base-

ment, the basement being controlled by defendant, a prima-facie case of violation of the statute is made out, and the nuisance thus shown should be abated by injunction. *Shideler v. Keenan Bros.*, 148 N. W. 972.

SEC. 2394. Requests to purchase—blanks—permit holder to fill in.

A permit holder who fails to attest the request for liquor as provided in this section is guilty of a violation of the statute and may be enjoined for maintaining a liquor nuisance. *McAllister v. Campbell*, 145 N. W. 867.

A purchaser, while only required to state his own residence generally, if buying for another, must in all cases give the specific location of the residence of the user, giving it by street and number

if in a numbered city, or by township and county if in the country, and the statute is not complied with where the requests do not show both the residence of the purchaser and user. *Milhiser v. Gandrup*, 146 N. W. 843.

In such a case it is no defense that such information was contained in the stub book, since such book is not filed and is not a public record. *Ibid.*

SEC. 2397. Returns by permit holder.

A permit holder who makes a return under oath in the form provided by this section, when in fact some of the requests for liquor filled by him have not been at-

tested by him, is guilty of a violation of the liquor laws and may be enjoined from maintaining a nuisance. *McAllister v. Campbell*, 145 N. W. 867.

SEC. 2399. Illegal sales by permit holder—evidence.

A permit holder cannot legally sell a malt liquor containing alcohol and which could be and was used as a beverage. To legally sell that which contains a malt liquor, its distinctive character must be

so changed that it becomes incapable of use as a beverage. Evidence held to show that "Pabst Extract" was a malt liquor. *Berner v. McHenry*, 151 N. W. 450.

SEC. 2405. Action to abate nuisance—injunction—contempt. Whenever a nuisance is kept, maintained or exists, as defined in this chapter, any citizen of the county may maintain an action in equity to perpetually enjoin and abate the same. In such action the court, or a judge in vacation, shall, upon the presentation of a petition therefor, allow a temporary writ of injunction without bond, if it shall be made to appear to the satisfaction of the court or judge, by evidence in the form of affidavits, depositions, oral testimony or otherwise, as the plaintiff may elect, unless the court or judge, by previous order, shall have directed the form and manner in which it shall be presented, that the nuisance complained of exists. Three days' notice in writing shall be given the defendant of the hearing of the application, and, if then continued at his instance, the writ as prayed shall be granted as a matter of course. When an injunction has been granted, it shall be binding on the defendant throughout the state, and any violation of the provisions of this chapter by manufacturing, selling or keeping for sale of intoxicating liquors anywhere within the state shall be punished as a contempt, as provided in this chapter. [36 G. A. (S. F. 423, § 1.)] [22 G. A., ch. 73, §§ 3, 4; 21 G. A., ch. 66, § 2; 20 G. A., ch. 143, § 12; C. '73, § 1543.]

Failure of the defendant in an action to enjoin a liquor nuisance to file answer or testify in explanation of any of the evidence against him, may be considered and given due weight on the question of granting the temporary writ. *Smith v. Tate*, 149 N. W. 96.

An action will lie to enjoin the carrying and delivering by a carrier, contrary to the laws of Iowa, of intoxicating liquor shipped into this state from another, under this and the other sections of this chapter and the provisions of the Act of Congress of March 1, 1913, c. 90, 37 Stat. 699 known

as the Webb-Kenyon bill, where the shipment of such liquor is not for the personal use of the consignee. *State v. U. S. Express Co.*, 145 N. W. 451.

A citizen plaintiff seeking to abate a liquor nuisance cannot legally be forced to final hearing on the merits, on *ex parte* affidavits. *Batten v. Snearly*, 150 N. W.

583.

The finding of intoxicating liquors in a drug store, the proprietor not having authority to sell the same, raises the presumption that they were possessed with the intent to sell the same in violation of law. *Allshouse v. Carragher*, 151 N. W. 443.

SEC. 2406. How brought and tried—evidence—attorney's fee—investigation by county attorney—report.

The consent of the county attorney does not authorize the court to dismiss an action to abate a liquor nuisance against the wish of the citizen plaintiff, prosecuting by an attorney of his own choosing. *Batten v. Snearly*, 150 N. W. 583.

The plaintiff is not "successful in the action" so as to be entitled to an attor-

ney's fee where the defendant surrenders his permit, and the case, on motion, is dismissed and no decree entered, as "successful" means the attaining of the proposed object, which, in these cases, is a decree enjoining the maintenance of a nuisance. *Batten v. Bengel*, 162-280, 144 N. W. 37.

SEC. 2407. Violation of injunction. In case of the violation of any injunction granted under the provisions of this chapter, the court, or in vacation a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an information under oath, setting out the alleged facts constituting such violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of this section shall for the first offense be punished by a fine of not less than two hundred nor more than one thousand dollars, or by imprisonment in the county jail not less than three nor more than six months, or by both fine and imprisonment. A party who, having once been found guilty of contempt for violating the provisions of any such injunction, shall for each such subsequent violation be punished by a fine of not less than five hundred dollars or more than one thousand dollars or by imprisonment in the state penitentiary or state reformatory at hard labor for not more than one year. [36 G. A. (S. F. 422, § 1.)] [21 G. A., ch. 66, § 3.]

Proceedings to punish for contempt for violating a liquor injunction may be reviewed by certiorari whether defendant be adjudged guilty or innocent. *Tuttle v. Hutchison*, 151 N. W. 845.

In contempt proceedings to punish a violation of an injunction against the unlawful sale of liquors, the only papers permitted or authorized to be filed are (a) an information under oath setting forth

the violation, and (b) at the option of the accused a written explanation under oath of his conduct. On these and these alone the court must proceed to find the very truth of the charge, unfettered by the ordinary rules of pleading. *Ibid.*

A writ of certiorari to review contempt proceedings should be directed to the presiding judge by name, who heard and decided the proceedings. *Ibid.*

SEC. 2413. Search warrant—seizure. If any credible resident of any county shall, before a justice of the peace for the same county, or any judge of the district court of said county, or any judge of the superior court of any city within said county make written information, supported by his oath or affirmation, that he has reason to believe, and does believe, that any intoxicating liquor, described as particularly as may be in said information, is in said county, in any place described as particularly as may be in said information, owned or kept by any person named or described in said information as particularly as may be, and is intended by him to be sold in violation of the provisions of this chapter, said justice or judge shall, upon finding probable cause for such information, issue

his warrant of search, directed to any peace officer in the county, describing as particularly as may be the liquor and the place described in said information, and the person named or described in said information as the owner or keeper of said liquor, and commanding the said officer to search thoroughly said place, and to seize the said liquor, with the vessels containing it, and to keep the same securely until final action be had thereon; whereupon the said peace officer to whom such warrant shall be delivered shall forthwith obey and execute, as effectually as possible, the commands of said warrant, and make return of his doings to said justice, or judge and shall securely keep all liquors so seized by him and the vessels containing them until final action be had thereon. If the place to be searched be a dwelling-house in which any family resides, and in which no tavern, eating house, grocery or other place of public resort is kept, such warrant shall not be issued unless said complainant shall, on oath or affirmation, declare before said justice or judge that he has reason to believe and does believe that within one month next before the making of said information intoxicating liquor has been, in violation of this chapter, sold in said house, or in some dependency thereof, by the person accused in said information, or by his consent or permission; nor unless, from the facts and circumstances disclosed by such complaint, the said justice or judge shall be of the opinion that said complainant has adequate reason for such belief. [36 G. A. (S. S. F. 12, § 1.)] [C. '73, § 1544.] [R., § 1565.]

SEC. 2415. Notice—trial—judgment—appeal. In the event of a seizure under said warrant, the officer shall forthwith make a return of his acts thereunder, and within forty-eight hours thereafter the justice or judge who issued the warrant shall cause to be left at the place where said liquor was seized, if said place be a dwelling-house, store or shop, posted in some conspicuous place on or about said buildings, and also to be left with or at the last known and usual place of residence of the person named or described in said information as the owner or keeper of said liquor, if he be a resident of this state, a notice, summoning such person, and all others whom it may concern, to appear before said justice or judge within the county at a place and time named in said notice, which time shall not be less than five nor more than fifteen days after the posting and leaving of said notices, and show cause, if any they have, why said liquor, together with the vessels in which the same is contained, should not be forfeited; and said notice shall, with reasonable certainty, describe said liquor and vessels, and shall state where, when and why the same were seized. At the time and place prescribed in said notice, the person named in said information, or any other person claiming an interest in said liquor and vessels, or any part thereof, may appear and show cause why the same should not be forfeited. If any person shall so appear, he shall become a party defendant in said case, and said justice or judge shall make a record thereof. Whether any person shall so appear or not, said justice or judge shall, at the prescribed time, proceed to the trial of said case, and said complainants or either of them may, and upon their default the officer having such liquor in custody shall, appear before said justice or judge and prosecute said information, and show cause why such liquor should be adjudged forfeited. The proceeding in the trial of such case may be the same, substantially, as in cases of misdemeanor triable before justices of the peace, and if any person shall appear and be made a party defendant as herein provided, and shall make written plea that said liquor, or a part thereof claimed by him, was not owned or kept with intent to be sold in violation of this chapter, such party defendant may, at his option, de-

mand a jury to try the issue, and if, upon the evidence presented, the said justice or judge or jury, as the case may be, shall, by verdict, find that said liquor was, when seized, owned or kept by any person, whether said party defendant or not, for the purpose of being sold in violation of this chapter, the said justice or judge shall render judgment that said liquor, or said part thereof, with the vessels in which it is contained, is forfeited. If no person be made defendant in manner aforesaid, or if judgment be in favor of all the defendants who appear and are made such, then the costs of the proceeding shall be paid as in ordinary criminal prosecutions where the prosecution fails. If the judgment shall be against only one party defendant appearing as aforesaid, he shall be adjudged to pay all the costs of proceedings in the seizure and detention of the liquor claimed by him, and trial, up to the time of judgment. But if such judgment shall be against more than one party defendant claiming distinct interests in said liquor, then the costs of said proceedings and trial shall be, according to the discretion of said justice or judge, equitably apportioned among said defendants, and execution shall be issued on said judgments against said defendants for the amount of the costs so adjudged against them. Any person appearing and becoming party defendant as aforesaid may in cases arising before a justice of the peace appeal from said judgment of forfeiture, as to the whole or any part of said liquor and vessels claimed by him and so adjudged forfeited, to the district court, as in ordinary cases of misdemeanor. [36 G. A. (S. S. F. 12, § 2.)] [C. '73, § 1546.]

SEC. 2421-a. Common carriers allowed to carry for lawful purposes only. It shall be unlawful for any railroad company, express company, or other common carrier, or for any person, corporation, steamboat or steamboat line, to carry any intoxicating liquor into the state or from one point to another within the state for the purpose of delivering, or to deliver same to any person, company or corporation within the state, except for lawful purposes. [36 G. A. (S. F. 418, § 1.)]

SEC. 2421-b. Carrier must keep record of liquor shipments—delivery to consignee only. It shall be the duty of any railroad company, express company, or other common carrier, or corporation, steamboat or steamboat line, or person, who shall for hire carry any intoxicating liquor into the state, or from one point to another within the state, for the purpose of delivery, and who shall deliver such intoxicating liquor to any person, company, or corporation, to keep, at each station or office where it employs an agent or other person to make delivery of freight and keep records relative thereto, a record book, wherein such carrier shall promptly upon receipt, and prior to delivery, enter in ink, in legible writing, in full, the name of the consignor of each shipment of intoxicating liquor to be delivered from or through such station, from where shipped, the date of arrival, the quantity and kind of liquor, so far as disclosed by lettering on the package or by the carrier's records, and to whom and where consigned, and the date delivered. No shipment billed in whole or in part as intoxicating liquor shall be delivered to the consignee until such consignee upon such record book enters in ink, in legible writing, his full name and residence or place of business, giving the name of the town or city, and the street name and number where there is such, and certifies that such liquor is for his own lawful purposes or private consumption. [36 G. A. (S. F. 418, § 2.)]

SEC. 2421-c. Delivery without receipt or to other than consignee—penalty. It shall be a misdemeanor for any railroad company, express company, corporation or common carrier, person, steamboat or steamboat

line, or any agent or employe of such railroad company, express company, corporation or common carrier, person, steamboat or steamboat line, to deliver any intoxicating liquor to any person other than the consignee, or without same having been receipted for as herein required, or where there is reasonable ground to believe that such liquor is intended for unlawful use, or to refuse examination of such record to any officer entitled to same as herein provided. And in no case shall any railroad company, express company, corporation or other common carrier, person, steamboat or steamboat line, be liable for damages for complying with this act. [36 G. A. (S. F. 418, § 3.)]

SEC. 2421-d. Record of shipments open to law enforcing officer. The record book required by this act shall be kept in the said local office of such carrier and shall, during business hours, be open to inspection by any peace or law enforcing officer of the state, or of any county, town or city therein. [36 G. A. (S. F. 418, § 4.)]

SEC. 2421-e. Construction of statute. This act shall be construed in harmony with all federal statutes relating to inter-state commerce in intoxicating liquors. [36 G. A. (S. F. 418, § 5.)]

SEC. 2423-a. Attempt to collect for liquors illegally sold, prohibited. The collection of payment, the solicitation of payment, and all attempts directly or indirectly, to collect payment within this state for intoxicating liquor sold or shipped within or into this state to be used for illegal purposes within this state, is hereby prohibited and made illegal, and the violation hereof is hereby made a misdemeanor. [36 G. A. (S. F. 425, § 1.)]

SEC. 2423-b. Injunction. Every person, who for himself or for another, violates any of the provisions of this act, may be restrained by injunction from continuing to do any of the acts herein prohibited, and all the proceedings for injunctions, temporary and permanent, and for fines and costs for violation of same, as defined by law, shall be applicable to such person. [36 G. A. (S. F. 425, § 2.)]

SEC. 2427. Evidence of illegal selling or keeping—license.

Where intoxicating liquors are found on premises used by defendant as a meat market, three full bottles in the refrigerator and a barrel of full bottles and an accumulation of empty ones in the basement, the basement being controlled by defendant, a prima-facie case of violation of the statute is made out, and the nuisance thus shown should be abated by injunction. *Shideler v. Keenan Bros.*, 148 N. W. 972.

The presumption of unlawful sale from the possession of a Federal special liquor

tax receipt is applicable to a civil action under section 2423, Code, to recover money paid for liquors unlawfully sold, but such presumption is not conclusive. *Cvitano-vich v. Bromberg*, 151 N. W. 1073.

Evidence upon an application for an injunction to restrain the illegal sale of intoxicating liquors held sufficient. *Jones v. Welsh*, 149 N. W. 515.

Portion of section relating to payment of Federal liquor license applied. *Erbacher v. Anderson*, 161-546, 143 N. W. 596.

SEC. 2427-c. Prima-facie evidence.

Presumption created by this section discussed and applied. *Jones v. Welsh*, 149 N. W. 515.

SEC. 2431. Evasions.

Section applied. *Shideler v. Naughton*, 145 N. W. 280.

SEC. 2432. Payment of—lien.

The infancy, insanity or other disability of the owner does not exempt the property from the tax. *Hopkins v. Lee*, 162-165.

The mulct tax is to be assessed against the property whereon the business is con-

ducted, no matter whether the owner is a minor or other person under a legal disability, and may be levied for part of a calendar year. *Hopkins v. Lee*, 162-165, 143 N. W. 1002.

SEC. 2433. Return by assessor.

The tax is not levied by the board of supervisors but returned by the assessor to the auditor and certified to the treasurer, who enters them for collection, and

notice on an owner who is a minor over 14 years of age is sufficient. *Hopkins v. Lee*, 162-165.

SEC. 2435. Statement by citizens—service—return. That the law as it appears in section twenty-four hundred thirty-five of the supplement to the code, 1913, be and the same is hereby repealed, and in lieu thereof is enacted the following:

Should the assessor for any reason fail to perform his duty, any three citizens of the county can, by verified statement on information and belief, addressed to the county auditor, procure the listing of names and places for the levy of said tax, with the same force and effect as if done by the assessor. At least five days before listing the property or names with the county auditor as contemplated in the law as it appears in section twenty-four hundred thirty-five of the supplement to the code, 1913, such citizens shall give notice in writing of their intention so to do to the same parties and in the same manner as required of the assessor in section twenty-four hundred thirty-three supplement to the code, 1913. Said notice shall, upon request of any of said three citizens be served by the sheriff of said county, and proof of the service of said notice shall be made by the sheriff, which notice and return of service thereon shall, by said sheriff, be filed with the auditor, with the list of names and property sought to be charged. Any one of said three citizens may serve such notice and make return thereof under affidavit, filed with the auditor. Said statement and return of service so filed with the county auditor shall be admissible in evidence in the same way and with the same force and effect as the return of the assessor. [36 G. A. (S. F. 427, §§ 1, 2.)] [29 G. A., ch. 95, § 2.] [25 G. A., ch. 62, § 3.]

SEC. 2436. Quarterly installments—lien—penalty.

The tax may be levied for a part of a year and a party cannot object that it is entered for a less amount than the law allows. *Hopkins v. Lee*, 162-165, 143 N. W. 1002

An assessment levy by the board of supervisors under this section and its kindred sections is not necessary and notice of the levy made under these sections need not be given to owner. *Ibid.*

SEC. 2441. Application for remission.

This and the following sections held to create a tribunal and provide a method for contesting the levying of a mulct tax or for a remission thereof, and unless the

tax is wholly void, the remedy provided is exclusive. *Hopkins v. Lee*, 162-165, 143 N. W. 1002.

SEC. 2448. When a bar—conditions—repealed. [36 G. A. (S. F. 7, § 1.)] [35 G. A., ch. 194, § 1.] [35 G. A., ch. 193, §§ 1, 2.] [31 G. A., ch. 100.] [29 G. A., ch. 96, § 1.] [25 G. A., ch. 62, § 17.] [18 G. A., ch. 82.] [18 G. A., ch. 147.] [17 G. A., ch. 119, § 2.] [C. '73, § 1114.]

NOTE: See §§ 2448-a and 2448-b for repeal and the time the same takes effect. REPORTER.

Voter may sign statement of consent "by mark". *In re Sale Liquors*, 150 N. W. 86.

After the statement of consent is filed with the county auditor, "withdrawals" will be recognized but not "withdrawals of withdrawals". *Ibid.*

The poll lists upon which the sufficiency of a petition of consent for the sale of intoxicating liquors is determined are

those of the last preceding regular city election or a general election as defined by Code Sec. 1089. *Wright v. Board of Supervisors*, 162-82, 144 N. W. 224.

Right of appeal has been clearly granted to either of the defeated parties in all classes of liquor consent petitions covered by this and the two following sections. *Barber v. De Ford*, 150 N. W. 86.

Par. 1. If a voter's name appears on

the poll book in an incorrect form he may properly sign the consent statement in such incorrect form but the evidence must be such that it fairly appears that the incorrect name on the poll book represented this particular voter. *Riley v. Litchfield*, 150 N. W. 81; *In Re Sale Liquors*, 150 N. W. 86.

The name "Robert Thorn" on statement of consent and "R. Thorn" on poll book, are not the same; nor is "Hiram B. Colvin" on statement of consent the same as "H. B. Colvin" on poll book. *Ibid.*

Any person whose name is on the poll book as voting may sign the statement

of consent, irrespective of his right to vote. *Riley v. Litchfield*, 150 N. W. 81.

A "withdrawal of a withdrawal" is effective if filed before the "withdrawal" becomes effective by proper filing. *Ibid.*

Arthur Rohweder and Arthur Rohweder are "*idem sonans*." *Ibid.*

Par. 4. The saloon must be situated in a single room on a business street, and the bar thereof should be in plain view of the street. *Sowles v. Mortens*, 160-580.

Par. 10. The seller must, at his peril, know whether the persons to whom sales are made are minors. *Ibid.*

SEC. 2448-a. Repeal. That the law as the same appears in section twenty-four hundred forty-eight (2448) supplement to the code, 1913, section twenty-four hundred forty-nine (2449), of the code, 1897, sections twenty-four hundred fifty (2450), and twenty-four hundred fifty-one (2451), supplement to the code, 1913, sections twenty-four hundred fifty-two (2452), twenty-four hundred fifty-three (2453), twenty-four hundred fifty-four (2454), twenty-four hundred fifty-five (2455), twenty-four hundred fifty-six (2456), twenty-four hundred fifty-seven (2457), twenty-four hundred fifty-eight (2458), twenty-four hundred fifty-nine (2459), twenty-four hundred sixty (2460), and twenty-four hundred sixty-one (2461) of the code, 1897, sections twenty-four hundred sixty-one c (2461-c), twenty-four hundred sixty-one d (2461-d), twenty-four hundred sixty-one e (2461-e), twenty-four hundred sixty-one h (2461-h), twenty-four hundred sixty-one i (2461-i), twenty-four hundred sixty-one j (2461-j), and twenty-four hundred sixty-one k (2461-k) of the supplement to the code, 1913, be and the same are hereby repealed. [36 G. A. (S. F. 7, § 1.)]

SEC. 2448-b. Time the repeal in first preceding section takes effect. This act shall take effect from and after January first, 1916. [36 G. A. (S. F. 7, § 2.)]

SEC. 2449. Cities under five thousand and towns—repealed. [36 G. A. (S. F. 7, § 1.)] [25 G. A., ch. 62, § 18.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal. **REPORTER.**

SEC. 2450. Sufficiency of statement—finding—appeal—repealed. [36 G. A. (S. F. 7, § 1.)] [31 G. A., ch. 101.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal. **REPORTER.**

The "statement of consent" is unaffected by the death or removal of a signer if filed within thirty days of signing. *Riley v. Litchfield*, 150 N. W. 81.

The trial before district court on sufficiency of statement is "at law" and findings of court will be given the force of a verdict by a jury. *Ibid.*

"*De novo*" as here used means "again" or "anew"—not "as an equity action". *Ibid.*

The right of appeal to the district court from the decision of the supervisors and the right of appeal to supreme court from the decision of the district court exists as to all statements of consent filed with the auditor. *In re Sale Liquors*, 150 N. W. 86.

If the voter's name appears on the poll book in an incorrect form, he may properly sign a liquor consent statement in such incorrect form, but the evidence must be such that it fairly appears that the incorrect name on the poll book represented and stood for this particular voter. *Barber v. DeFord*, 150 N. W. 86.

A voter may sign a statement of consent for the sale of intoxicating liquors "by mark". *Ibid.*

An affidavit in verification of a signature to a statement of consent for the sale of intoxicating liquors may be made before a notary public in a foreign state, such notary properly signing his name as

such. The presumption that such notary acted in the county where he was authorized to act is not overthrown by a caption reading, "State of Iowa, Polk County SS". *Ibid.*

An affidavit in verification of the signature of a signer of a statement of consent for the sale of intoxicating liquors and reciting as having been made before a notary public in and for Polk County, Iowa, but whose seal showed him to be a notary public in and for Jones County, Florida, is a nullity. *Ibid.*

A statement of consent for the sale of intoxicating liquors being filed with the county auditor, the filing thereafter of a withdrawal of a name has the effect *eo instante* of removing said name from said statement and said name cannot thereafter be reinstated on said statement. In other words, after said statement is so filed the law will recognize and give force to a withdrawal but will not recognize or give force to a withdrawal of a withdrawal. *Ibid.*

SEC. 2451. Forfeiture or revocation—repealed. [36 G. A. (S. F. 7, § 1.)] [28 G. A., ch. 78, § 1.] [25 G. A., ch. 62, § 19.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2452. False signatures—time of signing—repealed. [36 G. A. (S. F. 7, § 1.)] [25 G. A., ch. 62, § 20.]

NOTE: See §§ 2448-a and 2448-b for repeal and the time of taking effect of said repeal.
REPORTER.

A verification of a signature before a foreign notary acting in Iowa is a nullity—otherwise, if notary acts in the state where he is authorized to act. *In re Sale Liquors*, 150 N. W. 86.

The word "reputable" used in connection with the person witnessing the signatures to a statement of consent to sell liquors refers to a person's real character as distinguished from reputation. A persistent violator of the law against bootlegging, gambling, and bribing public officers is not a reputable person within

the meaning of this section, and the statement of consent to be sufficient must have the signatures thereto witnessed by a reputable person even though it was signed by the required number of qualified electors. *Foster v. Crisman*, 144 N. W. 1021.

That a person is not "reputable" cannot be predicated on the fact that he, in good faith, advised a voter to sign the statement in the same form as the voter's name appeared on poll book. One who commits perjury is not "reputable". *Riley v. Litchfield*, 150 N. W. 81.

SEC. 2453. Inspection of papers—repealed. [36 G. A. (S. F. 7, § 1.)] [25 G. A., ch. 62, § 21.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2454. Assessment or payment not evidence—place of prosecution—repealed. [36 G. A. (S. F. 7, § 1.)] [25 G. A., ch. 62, § 23.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2455. Additional taxes and regulations—repealed. [36 G. A. (S. F. 7, § 1.)] [25 G. A., ch. 62, § 24.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2456. Granted on statement of consent—repealed. [36 G. A. (S. F. 7, § 1.)] [C. '97, § 2456.]

NOTE: See §§ 2448-a and 2448-b for repeal and the time of taking effect of said repeal.
REPORTER.

SEC. 2457. In cities under five thousand or towns—repealed. [36 G. A. (S. F. 7, § 1.)] [C. '97, § 2457.]

NOTE: See §§ 2448-a and 2448-b for repeal and the time of taking effect of said repeal.
REPORTER.

SEC. 2458. Sufficiency of statement—finding—appeal—repealed. [36 G. A. (S. F. 7, § 1.)] [C. '97, § 2458.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2459. Limits—obligations enforced—repealed. [36 G. A. (S. F. 7, § 1.)] [C. '97, § 2459.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2460. Drinking or retailing on premises—repealed. [36 G. A. (S. F. 7, § 1.)] [C. '97, § 2460.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2461. Only in cities and towns where selling permitted—repealed. [36 G. A. (S. F. 7, § 1.)] [C. '97, § 2461.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2461-a. "Bootlegger" defined. Any person who shall, by himself, or his employe, servant or agent, for himself or any person, company or corporation, keep or carry around on his person, or in a vehicle, or leave in a place for another to secure, any intoxicating liquor as herein defined, with intent to sell or dispose of the same by gift or otherwise, or who shall within this state, in any manner, directly or indirectly, solicit, take, or accept any order for the sale, shipment, or delivery of intoxicating liquor, in violation of law, shall be termed a bootlegger, and shall be guilty of a misdemeanor. [36 G. A. (S. F. 426, § 1.)] [36 G. A. (S. F. 126, § 1.)] [30 G. A., ch. 84, § 1.]

SEC. 2461-c. Annual mulct tax—quarterly installments—repealed. [36 G. A. (S. F. 7, § 1.)] [32 G. A., ch. 123, § 1.]

NOTE: See §§ 2448-a and 2448-b for repeal and the time of taking effect of said repeal.
REPORTER.

SEC. 2461-d. First quarter payable in advance—repealed. [36 G. A. (S. F. 7, § 1.)] [32 G. A., ch. 123, § 2.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2461-e. Sale near military reservation—penalty—repealed. [36 G. A. (S. F. 7, § 1.)] [32 G. A., ch. 124.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

SEC. 2461-g1. Intoxicating liquors—carrying on trains prohibited. Any person who shall upon any railroad, street or interurban car, carry upon his person, or in any hand baggage, suit case or otherwise, for unlawful purposes, any intoxicating liquor shall be guilty of a misdemeanor. [36 G. A. (S. F. 420, § 1.)]

SEC. 2461-g2. Time preceding section takes effect. The provisions of this act shall not be in force and effect until January first, 1916. [36 G. A. (S. F. 420, § 2.)]

SEC. 2461-h. According to last preceding census—repealed. [36 G. A. (S. F. 7, § 1.)] [33 G. A., ch. 142, § 1.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of said repeal.
REPORTER.

A resolution of consent of a city council authorizing a person to sell at wholesale only and not as a beverage, whether necessary or legal, or not, is not to be counted

in determining the number of consents to sell at retail which may be granted under this section. *Shideler v. Young*, 145 N. W. 305.

SEC. 2461-i. Existing consent resolutions—applicable to certain cities—reduction of number—repealed. [36 G. A. (S. F. 7, § 1.)] [35 G. A., ch. 195, § 1.] [33 G. A., ch. 142, § 2.]

SEC. 2461-i. Existing consent resolutions—applicable to certain cities—reduction of number. In all cities and towns where a greater number of persons than are provided in section one hereof, now hold resolutions of consent to sell intoxicating liquors at retail, it shall not be mandatory under the provisions of this act for city or town councils to cancel or withdraw a sufficient number of such resolutions of consent to comply with the provisions of section one hereof, and such resolutions of consent may be renewed by city or town councils to the person or persons holding the same or their assignees or grantees, unless said resolutions of consent shall become inoperative by reason of the person holding the same violating any of the laws of the state, either civil or criminal, relating to the sale or disposition of intoxicating liquors, or by reason of a permanent injunction issuing against such person for a violation of law, or by reason of a civil or criminal action being commenced or instituted against said person for the violation of any of the laws of the state relating to the sale or disposition of intoxicating liquors, and said persons surrendering such resolution of consent before said action is prosecuted to final judgment or a conviction had in the court in which the same was instituted or by reason of the city or town council withdrawing such resolution of consent for cause, in which event, no new or additional resolution shall be granted to any person to sell intoxicating liquors as a beverage at retail except in accordance with the provisions of this act.

This act shall also apply to cities acting under special charter and in such cities in which a greater number of persons than are authorized under section one of chapter one hundred forty-two, acts of the thirty-third general assembly, to keep and sell intoxicating liquors as a beverage under the mulct law now hold resolutions of consent to sell intoxicating liquors at retail, it shall be mandatory under the provisions of this act for the city councils of such cities to cancel or withdraw on July first, nineteen hundred thirteen, one third of the excess of such resolutions of consent over those authorized under section one of said chapter, and on July first, nineteen hundred fourteen, one half of such remaining excess of such resolutions of consent, and on January first, nineteen hundred sixteen, all of the excess of such resolutions of consent shall be canceled or withdrawn; provided, however, that from and after the passage of this act all resolutions of consent granted by the council of any city acting under special charter in excess of the number existing in such city at the time of the passage of this act shall be void and of no force and effect. [36 G. A. (H. F. 485, § 1.)] [35 G. A., ch. 195, § 1.] [33 G. A., ch. 142, § 2.]

NOTE: See § 2448-a for repealing act and § 2448-b for time of taking effect of said repeal. REPORTER.

SEC. 2461-j. Conviction or injunction bar to holding permit—time limitation—repealed. [36 G. A. (S. F. 7, § 1.)] [33 G. A., ch. 142, § 3.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of repeal. REPORTER.

SEC. 2461-k. Resolutions granted in violation are invalid—repealed. [36 G. A. (S. F. 7, § 1.)] [33 G. A., ch. 142, § 4.]

NOTE: See §§ 2448-a and 2448-b for repeal and time of taking effect of repeal. REPORTER.

SEC. 2461-m. Persistent violators—penalty. Any person who, having once in any district court of this state been duly convicted in a criminal action for violation of any of the provisions of chapter six, title twelve, of the code and the laws amendatory thereto, and who shall hereafter be indicted, tried and convicted for a subsequent offense under the same law, shall be considered a persistent violator of such law, and sentence for each such subsequent violation of said law shall be imprisonment in the state penitentiary or state reformatory for not more than one year. [36 G. A. (S. F. 421, § 1.)]

SEC. 2461-n. Evidence. On the trial of any cause, under the provisions of this act, a duly authenticated copy of the former judgment in any court in which such judgment was so had, shall be competent and prima-facie evidence of such former judgment, and may be used in evidence upon the trial of said cause. [36 G. A. (S. F. 421, § 2.)]

CHAPTER 8.

OF THE BUREAU OF LABOR STATISTICS.

SECTION 2470. Duties—report. The duties of said commissioner shall be to collect, assort, systematize and present in biennial reports to the governor statistical details relating to all departments of labor in the state, especially in its relations to the commercial, social, educational and sanitary conditions of the laboring classes, the means of escape from, and the protection of life and health in factories, the employment of children, the number of hours of labor exacted from them and from women, and to the permanent prosperity of the mechanical, manufacturing and productive industries of the state; and he shall, as fully as practicable, collect such information and reliable reports from each county in the state, the amount and condition of the mechanical and manufacturing interests, the value and location of the various manufacturing and coal productions of the state, also sites offering natural or acquired advantages for the profitable location and operation of different branches of industry; he shall, by correspondence with interested parties in other parts of the United States, impart to them such information as may tend to induce the location of mechanical and producing plants within the state, together with such other information as shall tend to increase the productions, and consequent employment of producers; and in said biennial report he shall give a statement of the business of the bureau since the last regular report, and shall compile and publish therein such information as may be considered of value to the industrial interests of the state, the number of laborers and mechanics employed, the number of apprentices in each trade, with the nativity of such laborers, mechanics' and apprentices' wages earned, the savings from the same, with age and sex of laborers employed, the number and character of accidents, the sanitary condition of institutions where labor is employed, the restrictions, if any, which are put upon apprentices when indentured, the proportion of married laborers and mechanics who live in rented houses, with the average annual rental, and the value of property owned by laborers and mechanics; and he shall include in such report what progress has been made with schools now in operation for the instruction of students in the mechanic arts, and what systems have been found most practical, with details thereof. Such reports shall not contain more than six hundred printed pages, and shall be of the number,

and distributed in the manner, provided by law. He shall make a report to the governor during the year nineteen hundred and six, and biennially thereafter. The report for the year nineteen hundred and six shall cover the period only from the date of his last preceding biennial report. Said commissioner may from time to time, with the consent of the executive council, issue bulletins containing information of importance to the industries of the state and to the safety of wage earners. [36 G. A. (S. F. 393, § 1.)] [31 G. A., ch. 102, § 2.] [29 G. A., ch. 97, § 1.] [20 G. A., ch. 132, § 5.]

SEC. 2473. Meaning of terms. The expressions "factory," "mill," "workshop," "mine," "store," "business house," and "public or private work," as used in this chapter, shall be construed to mean any factory, mill, workshop, mine, store, business house, public or private work, where wage-earners are employed for a certain stipulated compensation. [36 G. A. (S. F. 393, § 2.)] [26 G. A., ch. 86, § 4.]

SEC. 2477-a. Child labor in factories and mills—age limitation. No person under fourteen years of age shall be employed with or without wages or compensation in any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house or packing house, or in any store or mercantile establishment where more than eight persons are employed, or in the operation of any freight or passenger elevator, or livery stable or garage, place of amusement, or in the distribution or transmission of merchandise or messages. Provided that nothing in this section shall be construed as prohibiting a child from working in any of the above establishments or occupations when such are owned or operated by their own parents. [36 G. A. (S. F. 189, § 1.)] [31 G. A., ch. 103, § 1.]

SEC. 2477-a1. Child occupations forbidden—exceptions—work permits—penalty on parent—unlawful sales to child. No boy under eleven years of age nor girl under eighteen years of age shall be employed, permitted or suffered to work at any time in any city of ten thousand or more inhabitants within this state in or in connection with the street occupations of peddling, boot-blackening, the distribution or sale of newspapers, magazines, periodicals or circulars, nor in any other occupations in any street or public place; provided, however, that in cities having a superior or municipal court, the superintendent of schools or person authorized by him, upon sufficient showing made by the said superior or municipal judge, shall have authority, in exceptional cases, to issue a permit to a boy under eleven years of age. No boy between eleven and sixteen years of age shall be employed, permitted or suffered to work in any such city in or in connection with any of the aforesaid occupations unless he complies with all the requirements for the issuance of work permits as described in this act except the filing of an employers' agreement, provided, however, that the school record so required shall certify only that the boy is regularly attending school and that the work in which he wishes to engage will not interfere with his progress at school. Upon compliance with these requirements such boy shall be entitled to receive from the officer authorized to issue work permits a badge which shall authorize such boy to engage in the above mentioned occupations at such time or times between four A. M. and seven thirty P. M. in each day as the public schools of the city or district where such boys reside are not in session, but at no other time, provided, however, that during the summer school vacation such boy may engage in such occupation until the hour of eight thirty P. M. All such badges issued in the same calendar year shall be of the same color, which color shall be changed each year upon renewal and all such badges shall become void upon the first day of January of each year.

The parent or person in charge of any child who shall engage in any such street occupation in violation of any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than fifteen dollars. The truant or attendance officers of the public schools shall enforce the provisions of this section. Whoever furnishes or sells to any minor any article of any description with the knowledge that said minor intends to sell said article in violation of the provisions of this section or who shall continue to furnish or sell articles of any description to a minor after having received written notice from any officer charged with the enforcement of this section or from the officer issuing the badge required as aforesaid that said minor is unlicensed to sell such article, shall be punished by a fine of not less than fifteen dollars nor more than one hundred dollars for each offense. [36 G. A. (S. F. 189, § 2.)]

SEC. 2477-b. Where life and health are endangered—age limitation. No person under sixteen years of age shall be employed at any work or occupation by which, by reason of its nature or the place of employment, the health of such person may be injured, or his morals depraved, or at any work in which the handling or use of gunpowder, dynamite or other like explosive is required, or in or about any mine during the school term, hotel, bowling alley, pool or billiard room, or in occupations dangerous to life or limb and no female under twenty-one years of age shall be employed in any capacity where the duties of such employment compel her to remain constantly standing. [36 G. A. (S. F. 189, § 3.)] [31 G. A., ch. 103, § 2.]

SEC. 2477-c. Hours of labor—noon intermission. No person under sixteen years of age shall be employed at any of the places or in any of the occupations recited in section one hereof before the hour of seven o'clock in the morning or after the hour of six o'clock in the evening, and if such person is employed exceeding five hours of each day, a noon intermission of not less than thirty minutes shall be given between the hours of eleven and one o'clock, and such person shall not be employed more than eight hours in any one day, exclusive of the noon intermission; nor shall any such person be employed more than forty-eight hours in any one week; nor shall any person under eighteen years of age be employed in the transmission, distributing or delivery of goods or messages between the hours of ten in the evening and five in the morning in any city of ten thousand or more inhabitants. [36 G. A. (S. F. 189, § 4.)] [31 G. A., ch. 103, § 3.]

SEC. 2477-d. Conditions under which children may be employed. That section twenty-four hundred seventy-seven-d, supplement to the code, 1913, be and the same is hereby amended by striking out the entire section and substituting therefor the following: "No child under sixteen years of age shall be employed, permitted, or suffered to work in or in connection with any of the establishments or occupations mentioned in section twenty-four hundred seventy-seven-a unless the person, firm or corporation employing such child procures and keeps on file, accessible to any officer charged with the enforcement of this act, a work permit issued as hereinafter provided, and keeps two complete lists of the names and ages of all such children under sixteen years of age employed in or for such establishments or in such occupations, one on file in the office and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed. On termination of the employment of a child whose permit is on file, such permit shall be returned by the employer within two days to the officer who issued it with a statement

of the reasons for the termination of such employment. A work permit shall be issued only by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized in writing by the local school board in the community where such child resides, upon the application of the parent, guardian or custodian of the child desiring such permit. The person authorized to issue work permits shall not issue any such permit until he has received, examined, approved and filed the following papers duly executed, namely:

(1), A written agreement from the person, firm or corporation into whose service the child under sixteen years of age is about to enter, promising to give such child employment, describing the work to be performed and agreeing to return the work permit of such child to the office from which it was issued within two days after the termination of the employment of such child;

(2), The school record of such child filled out and signed by the chief executive of the school which such child has last attended certifying that the child is able to read intelligently and write legibly simple sentences in the English language and has completed a course of study equivalent to six yearly grades in reading, writing, spelling, English language, geography, and arithmetic. Such school record shall give also the name, date of birth and residence of the child as known on the records of the school and also the name of its parent, guardian or custodian;

(3), A certificate signed by a medical inspector of schools or if there be no such inspector then by a physician appointed by the board of education certifying that the applicant for the work permit has reached the normal development of a child of its age and is in sufficiently sound health and physically able to perform the work for which the permit is sought;

(4), Evidence of age showing that the child is fourteen years old or upwards which shall consist of one of the following proofs required in the order herein designated as follows:

(a) A transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births;

(b) A passport or a transcript of a certificate of baptism showing the date of birth and place of baptism of such child;

(c) A school census record;

(d) In cases where none of the above named proofs is obtainable, a certificate signed by the local medical inspector of schools, or if there be no such inspector then by a physician appointed by the local board of education certifying that in his opinion the applicant for the work permit is fourteen years of age or upwards.

A duplicate of every such work permit issued shall be filled out and forwarded to the office of the commissioner of labor between the first and the tenth day of the month following the month in which it is issued. The blank forms for the work permit, the employer's agreement, the school record and the physician's certificate shall be formulated by the state superintendent of public instruction and furnished by him to the local school authorities. The work permit shall in no case be issued to the applicant or its parent, guardian or custodian, but shall in every case be forwarded to the prospective employer of such applicant. Every such work permit shall give the name, sex, the date and place of birth and the residence of the child in whose name it is issued, describe the color of the hair and eyes, give his height and weight and shall contain a statement of the proof of age accepted, the school grade completed, the name and ad-

dress of the establishment where the child is to be employed and shall describe the work for which the permit is issued; it shall further certify that the papers required for its issuance have been duly examined, approved and filed and that the person named therein has personally appeared before the officer issuing the permit and has been examined. A work permit shall be issued for every position obtained by a child between the ages of fourteen and sixteen years.

Any officer whose duty it is to enforce the provisions of this act shall have authority to demand of any employer in or about whose place or establishment a child apparently under the age of sixteen years is employed, permitted or suffered to work, and whose work permit is not filed as required by this section, that such employer shall either furnish him within ten days the same documentary evidence of age of such child as is required upon the issuance of a work permit, or shall cease to employ or permit or suffer such child to work in such place or establishment. [36 G. A. (S. F. 189, § 5.)] [33 G. A., ch. 145, § 1.] [31 G. A., ch. 103, § 4.]

SEC. 2477-g1. Employment bureau—commissioner to establish—clerk—compensation—expense. That the commissioner of the bureau of labor statistics of Iowa shall, within thirty days after the taking effect of this act, establish in his office at Des Moines, Iowa, a department to be called The State Free Employment Bureau, and the said commissioner is hereby authorized and directed to establish such department and to adopt such rules and regulations as are necessary to carry out the purposes of this act. He shall, with the approval of the executive council, appoint a competent person who shall be placed in charge of such work and be known as the chief clerk of the state free employment bureau. His term of office shall be the same as that of commissioner of the bureau of labor statistics, and his salary shall be twelve hundred dollars annually, payable monthly, and shall be paid in the same manner as are the salaries of other officers of said bureau. All printing, postage, stationery and other necessary office expenses, including telephone and telegraph bills used to properly carry on the work of such free employment bureau, shall be paid by the state in the same manner as are paid the other expenses of the office of the commissioner of the bureau of labor statistics. [36 G. A. (H. F. 464, § 1.)]

SEC. 2477-g2. Applicants for work—lists mailed—posting. The chief clerk of the state free employment bureau shall cause to be printed the number of all applicants and the character of the employment desired by the applicants and the number of those desiring to employ labor, and the class thereof, which have been received by him since making up his last list, and cause a true copy of said list to be mailed to the auditors of the several counties of Iowa, and to the clerks of all cities and towns within the state of Iowa having a population of five hundred or more, according to the last state or national census. Said list shall be mailed out as above provided with such frequency as will in his judgment best serve the needs of the public but not oftener than once each week nor less frequent than one each month. Said list shall be immediately posted on receipt thereof by the county auditors or city and town clerks in an accessible, conspicuous and public place in their respective communities and shall at all times be subject to the inspection of all persons desiring employment and all persons wishing to employ labor. The chief clerk of the state free employment bureau, with the consent of the commissioner of the bureau of labor statistics and with the approval of the executive council may adopt and use such other methods of disseminating information

as will in their judgment be helpful in bringing the unemployed in touch with those desiring to employ such labor. No fee or compensation shall be received, either directly or indirectly, from persons residing within this state applying for employment or help to said state free employment bureau. [36 G. A. (H. F. 464, § 2.)]

SEC. 2477-g3. Defacing lists—penalty. Any person who shall deface, mutilate, destroy or remove any of the lists required to be posted by the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days. [36 G. A. (H. F. 464, § 3.)]

CHAPTER 9.

OF MINES AND MINING.

SECTION 2478. Inspectors. That the law as it appears in section one of chapter one hundred six of the acts of the thirty-fourth general assembly of the state of Iowa, and the law as same appears in section twenty-four hundred seventy-eight supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"The governor shall appoint three mine inspectors from those receiving certificates of competency from the board of examiners as by law provided, who shall hold their office for a term of four years and until their successors shall be appointed and qualified, subject to removal by him for cause, their term to commence on the fourth day of July, nineteen hundred fifteen and at four-year periods thereafter. The present incumbents shall continue in office until their successors are appointed and qualified. Any vacancies occurring shall be filled in the same manner as original appointments and the appointee to hold for the unexpired term only. Each inspector shall in no way be financially interested in or connected with any mining property, directly or indirectly act as an agent, officer or representative of any person, firm or corporation, and shall devote his entire time and attention to the duties incumbent upon him as an inspector of mines in the state of Iowa, and shall before entering upon the discharge of his duties give a bond in the sum of two thousand dollars and take an oath to be endorsed upon his bond, with sureties to be approved by the secretary of state, conditioned in accordance with the tenor of the oath. The bond shall be conditioned to faithfully and impartially without fear or favor perform the duties incumbent upon him, which shall be filed with the oath and commission and recorded in the office of the secretary of state." [36 G. A. (S. S. F. 6, § 1.)] [35 G. A., ch. 197, § 1.] [34 G. A., ch. 106, § 1.] [21 G. A., ch. 140, §§ 1, 3, 5.] [20 G. A., ch. 21, §§ 1, 3, 5.]

SEC. 2478-a. Acts conflicting with preceding section repealed. All acts or parts of acts in so far as they conflict herewith are hereby repealed. [36 G. A. (S. S. F. 6, § 2.)]

SEC. 2486-k. Places of refuge in haulage roads—signals—trip car lights.

The expense of excavating "places of refuge" required herein may be considered coal on leased premises is minable. *Ellis v. Cricket Coal Co.*, 148 N. W. 887.
by a jury in determining whether or not

SEC. 2489-5a. Caps—timbers—props.

When the roof of a mine fell because of the absence of props, the proximate cause of such fall may be deemed the mine owner's failure to furnish the props, it appearing that the miner had requested the props and would have installed them had they been furnished. *Edgren v. Scandia Coal Co.*, 151 N. W. 519.

Whether a mine is "safe" within the meaning of our Mining Act, providing that no miner shall work in his place until it is made safe, depends on the facts ascer-

tainable by reasonable diligence before the accident and not on the later developments of the accident itself. In other words, if a miner makes an examination, such as a reasonably cautious miner would make, and discovers nothing that such a miner would deem unsafe, then the place is "safe" within the meaning of the statute and he may continue work, guiltless of negligence *per se*, even though an accident follows demonstrating that in truth it was unsafe. *Ibid.*

SEC. 2489-10a. Telephone systems. In all mines where the working parts thereof exceed three thousand feet from the foot of the slope, shaft or the mouth of a drift as the case may be, a good and substantial telephone system or other like suitable means of communication shall be maintained from the bottom to some suitable and convenient point at all times ready for use, which shall be extended as the works of the mine progress three thousand feet therefrom. [36 G. A. (S. F. 315, § 1.)] [34 G. A., ch. 106, § 38.]

SEC. 2489-12a. Annual reports—reports of accidents. "The owner, lessee, operator or person in charge of any mine shall on or before the first day of February in each year send to the office of the inspector of the district where the mine is located, upon blanks furnished by the state, a correct return with respect to the year ending January first of each year, the quantity of coal mined and the number of persons ordinarily employed at, in and around such mine, designating the number of persons below and above ground and such other information as required by such blank. In all cases, the owner, operator, lessee or person in charge of any mine in this state, upon the happening of any accident, by which injury occurs to any of the employes above or below ground, shall immediately report the same to the state mine inspector of the district in which said mine is located, which report shall contain a detailed statement of the extent of the accident, and the manner in which it occurred, which report shall conform to the standard form of reports, as provided by the state mine inspector in such cases. [36 G. A. (S. F. 477, § 1.)] [34 G. A., ch. 106, § 40.]

SEC. 2489-16a. Duties of miners or other employes.

When the roof of a mine fell because of the absence of props, the proximate cause of such fall may be deemed the mine owner's failure to furnish the props, it appearing that the miner had requested the props and would have installed them had they been furnished. *Edgren v. Scandia Coal Co.*, 151 N. W. 519.

Whether a mine is "safe" within the meaning of our Mining Act, providing that no miner shall work in his place until it is made safe, depends on the facts ascertainable by reasonable diligence before the accident and not on the later developments of the accident itself. In other words, if a miner makes an examination, such as a reasonably cautious miner would make, and discovers nothing that such a miner would deem unsafe, then the place is "safe" within the meaning of the statute, and he may continue work, guiltless of

negligence *per se*, even though an accident follows demonstrating that in truth it was unsafe. *Ibid.*

The duty of the miner to examine and repair the roof and timber his working place relates to the place where he is to load coal or other mineral, and not to the entry through which he reaches such place or brings his tools or the car to use or load, unless such entry is under his control. *Carnego v. Crescent Coal Co.*, 163-194, 143 N. W. 550.

A miner is not required to inspect and repair the roof of an entry unless under his control, and it is a question for the jury under conflicting evidence as to who is in control of a certain place. *Ibid.*

Miners are only required to examine and securely prop and timber their working place where they mine or load minerals. *Ibid.*

SEC. 2491. Penalties.

It is the duty of the miner to securely his control. *Carnego v. Crescent Coal Co.*,
prop or support the roof or entries under 163-194, 143 N. W. 550.

CHAPTER 11.

OF INSPECTION OF PETROLEUM PRODUCTS.

SECTION 2503. Inspectors—chief inspector to decide disputes—assistants—bond. That the law as the same appears in section twenty-five hundred three, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“The governor shall appoint inspectors of petroleum, not exceeding fourteen in number, one of whom shall be designated as chief inspector, who shall have general supervision of the inspection service of the state, to whom all reports shall be made. All differences arising in the inspection of oils shall be referred to the chief oil inspector and his decision of the question shall be final.

“The chief inspector shall make such recommendations to the state board of health as may be deemed necessary to improve the inspection service. He shall devote his time and services wholly to the inspection of oil and the duties of his office.

“Inspectors may appoint such deputies, helpers and branders as may be necessary in the proper discharge of their official duties, but such appointments before becoming effective must be submitted to and approved and confirmed and their compensation fixed by the executive council as in their judgment may be necessary, equitable and just. Each inspector shall be a resident of the state and not directly or indirectly interested in the manufacture or sale of products of petroleum. He shall give bond to the state in the penal sum of five thousand dollars. The chief oil inspector’s bond shall be ten thousand dollars, all conditioned upon the faithful performance of their duties, with sureties who shall, in addition to the usual justification, make oath entered on the bond that they are not directly or indirectly interested in the manufacture or sale of products of petroleum for illuminating purposes, which bond shall be approved by the governor and filed with the secretary of state.” [36 G. A. (H. F. 353, § 1.) [31 G. A., ch. 105, § 1.] [30 G. A., ch. 87, § 1.] [27 G. A., ch. 61, § 1.] [21 G. A., ch. 149, § 4.] [20 G. A., ch. 185, §§ 1, 3, 12, 14.]

SEC. 2505. Inspection — rejection — branding — fees — reduction—gasoline—how marked—rebate—penalties—supplies. That the law as it appears in section twenty-five hundred five, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“Each inspector shall be furnished, at reasonable expense to the state, with the necessary supplies, instruments and apparatus for testing, and shall promptly make inspections and tests and brand all illuminating oils kept for use or sale and for such purposes may enter upon the premises of any person.

“He shall reject all oils for illuminating purposes which will emit a combustible vapor at a temperature of 100 degrees standard Fahrenheit thermometer closed test, not less than one-half pint of oil to be used in the flash test. If upon test and examination the oil shall meet the requirements,

he shall brand over his official signature and date on the barrel or package holding the same, 'Approved. Flash Test ————— Degrees,' inserting in the blank the number. Should it fail to meet the requirements, it shall be branded under his official signature and date, 'Rejected for illuminating purposes.'

"All inspections shall be made within the state, and paid for by the person for whom the inspection is made at the rate of seven cents per barrel, fifty-five gallons for this purpose constituting a barrel; which charge shall be a lien upon the oil inspected and be collected by the inspector, reported and paid to the chief oil inspector of the state on or before the fifteenth day of each month, provided, however, that on the first day of July of the year 1916, and on the first day of July of each year thereafter the chief inspector shall ascertain the total receipts from oil inspection and all the expenses thereof during the twelve months preceding, and, if in any such year, the revenue realized from oil inspection exceeds the total expenses of inspection by the sum of four thousand dollars, it shall be the duty of the chief inspector to reduce the fees for inspection during the ensuing year to such sum per barrel as will in the judgment of the chief inspector yield a revenue equal to the expenses during the preceding year plus the sum of four thousand dollars. Provided further, that if in any year such reduced charge of inspection proves insufficient to meet the total expenses of the department for said year, the chief inspector shall be authorized and is hereby directed to increase said inspection fees in an amount sufficient to pay the entire expenses of the department not exceeding, however, the sum of seven cents per barrel.

"No gasoline shall be sold, given away or delivered to any person in the state until the package, cask, barrel or vessel containing the same has been painted bright red, and plainly marked 'gasoline' in such manner as the board of health may prescribe.

"There shall be no refund or rebate of charges made or paid for inspection except upon a duly verified certificate of the owner that the goods, for which the rebate is asked, have been disposed of outside of the state, said certificate to be in such form as shall be prescribed by the chief oil inspector of state and shall be delivered to the inspector and attached to his monthly report. The amount of such rebate per barrel allowed during any fiscal year shall be determined by the chief oil inspector of state during the month of July of each year and shall equal approximately the net proceeds per barrel from the inspection service of the state during the preceding fiscal year, the same to be seven cents per barrel.

"Any person, firm, corporation or agent violating any of the provisions of this act shall be deemed guilty of a misdemeanor and punished accordingly. All necessary supplies, tables, instruments and apparatus, as contemplated in this chapter, shall be purchased by the executive council and shall be furnished to the inspectors as needed by them upon requisition therefor made to the chief oil inspector of state, approved by him and forwarded to the executive council.

"Every person who receives products of petroleum for use or sale which have not been inspected as provided in this chapter shall, within five days after the receipt thereof, notify the inspector of that inspection district that the same is in his possession, and to neglect to do so shall be deemed a misdemeanor." [36 G. A. (H. F. 353, § 2.)] [34 G. A., ch. 103, § 1.] [33 G. A., ch. 147, § 1.] [30 G. A., ch. 87, § 3.] [26 G. A., ch. 94.] [24 G. A., ch. 52, § 1.] [21 G. A., ch. 149, §§ 1, 2, 4.] [20 G. A., ch. 185, §§ 1, 2, 4, 14.]

SEC. 2506. Inspector's record—approval—reports from companies—violations—penalty. That the law as it appears in section twenty-five hundred six, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"Each inspector shall keep an accurate record of all oils inspected and branded, the number of gallons, the number and kind of barrels and packages, the date and number of gallons approved, the number rejected, the name of the person for whom inspection was made, and the amount of money received therefor, the necessary traveling expenses incurred and the expenses incurred in prosecution, which record at all reasonable times shall be open to public inspection. A copy of the record duly verified under oath for the preceding month shall be filed with the chief oil inspector of state on or before the fifteenth day of each month, who shall examine said report and if found correct endorse his approval thereon, and certify the same to the executive council, and when approved by said council the auditor of state shall issue his warrant therefor upon the treasurer of state for the amount so approved and due the several inspectors, and no item of expense shall be allowed and paid not shown in such report.

"It shall be the duty of all persons, firms or corporations, officers or agents thereof, within the state receiving any of the products of petroleum, subject to inspection, to file with the chief oil inspector of state, on or before the tenth day of each month a certificate, duly verified in such form as shall be approved by the chief oil inspector of state, to cover the month preceding the one in which said report is made.

"Such report shall show the number of tanks or barrels, and if in tanks the tank number of each product inspected for such person, firm, corporation, officers or agents thereof, the amount of fees paid for such inspection, to whom paid, and that the amounts so stated are all products received by him or them which are subject to inspection during the period. For any failure to make the reports contemplated in this section the person, firm, corporation, officer, agent or employe shall be liable to a fine of not less than ten dollars nor more than one hundred dollars." [36 G. A. (H. F. 353, § 3.) [30 G. A., ch. 87, § 4.] [24 G. A., ch. 52, §§ 1, 4.] [22 G. A., ch. 82, § 38.] [20 G. A., ch. 185, § 5.]

SEC. 2507. Compensation of inspectors—appropriation—expenses—fees paid to state treasurer. That the law as it appears in section twenty-five hundred seven, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"The salary of the chief oil inspector shall be the sum of eighteen hundred dollars per annum and of each of the other inspectors shall be the sum of twelve hundred dollars per annum to be paid in the same manner as other state officers.

"For the purpose of enabling the chief inspector and the other officials charged with the enforcement of this act to enforce the same, of paying the salaries and all other expenses herein provided for, the sum of thirty-two thousand dollars annually, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated. He shall be allowed a clerk or stenographer at a salary not exceeding nine hundred dollars per year to be selected by him. He shall be furnished an office at the seat of government.

"Inspectors shall be allowed such other sums necessary and actually expended in the discharge of their official duties and for necessary expenses incurred for prosecution of violations of the provisions of said chapter and for necessary help in branding barrels. All moneys collected for each

month shall on or before the fifteenth day of the following month be paid to the chief oil inspector of state, who shall receipt to the individual inspectors and by him not later than the twentieth day of the month turned over to the treasurer of state, who shall receipt him therefor." [36 G. A. (H. F. 353, § 4.)] [30 G. A., ch. 87, § 5.] [24 G. A., ch. 52, §§ 2, 4.]

SEC. 2508. Penalties—damages.

A retailer against whom a judgment is recovered for damages resulting from an explosion of oil sold by him, may recoup himself therefor of the manufacturer, despite his own negligence, where the manufacturer sold the oil to him and when so sold it did not comply with the test herein provided for. *Pfarr v. Standard Oil Co.* 146 N. W. 851.

SEC. 2509-a. Biennial report. That the law as it appears in section twenty-five hundred nine-a, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"The chief oil inspector of state shall make and deliver to the governor a report for the fiscal year ending on the thirtieth day of June in each even numbered year, of all inspections made, the receipts and expenditures therefor and such other items as are by this chapter required to be made of record." [36 G. A. (H. F. 353, § 5.)] [31 G. A., ch. 105, § 2.] [30 G. A., ch. 87, § 9.]

SEC. 2510-4a. Authority to enter premises—duty of inspector. The chief oil inspector, or any state inspector or deputy, is hereby invested with authority and jurisdiction to enter upon the premises of anyone selling or keeping for sale within this state any gasoline, benzine or naphtha, for the purpose of inspecting the same as herein provided. It is hereby made the duty of said chief oil inspector to enforce and cause to be enforced the provisions of this chapter. [36 G. A. (H. F. 353, § 6.)] [34 G. A., ch. 109, § 4.]

CHAPTER 12-A.

OF HOTELS, INNS AND LODGING HOUSES.

SECTION 2514-i. Fire escapes—ropes. Every hotel shall be provided and equipped with fire escapes and means of exit and escape from fire as is otherwise than in this chapter provided by law and all such law shall be additional to the provisions of this chapter, and in addition thereto, every bedroom or sleeping apartment which has no other approved fire escape above the ground floor, except in hotels which are of approved fire-proof construction, shall be provided with a manila rope at least five eighths of an inch in diameter and of sufficient length to reach the ground, with knots or loops not more than fifteen inches apart, and of sufficient strength to sustain a weight and strain of at least five hundred pounds. Such ropes shall be securely fastened to the building as near the window as practicable and shall be kept coiled in plain sight at all times, nor shall such rope be covered by curtain or other obstruction. Provided, however, that any other contrivance or appliance for reaching the ground from said bedroom or sleeping apartment may be used in lieu of said rope, if approved by the state hotel inspector. The provisions herein as to providing ropes shall apply to all hotels of more than one story. [36 G. A. (S. F. 576, § 7.)] [33 G. A., ch. 168, § 2.]

SEC. 2514-n. Inside court or light well—runways—construction. That section two thousand five hundred fourteen-n of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Every hotel except those which are of fire proof construction that are [is] constructed with an inside court or light well and with sleeping rooms or sleeping apartments, the only outside openings of which open upon or into such court or light well, unless the same extends to the ground floor with suitable means of exit, shall have such court or light well supplied with a suitable runway, platform or balcony upon the roof or covering at the bottom thereof connecting with some easy and efficient means of egress to accessible fire escapes, and when the fire hazard is such that said roof or covering at the bottom of such court or light well is in danger of being destroyed by fire such runway, platform or balcony shall be attached to the walls of the court or light well as may be required by the inspector. Any doors or windows interposed between said runway, platform or balcony and the fire escapes shall not be fastened against exit. [36 G. A. (S. F. 576, § 8.)] [33 G. A., ch. 168, § 7.]

SEC. 2514-o. Halls—fire escapes—modifications as to halls. That section two thousand five hundred fourteen-o of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Every hotel hereafter constructed, that is three or more stories high shall be provided with a hall on each floor above the ground floor extending from one outside wall to another and said halls shall be equipped at the end with fire escapes as is otherwise provided by law; provided, however, that in hotels of fire proof construction the provisions with reference to the hall extending from one outside wall to another may be modified with the approval of the commissioner of labor statistics, when such buildings are equipped with fire escapes of class "A". [36 G. A. (S. F. 576, § 9.)] [33 G. A., ch. 168, § 8.]

SEC. 2514-p. Inspector of hotels—deputies—bonds. The state board of health shall at its first meeting in July, 1915, and biennially thereafter, appoint an inspector of hotels who shall have no other official business and shall be required to give bonds to the state in the penal sum of five thousand dollars, conditioned for the faithful performance of his duty, to be approved by and filed with the secretary of state, and shall maintain his office in the state board of health rooms at the capitol. Such inspector may, with the consent of a majority of the members of the state board of health, appoint, and at his pleasure remove, one or more deputies who shall assist under his direction in performing the duties imposed by this act; such deputies shall each give bond to the state in the penal sum of two thousand dollars, conditioned as that of the inspector and be approved by and filed with the secretary of state. [36 G. A. (S. F. 620, § 1.)] [33 G. A., ch. 168, § 9.]

SEC. 2514-s. Inspection fees. The proprietor or manager of every hotel containing fifteen rooms or less, four dollars; more than fifteen and less than thirty-one rooms, six dollars; more than thirty and less than seventy-five, eight dollars; seventy-five rooms and above, ten dollars, when inspected under the provisions of this act and before the certificate of inspection shall be issued. But no hotel shall be inspected oftener than once a year unless there is a change of proprietors or unless upon a verified complaint signed by three or more patrons setting forth facts showing that such hotel is in an unsanitary condition or that fire escapes and appliances are not kept and maintained in accordance with the provisions of law. Upon receipt of such complaint, the inspector shall make or cause to be made an inspection or examination of the matters complained of, and, if upon inspection such complaint is found to be justifiable, the legal

fee of inspection shall be charged and collected. In case the complaint is found to be without reasonable grounds the ordinary fee for such inspection shall be chargeable against and collected from the person or persons making the complaint. All fees for the inspection shall be forthwith paid over to the state treasurer and his receipt taken and filed with the secretary of the state board of health. Such fees shall be by the treasurer kept as a separate fund to be known as a hotel inspection fund, and only paid out upon warrants or orders issued by the secretary of the state board of health and countersigned by the chairman thereof. [36 G. A. (S. F. 620, § 2.)] [33 G. A., ch. 168, § 12.]

NOTE: It is evident that the words "shall pay" were inadvertently omitted in the second line after the comma following the word "less". REPORTER.

SEC. 2514-t. Compensation—expenses. The inspector shall receive a salary of fifteen hundred dollars per annum and necessary expenses out of the hotel inspection fund. Each deputy inspector shall receive such compensation out of the hotel inspection fund as shall be fixed by the inspector, not to exceed five dollars per day and necessary expenses when actually engaged in the work of inspection. All salaries, compensation, printing, stationery, postage, and other contingent expenses necessarily incurred under the provisions of this act shall be paid from said fund. All bills for compensation and necessary expenses shall be itemized, verified, audited, and warrant drawn on the hotel inspection fund in the same manner as other expenses of the state board of health, provided that no salaries, compensation or expenses shall be paid in excess of the inspection fees received; and provided that at the close of each fiscal year all fees remaining in the state treasury in excess of the outstanding warrants and the sum of five hundred dollars shall be transferred to the general fund. [36 G. A. (S. F. 620, § 3.)] [33 G. A., ch. 168, § 13.]

CHAPTER 13.

OF THE DAIRY AND FOOD COMMISSIONER AND IMITATION DAIRY PRODUCTS.

SECTION 2515. Appointment—bond—powers and duties—assistants—equipment—state chemist—salaries—expenses—report. That sections twenty-five hundred fifteen, supplement to the code, [1907] twenty-five hundred twenty-five of the code, twenty-five hundred twenty-eight of the code, forty-nine hundred eighty-nine, supplement to the code, 1907, forty-nine hundred ninety, supplement to the code, 1907, forty-nine hundred ninety-nine-a seventeen, supplement to the code, 1907, and five thousand and seventy-seven-a one, supplement to the code, 1907, are hereby repealed and the following enacted in lieu thereof; provided, however, this bill shall not operate to remove from office the dairy commissioner or his assistants who may be serving when this bill becomes a law:

On or before the first day of April of each even-numbered year, the governor shall appoint a dairy and food commissioner, who shall have practical knowledge of, and experience in the manufacture of dairy products, and hold his office for two years from the first day of May following his appointment, and until his successor is appointed and qualified, subject to removal by the governor for inefficiency, neglect or violation of duty. He shall give bond in the sum of ten thousand dollars conditioned for the faithful performance of his duties, with sureties to be approved by and filed with the secretary of state. He shall keep on hand a supply of stand-

ard test tubes or bottles and milk measures or pipettes adapted for use by each milk testing machine. He shall furnish to any firm or corporation desiring the same one such tube or bottle, and such milk measure or pipette for each factory, of the kind adapted for the machine operated therein, upon request therefor, certifying it to be reliable, accurate and standard, placing thereon the words [letters] 'D. C.' as a permanent mark, the tubes or bottles and pipettes to be furnished at the actual cost thereof. He shall have and keep an office in the capitol, and preserve therein all correspondence, documents, records, and all property of the state pertaining thereto, and shall have authority to take all proper educational measures to foster and promote the manufacture and sale of pure food and dairy products. The commissioner shall be allowed necessary postage, stationery, and office supplies, and shall receive an annual salary of twenty-seven hundred dollars and necessary expenses, which shall not exceed forty-five hundred dollars per year including expenses, such expenses to be itemized, verified by him, and when examined and approved by the executive council, to be paid by warrant of the state auditor drawn upon the state treasurer. The commissioner may appoint a deputy commissioner at a salary of eighteen hundred dollars per year, a state dairy inspector at a salary of sixteen hundred dollars per year. He may also appoint, with the approval of the Iowa state college of agriculture and mechanic arts, the director of the Iowa experiment station and the professor of dairying, two assistants at a salary of sixteen hundred dollars per year, and four assistants at a salary of fourteen hundred dollars per year, who shall perform such duties as may be assigned to them by the commissioner. Such deputy, dairy inspector and assistants shall be allowed in addition to their salaries, actual and necessary traveling expenses, when in the performance of their official duties, said expenses to be itemized, verified under oath, and when audited and approved by the executive council to be paid upon warrant of the state auditor upon the state treasurer provided that such expenditure shall not exceed the appropriation made for this purpose. The commissioner shall, with the approval of the executive council, appoint a state chemist, who shall be an expert analytical, food and pharmaceutical chemist, who shall be the official chemist of the dairy and food department. He shall devote his whole time to the duties of such office. He shall receive a salary of twenty-four hundred dollars per year, to be paid in the same manner as the salaries of other state officers. He shall make all the examinations necessary in enforcing the provisions of the various laws enforced by the dairy and food department, shall be allowed actual and necessary traveling expenses, and shall be furnished necessary laboratory, apparatus, supplies and chemicals, to be paid for in the same manner as the accounts of assistants. The commissioner shall during his term of office hold no other official position or any professorship in any state educational institution, and on or before the first day of November he shall make annual report to the governor, which shall contain a detailed account of all his doings as commissioner and the receipts and disbursements of his office since the preceding report, with such facts and statistics in regard to the production, manufacture and sale of dairy products, with such suggestions as he may regard of public importance in connection therewith. In the conduct of his office, he shall have power to issue subpoenas for witnesses, enforce their attendance and examine them under oath by him to be administered, such witnesses to be allowed fees as in justice courts, to be paid by the commissioner as part of the expenses of his office and do such other acts and things as are necessary and proper in the enforcement of the provisions of this chapter. [36 G. A. (S. F.

265, § 2.)] [34 G. A., ch. 113, §§ 1, 2.] [32 G. A., ch. 132.] [30 G. A., ch. 88, § 1.] [28 G. A., ch. 85, § 1.] [25 G. A., ch. 47.] [24 G. A., ch. 50, § 6.] [23 G. A., ch. 52, § 5.] [22 G. A., ch. 98, § 1.] [21 G. A., ch. 52, §§ 11-14.]

SEC. 2515-f. License to operate milk-testing apparatus—examination for—fee—penalty—Iowa butter trademark. No person shall operate a milk or cream testing apparatus duly approved by the state dairy and food commissioner, to determine the percentage of milk fat in milk or cream for the purpose of purchasing the same either for himself or another without first securing a license from the dairy and food commissioner of this state, or from his duly appointed agent or representative, authorizing such person to so operate such tester. Any person desiring to secure such license shall make application therefor on a blank to be prepared and provided by the dairy and food commissioner, and such applicant before being issued such license may be required to pass a satisfactory examination in person and prove by actual demonstration that he is competent and qualified to properly use such tester and make an accurate test with the same. Such license shall be valid until May thirty-first next after its issue and a fee of two and one-half dollars shall be paid by the licensee to the state dairy and food commissioner before such license shall be issued. Licenses issued to operators of the Babcock or other approved test under this act shall take effect and be in force from and after May thirty-first, nineteen hundred eleven. The dairy and food commissioner shall have authority to revoke any license issued under this act. The testing of each lot of milk or cream by any such unlicensed person shall constitute a separate offense, provided that any licensed person may for valid reasons appoint a substitute for a period not to exceed six days, subject to the approval of the dairy and food commissioner. The fees collected under the provisions of this act shall be paid into the state treasury by the dairy and food commissioner.

For the purpose of insuring a higher standard of excellence and quality, a more uniform butter market, a higher market value for the butter manufactured in the state, and to insure a more healthful product for consumption at home and abroad, there is hereby created and adopted the following state trade mark (or such modification thereof as may be made by the executive committee to meet the requirements of the United States copyright laws) for butter manufactured in the state of Iowa. The mark shall consist of a heavy circle with an inner light circle, the center space being occupied by an outline of the map of Iowa and within the outline shall appear in prominent letters the words "Iowa Butter." In the space above the outline and within the light circle shall appear the words "First Quality. License No." and the words "State Butter Control" shall be inserted in the space below the outline of the map and within the light circle. Said trade-mark and its use and regulation shall be in charge of and under the control of an executive committee of five members consisting of the president of the Iowa State Dairy Association, the president of the Iowa State Buttermakers' Association, the dean of the division of agriculture of the Iowa State College of Agriculture and Mechanic Arts, the professor of dairying of the same institution, and the dairy and food commissioner of the state of Iowa.

The state trade mark shall be controlled, used, manufactured and issued under such rules and regulations as may be found necessary, from time to time, by the said executive committee, such executive committee shall have power to make such changes in the rules and regulations for the use of said trade mark as it may deem necessary from time to time.

The rules governing the use of such trade mark shall be published by and through bulletins issued by the state dairy and food commissioner. Such labels, stamps, or other means of imprinting such trade mark upon the manufactured product, or the receptacles containing the same shall be furnished to those entitled to the use thereof by the state dairy and food commissioner at actual cost.

The said executive committee is hereby directed and authorized to secure a copyright under the laws of the United States for trademarks, and copyrights for such trade-mark for butter, and the expenses thereof shall be paid for from the funds appropriated for the use of the state dairy and food department.

It shall be unlawful for any person, firm, corporation, association or individual to use the said trade-mark for butter on their products without first complying with all the rules and regulations prescribed by the said executive committee for the use of the same. [36 G. A. (S. F. 265, § 1.)] [34 G. A., ch. 113, § 8.]

CHAPTER 13-A.

OF THE DAIRY AND BEEF CATTLE GROWING INDUSTRIES.

SECTION 2528-f4. Iowa State Dairy Association—official recognition. Whenever the organization now existing in the state of Iowa and known as the Iowa State Dairy Association shall have filed with the secretary of state of the state of Iowa, verified proofs of its organization, the names of its president, vice-president, secretary and treasurer, and that it has five hundred bona fide members, such association shall be recognized as the Iowa State Dairy Association of the state of Iowa, and be entitled to the benefits of this act. [36 G. A. (S. F. 218, § 1.)]

SEC. 2528-f5. Dairy interests—promotion—inspection of dairies. For the purpose of aiding in the promotion and development of the dairy industry of the state of Iowa, such association shall cause to be made such inspection of dairy farms, dairy cattle, dairy barns and other buildings, and appliances used in connection therewith, dairy products and methods as they shall deem best and shall arrange to furnish such instruction and general assistance, either by institutes or otherwise as they deem proper to advance the general interests of the dairy industry of the state. [36 G. A. (S. F. 218, § 2.)]

SEC. 2528-f6. Association—how it shall act. For all the purposes of this act the said association shall act by and through an executive committee of five members, consisting of the president and secretary of the Iowa State Dairy Association, the dean of the division of agriculture of the Iowa State College of Agriculture and the Mechanic Arts, and the professor of dairying of the same institution, and the dairy and food commissioner of the state of Iowa. [36 G. A. (S. F. 218, § 3.)]

SEC. 2528-f7. Inspectors and instructors. They may employ two or more competent persons who shall devote their entire time to such inspection and instruction under the direction of the said executive committee, and who shall hold office at the pleasure of the committee, and who shall each receive a salary not to exceed eighteen hundred dollars per annum, and actual expenses while engaged in such work. [36 G. A. (S. F. 218, § 4.)]

SEC. 2528-f8. Reports from employes—report to governor. The said association may require such reports from their employes as they deem proper, and shall make to the governor an annual report of their proceedings under this act, which report shall be published as a part of the proceedings of the annual convention of the Iowa State Dairy Association. [36 G. A. (S. F. 218, § 5.)]

SEC. 2528-f9. Iowa Beef Cattle Breeders Association—official recognition. Whenever there shall have been filed in the office of the secretary of state for Iowa, verified proofs of the organization of the beef cattle breeders association, together with proofs that such association has five hundred bona fide members who are stock breeders or stock feeders in this state, together with the names of the president, vice-president, secretary and treasurer, such association shall be recognized as the Iowa Beef Cattle Breeders Association, and be entitled to the benefits of this act. [36 G. A. (S. F. 218, § 6.)]

SEC. 2528-f10. Beef industry—promotion—inspection—demonstrations. It shall be the duty of the beef cattle breeders association to aid in the promotion of the beef cattle industry of the state and to provide for practical and scientific instruction in the breeding and raising of beef cattle, and to provide for the inspection of herds, premises and appliances, methods and food stuffs used in the business of feeding for the purpose of making suggestions and demonstrations beneficial to the business. The said association shall act by and through an executive board to be composed of the dean of the division of agriculture of the Iowa State College of Agriculture and the Mechanic Arts at Ames and the professor of animal industry of the same institution, and the secretary of the State Agricultural Society, and the president and secretary of the said Iowa Beef Cattle Breeder's Association. [36 G. A. (S. F. 218, § 7.)]

SEC. 2528-f11. Inspectors and instructors. The said board may employ two or more competent persons who shall devote their entire time in making inspection and giving instructions, as provided in this act under the direction of said board. Such instructors and inspectors shall hold office at the pleasure of the board and shall each receive a salary not to exceed eighteen hundred dollars per annum and actual expenses while engaged in the work. [36 G. A. (S. F. 218, § 8.)]

SEC. 2528-f12. Salaries—expenses—how paid. The salaries of all persons employed under the provisions of this act shall be paid monthly out of the appropriations herein provided and all traveling expenses and all general expenses incurred by the association in carrying out the purposes of this act shall be paid out of the said appropriation and in the manner provided by sections one hundred seventy-d, one hundred seventy-e and one hundred seventy-f of the supplement to the code, 1907, and upon statements filed with the executive council as therein provided, but no bill shall be paid until after the executive committee of the board under whose authority such expense was incurred, have audited and approved the bill in such manner as the committee shall provide. [36 G. A. (S. F. 218, § 9.)]

SEC. 2528-f13. Appropriation. For the purpose of carrying into effect the provisions of this act and the payment of all expenses connected therewith, there is hereby appropriated out of any fund in the treasury of the state not otherwise appropriated, the sum of fifteen thousand dollars or so much thereof as may be necessary to pay the salaries and expense provided for under the provisions of this act, provided, however, that of the said appropriation, the sum of seven thousand five hundred

dollars shall be available for the purpose of paying the expense incurred by the Iowa State Dairy Association board, and the sum of seven thousand five hundred dollars shall be available for the purpose of paying the expenses incurred by the Iowa Beef Cattle Breeders' Association board. It being the purpose of this act to provide a fund of seven thousand five hundred dollars for the encouragement of the dairy industry and a sum of seven thousand five hundred dollars for the encouragement of the beef cattle industry in this state. [36 G. A. (S. F. 218, § 10.)]

SEC. 2528-f14. Limitation on use of appropriation. None of the money appropriated by this act shall be used to pay the salaries or expense, or used in any manner for the private benefit of any member of the board of either of the said associations. [36 G. A. (S. F. 218, § 11.)]

CHAPTER 14.

OF STATE VETERINARY SURGEON.

SECTION 2538-1a. "Foot and Mouth" disease—losses paid. Where live stock has been killed by order of the state veterinarian and officers of the federal government on account of the disease known as "foot and mouth" disease, the owners may file with the secretary of the executive council a verified statement itemized so as to show the number and kind of animals so killed and the appraised value of each of such animals as fixed by the state and federal authorities under the appraisement rules prescribed by the federal government. The executive council shall examine such statements so filed and allow for each animal killed an amount equal to the appraised value thereof less the amount paid by the federal government. [36 G. A. (H. F. 603, § 1.)]

SEC. 2538-2a. Claims for services and expenses—how prepared—how paid. Any person who has rendered or who shall hereafter render service or incur expense at the requests of the state veterinarian in connection with the quarantine, care, destruction or burial of the stock in any districts under quarantine for the disease herein referred to, may file with the secretary of the executive council a verified and itemized statement of his claim for such services and expenses, which statements shall bear the personal approval of the state veterinarian and of the persons for and on account of whom such services were rendered, except that claims filed under the provisions of this section prior to April fifteenth, 1915, shall not be required to bear the endorsement of the person or persons for and on account of whom such services were rendered. The executive council shall examine such statements so filed and allow to any claimant hereunder such amount as in its judgment is equitable unless such person shall have received pay for such services from the federal government or owner of the stock, and in that event the amount received by such person from the federal government or owner of the stock shall be deducted from the account, but in no event to exceed five dollars for services for each full calendar day for which claim is made. [36 G. A. (H. F. 603, § 2.)]

SEC. 2538-3a. Additional proof—disallowance. The executive council may call for further and additional proof on any claim herein provided for and may disallow any claim for services and expenses filed as provided in section two hereof. [36 G. A. (H. F. 603, § 3.)]

SEC. 2538-4a. Fraud—penalty. Any person filing any claim as herein provided for with intent to defraud or to recover an amount in excess of that to which such person shall be lawfully entitled, shall, on conviction thereof, be imprisoned in the county jail not to exceed one year or be fined not to exceed one thousand dollars or both. [36 G. A. (H. F. 603, § 4.)]

SEC. 2538-5a. Appropriation. For the purpose of carrying out the provisions of this act there is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary. [36 G. A. (H. F. 603, § 5.)]

SEC. 2538-6a. “Foot and Mouth” disease—appropriation. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of fifty-two thousand, four hundred and fifty-five dollars and fifty-two cents or so much thereof as may be necessary to reimburse all persons who have been damaged by reason of having stock killed by order of the state veterinarian or the officers of the federal government for the purpose of preventing the spread of the disease known as the “foot and mouth” disease. [36 G. A. (H. F. 341, § 1.)]

SEC. 2538-7a. Claims for stock killed—half value paid. Every person who has suffered damages by reason of his stock having been killed in this state by order of the state veterinarian and officers of the federal government by reason of the disease above referred to, and who shall file with the executive council an itemized, verified account showing the number of head of stock of each kind killed together with a certificate of the state veterinarian showing the appraised value of such stock as fixed by the state and federal authorities shall be entitled to receive one-half of the appraised value thereof. [36 G. A. (H. F. 341, § 2.)]

SEC. 2538-8a. Allowance of claims. Immediately upon receiving the verified, itemized account of any person, together with the certificate of the state veterinarian as above provided, the executive council shall audit such account and if found to be correct shall require the auditor of state to forthwith issue warrant therefor in such amount as the claimant may be entitled to under the provisions of this act. [36 G. A. (H. F. 341, § 3.)]

CHAPTER 14-B.

OF THE MANUFACTURE AND DISTRIBUTION OF HOG CHOLERA SERUM.

SECTION 2538-w. Laboratory—establishment—director and assistants. The state board of education is hereby authorized and directed to establish at Ames, Iowa, in connection with the Iowa state college of agriculture and mechanic arts, a laboratory for the manufacture of hog cholera serum, toxines, vaccines and biological products and to provide the necessary equipment therefor. The president of said college shall appoint the director of said laboratory and such assistants and inspectors as are deemed necessary to efficiently carry on said work and shall, with the approval of said board, fix the salaries of said assistants and inspectors. [36 G. A. (H. F. 259, § 1.)] [35 G. A., ch. 227, § 1.]

SEC. 2538-w1. Sale of serum. The director of said laboratory shall, on application, furnish said serum to any practicing veterinarian or any person within the state of Iowa, together with specific instructions for the use of same, at the approximate cost of manufacture, and such cost shall

be stated on the package. Any surplus serum or other biological products may be sold by said director at a reasonable profit to any applicant outside of the state. The director of the serum laboratory is authorized to purchase serum or other biological products which he deems reliable and he may sell the same at approximate cost in the same manner as products of the laboratory are sold, at any time it appears to him that the available supply will not be sufficient to meet the demand. [36 G. A. (H. F. 259, § 1.)] [35 G. A., ch. 227, § 2.]

NOTE: That portion of § 1 of H. F. 259 under which changes are made in the above section is as follows:

"Amend section 3538-w1 by inserting after the word 'to' and before the word 'any' in line two, the words 'any practicing veterinarian or'; also by striking out the words 'for use in his herd only' in line three thereof."

Section 3538-w1 does not appear in the supplement to the code, 1913. Evidently section 2538-w1 was intended. REPORTER.

SEC. 2538-w2. Receipts—how deposited—expenses. The director shall issue receipts for all moneys received by him for serum and other biological products sold and shall deposit all such funds with the treasurer of the college, which treasurer shall be responsible on his bond for the same. Upon receipt of said moneys the said treasurer shall issue duplicate receipts therefor, one of which he shall deliver to the director and the other to the secretary of the state board of education. Said moneys shall be kept by said treasurer in a separate fund to be known as the serum fund, and he shall pay out from said fund as other college funds are expended, but only for expenses directly connected with the maintenance and development of said laboratory and for grounds and buildings necessary for the manufacture, purchase and distribution of said serum and biological products. [36 G. A. (H. F. 259, § 1.)] [35 G. A., ch. 227, § 3.]

SEC. 2538-w3. Standard of potency—power to maintain—inspection of serum plants and agencies—permit to sell—bond—fee—revocation—sales of serum below standard prohibited—distributing agency. That section twenty-five hundred thirty-eight-w3 be and the same is hereby amended by striking out the entire of said section and inserting in lieu thereof the following:

"It shall be the duty of the director of said laboratory to establish and declare the standard degree of potency of hog cholera serum for successfully treating, curbing and controlling hog cholera or swine plague. He shall have the power to make such rules and regulations governing the manufacture of serum in laboratories located within the state and doing an intrastate business, as he deems necessary to maintain the potency and purity of their product. He shall have the right himself or through a duly appointed inspector to make such inspection of commercial serum plants doing business under a state permit and of all distributing agencies representing serum manufacturers located outside of the state as will insure a full compliance with the rules and regulations made to govern same. A person, firm, company or corporation before selling or offering for sale within this state any hog cholera serum, shall first make application to the director of the laboratory herein created, for permission to sell the same in the state. Said application shall give the name of said person, firm, company or corporation with its place or places of business. Such other information and samples of serum shall be furnished whenever required by the director. If the director is satisfied that said person, firm, company or corporation is fit, proper and reliable, upon the furnishing of a bond in the sum of one thousand dollars by said applicant, which bond shall be approved by the director, he shall issue to said person, firm, com-

pany or corporation, a permit to sell said serum within the state for a period of one calendar year or part thereof, for which permit he shall collect the sum of twenty-five dollars, which money shall be deposited and handled the same as moneys received for the sale of serum. At the time of the issuing said permit, the said director shall deliver to said applicant a statement showing the standard or degree of potency of hog cholera serum as established by said director and said permit may at any time be revoked and cancelled by said director when it becomes evident to him that the terms on which it was issued are being violated. No hog cholera serum shall be sold or offered for sale or use, or be used in this state which is below the standard test of potency established by the director, except for experimental purposes at the place of manufacture of hog cholera serum and under the direction of manager thereof.

A permit shall be granted a distributing agency for the distribution of hog cholera serum and virus by the director of the state laboratory on the same terms and subject to the same provisions as govern the granting of original permits. [36 G. A. (H. F. 259, § 2.)] [35 G. A., ch. 227, § 4.]

SEC. 2538-w5. Virus—distribution—sales to permit holders only—restriction on use—penalty. That section twenty-five hundred thirty-eight-w 5 be and the same is hereby amended by striking out the entire of said section and inserting in lieu thereof the following:

The director of said laboratory is authorized to procure virulent blood or virus from cholera infected hogs and to distribute the same at approximate cost for use with hog cholera serum and under restrictions concerning payments as established in section three of this act. No person, firm, company or corporation shall distribute or sell any portion of virulent blood or virus from cholera infected hogs except to holders of permits to use the same and shall report in writing to the director of said laboratory and under such regulations as the said director may issue. And no person shall use any portion of virulent blood or virus from cholera infected hogs unless he has received special instruction in reference to such use of such virulent blood or virus which is satisfactory to the director of said laboratory and said director has issued a permit to such person, and such permit shall be cancelled by said director for cause which said director may deem sufficient; provided, that these restrictions shall not apply to official work of, first, veterinary members of the animal health commission or, second, representatives of the United States bureau of animal industry; but all virulent blood or virus used by such persons shall be reported to the director of the serum laboratory in such manner as he may require. Any person, firm, company or corporation violating the terms herein stated shall be punished the same as provided for in section twenty-five hundred thirty-eight-w 8 of this act. [36 G. A. (H. F. 259, § 3.)] [35 G. A., ch. 227, § 6.]

SEC. 2538-w8. Use—violation—penalty. After the taking effect of this act, any person, firm, company or corporation wilfully using or keeping for use in this state any hog cholera serum other than that manufactured at the state laboratory or that sold by a holder of a valid permit issued by the director of the laboratory or remove, deface or conceal the labels or cost price of the bottles or packages of any hog cholera serum or virus or changing the contents from the original container except for immediate use, shall be punished as provided for in section eight of this act. [36 G. A. (H. F. 259, § 3.)] [35 G. A., ch. 227, § 9.]

SEC. 2538-w12. Not applicable to work of federal authorities. No part of this act shall apply to the manufacture of hog cholera serum

or other work done by the United States department of agriculture or its representatives. [36 G. A. (H. F. 259, § 3.)]

CHAPTER 15.

OF THE CARE AND PROPAGATION OF FISH AND THE PROTECTION OF BIRDS AND GAME.

SECTION 2539. Warden—compensation—expenses—duties—seizure without warrant—sale. There is hereby created the office of state fish and game warden. The warden shall be appointed by the governor, and hold his office for three years from the first day of April of the year of his appointment. He shall receive a salary of twenty-two hundred dollars annually, together with his necessary traveling, contingent and office expenses, to be paid out of moneys collected under the provisions of chapter one hundred fifty-four, acts of the thirty-third general assembly. He shall have charge and management of the state fish hatcheries, which shall be used in stocking the waters of the state with fish native to the country and to the extent of the means provided by the state. He shall impartially and equitably distribute all fry raised by or furnished to the state, or for it through other sources, in the streams and lakes of the state; shall faithfully and impartially enforce obedience of the provisions of this chapter, and shall make a biennial report to the governor of his doings, together with such information upon the subject of the culture of fish and the protection of game in the country as he may think proper, accompanied with an itemized statement monthly to the executive council under oath of all moneys expended and for what purpose, and of the number and varieties of fish distributed, and in what waters. It shall be the duty of the fish and game warden, sheriffs, constables, and police officers of this state to seize and take possession of any fish, birds, or animals which have been caught, taken, or killed at a time, in a manner, or for a purpose, or had in possession or under control, or have been shipped, contrary to the provisions of this chapter. Such seizure may be made without a warrant. Any court having jurisdiction of the offense, upon receiving proof of probable cause for believing in the concealment of any fish, birds, or animals, caught, taken, killed, had in possession, under control, or shipped contrary to any of the provisions of this chapter, shall issue a search warrant and cause a search to be made in any place therefor. Any fish, birds, or animals so found shall be sold for the purpose of paying the costs in the case, and the amount, if any, in excess of the costs shall be turned into the school fund of the county in which the seizure is made. Any net, seine, trap, contrivance, material, and substance whatever, while in use or had and maintained for the purpose of catching, taking, killing, trapping or deceiving any fish, birds, or animals contrary to any of the provisions of this chapter is hereby declared to be, and is, a public nuisance, and it shall be the duty of the fish and game warden, sheriffs, constables, and police officers of the state, without warrant or process, to take or seize any and all of the same, and abate and sell or destroy any and all of the same without warrant or process and no liability shall be incurred to the owner or any other person for such seizure and destruction, and said warden or his regularly constituted deputies or other peace officers as hereinbefore named shall be released from all liability to any person or persons whomsoever for any act done or committed or property seized or destroyed under or by virtue of this section. [36 G. A. (S. F. 624, § 3.)]

[35 G. A., ch. 203, § 2.] [34 G. A., ch. 116, § 1.] [33 G. A., ch. 152, § 1.]
 [29 G. A., ch. 103, § 1.] [27 G. A., ch. 64, § 1.] [23 G. A., ch. 34, § 12.]
 [17 G. A., ch. 80, §§ 1, 4.]

SEC. 2540. Fishing—rules and regulations—shipment—statement to common carrier—confiscation. That the law as it appears in section twenty-five hundred forty, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Between the first days of October and April fifteenth no one shall take from the waters of the state any salmon or trout, nor between the first day of December and the fifteenth day of May any bass, pike, croppies, pickerel, or catfish, or other game fish, nor shall any one person take of said fish from the waters of the state in any one day more than forty of any or all of said kinds of fish, of which total number not more than twenty shall be bass, pike or pickerel. It shall be unlawful for any person, firm or corporation to offer for transportation or to transport to any place within or without this state for purposes of sale, any game fish taken from the inland waters of the state.

Any person, firm or corporation desiring the shipment or transportation of any game fish shall deliver to the common carrier, express or transportation company a statement under oath in duplicate, setting forth the name of the shipper, the person to whom the package is shipped, the residence of both, the kind and number of fish contained in such package, and that the fish contained in such package are not being shipped for the purpose of sale or market, and one copy thereof shall be retained by the common carrier, express or transportation company receiving such shipment for the period of twelve months thereafter and the other copy thereof shall be attached in a secure manner to such package.

Any agent of any common carrier, express or transportation company receiving such shipment is hereby authorized to administer to such shipper the oath contemplated in the last preceding paragraph. Any shipment made in violation of the provisions of this act may be seized, confiscated and sold by any game warden in this state at private or public sale, the proceeds thereof to be turned into the fish and game protection fund, or such shipment may be by such warden destroyed. Nor shall anyone fish for, or by any means catch any fish in any stream which has been stocked with breeding trout one or two years old, within one year from the date of the stocking thereof, if notice of such fact is by the authority of the warden posted where a public road crosses such stream; nor shall anyone at any time take from the waters of the state any fish, except minnows for bait, unless by hook and line; but any person may, between the fifteenth day of May and the first day of December use not more than one trot-line in streams only, and extending not more than halfway across; nor shall anyone place, erect or cause to be placed or erected, any trot-line, seine, net, trap, dam or other device or contrivance in the water in such a manner as to hinder or obstruct the free passage of fish, up, down or through the same for the purpose of catching them, except as provided in the next section; nor have, erect or use, while fishing on or through the ice, any house, shed or other protection against the weather, or have or use any stove or other means for creating artificial heat. The possession of a spear, trap, net or seine, or the taking or killing or attempting to take or kill any fish by any means other than by rod, line, hook and bait within three hundred feet of a fishway or dam shall be unlawful, but the provisions of this section shall not prevent the taking of carp, sucker, red horse or buffalo by use of a spear from the lakes, sloughs, bayous and waters on the bottom lands and islands of the Mis-

Mississippi river. And it shall be lawful for the state fish and game warden, or any of his deputies or assistants to seize without warrant and sell or destroy any such trap, net or seine wherever found. No person shall, at any time, kill, destroy, have in possession or under control, for any purpose whatever, any bass, catfish, or trout less than ten inches in length, or any wall-eyed pike, or pickerel less than twelve inches in length, or any crappie, less than eight inches in length, except for the purpose of returning the same to the water from which they were taken, as soon as they are taken therefrom, with as little injury to the fish as possible. [36 G. A. (S. F. 447, § 1.)] [36 G. A. (S. F. 624, § 2.)] [36 G. A. (S. F. 40, § 1.)] [35 G. A., ch. 205, § 1.] [35 G. A., ch. 204, § 1.] [33 G. A., ch. 153, § 1.] [30 G. A., ch. 93.] [30 G. A., ch. 92, §§ 1, 2.] [29 G. A., ch. 103, §§ 2, 4.] [27 G. A., ch. 64, §§ 2, 4.] [26 G. A., ch. 80, § 1.] [25 G. A., ch. 65.] [23 G. A., ch. 34, §§ 2, 3, 6, 7.] [17 G. A., ch. 80, §§ 5, 6.] [16 G. A., ch. 70, § 6.]

SEC. 2540-a. Explosives—drugs—penalty. That the law as it appears in section twenty-five hundred forty-a, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“It shall be unlawful for anyone to place in the waters of the state any lime, ashes, or drug of any kind or other substance, explode dynamite, gun cotton, giant powder or other compound or preparation or use electricity in any way with the intent to kill or so to affect any fish that it may be taken, and anyone guilty of any of said acts shall be guilty of a misdemeanor and upon conviction thereof be fined not less than fifty dollars nor more than one hundred dollars or imprisoned in the county jail not less than fifteen nor more than thirty days.” [36 G. A. (S. F. 447, § 2.)] [33 G. A., ch. 153, § 2.] [29 G. A., ch. 103, § 5.]

SEC. 2544. Violation—penalties. That the law as it appears in section twenty-five hundred forty-four, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“Any person, firm or corporation who shall violate any of the provisions of section twenty-five hundred forty of the supplement to the code, 1907, as herein amended, or twenty-five hundred forty-one, twenty-five hundred forty-two or twenty-five hundred forty-three of the code, shall be guilty of a misdemeanor, and, upon conviction, shall pay a fine of not less than five nor more than fifty dollars and cost of prosecution for each offense, or be imprisoned in the county jail for not less than one day nor more than thirty days, and the taking of each fish in violation of law shall be construed to be a separate offense.” [36 G. A. (S. F. 447, § 3.)] [33 G. A., ch. 153, § 3.] [26 G. A., ch. 80, § 3.] [23 G. A., ch. 34, §§ 5, 8, 9.] [16 G. A., ch. 170, §§ 4, 7.]

SEC. 2547-a. Nets, seines and other contrivances—boundary waters—license—bond—fee. It shall be unlawful for any person to take from the waters of that part of the Des Moines river forming a part of the boundary between this state and Missouri, or from the waters of the Big Sioux river within the jurisdiction of this state, any fish with net, seine, trap, contrivance, material or substance whatsoever except by rod, line, hook and bait; but nothing herein shall be construed as prohibiting the use of trot-lines or set-lines in the taking of fish from the waters of the Big Sioux river or the waters of that part of the Des Moines river which forms a part of the boundary between the state of Iowa and the state of Missouri, between the same dates and subject to the same restrictions relative to the use of trot-line in the interior streams of the state

as the same appear in section twenty-five hundred forty, supplement to the code, 1913. It shall be unlawful for any person to take from the Mississippi or Missouri rivers within the jurisdiction of this state any fish with nets or seines without first procuring from the state fish and game warden an annual license for the use of such nets and seines. Before any such license shall be issued to a nonresident of the state of Iowa, the applicant shall execute and deliver to the fish and game warden a bond running to the state of Iowa in the penal sum of two hundred dollars with two sureties who shall each justify in the sum of two hundred dollars in property in this state over and above all debts and liabilities, and property exempt by law from sale on execution. In lieu of such bond such licensee may make a cash deposit of two hundred dollars or provide bond of any surety company authorized to do business in this state. Such bond shall be conditioned that if the applicant shall well and faithfully observe and comply with all the requirements of this act and the rules and regulations which are or may be hereafter prescribed by law, such application to be null and void, otherwise to remain in full force and effect. The fee charged for such license shall be as follows: For each five hundred lineal feet of seine, or fraction thereof, ten dollars; for each pound net having more than one hundred feet lead on each side, four dollars; for each pound net having less than one hundred feet lead on each side one dollar; for each bait net, dip net, hoop net, and fyke net, fifty cents; for each three hundred lineal feet of trammel net used for floating fishing, five dollars. All licenses shall expire on the first day of March following their issuance. The state fish and game warden shall furnish to each licensee at an expense not to exceed ten cents each, a metal tag, numbered and stamped so as to show year of issuance and for what issued, for each net, and each five hundred feet, or fraction thereof, of seine; and it shall be unlawful to use any seine or net in the waters specified in this section without having a tag thus procured attached thereto; provided that no seine or net with less than two and one-half inch mesh, stretch measure, shall be licensed or used for fishing, under this act. [36 G. A. (H. F. 218, § 1.)] [34 G. A., ch. 117, § 1.] [33 G. A., ch. 155, § 2.]

SEC. 2548. Fish ways. No dam or obstruction across any river, stream or other waters in this state shall be erected or maintained which is not provided with a fish-way constructed in accordance with plans and specifications prepared and furnished by the fish and game warden for such dam. Any dam or obstruction which is not so constructed is a public nuisance, and may be abated accordingly. A violation of this section is a misdemeanor, and, in addition to the remedy in this section provided, the offender may be punished by fine of not less than one hundred dollars or imprisonment in the county jail not less than fifteen days nor more than thirty days. [36 G. A. (S. F. 624, § 1.)] [17 G. A., ch. 188.]

SEC. 2551. Game protected—penalty. That the law as it appears in section twenty-five hundred fifty-one, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“No person shall trap, shoot or kill any pinnated grouse or prairie chicken between the first day of December and the first day of September next following; any woodcock, between the first day of January and the tenth day of July; any ruffed grouse or pheasant, wild turkey or quail, between the fifteenth day of December and the first day of November; any wild duck, goose or brant, rail, plover, sandpiper and marsh or beach bird, between the fifteenth day of April and the first day of September; or any gray or fox squirrel or timber squirrel, between the first day of January and the first day of September; provided that it shall be unlawful to kill

any ruffed grouse or wild turkey prior to January first, nineteen hundred. Shooting or killing quail on the public highway shall be in violation of law. No person shall kill or attempt to kill any of the birds mentioned in this section from any artificial ambush of any kind or with the aid or use of any sneak boat or sink box or from any sailboat, gasoline or electric launch or steamboat, or any other water conveyance, except as propelled by oar or paddle, or other device used for concealment in the open water, nor use any artificial light, battery or other deception, contrivance or device whatever, with the intent to attract or deceive any of the birds mentioned in this chapter, except that decoys may be used in hunting wild geese and ducks, but no person shall at any time hunt or shoot from any boat, canoe, contrivance or device whatever on any of the waters of this state between sunset and sunrise. Any person violating any of the provisions of this section shall be held guilty of a misdemeanor and punished as provided for in section twenty-five hundred fifty-six of the supplement to the code, 1907, and in addition thereto for use of any ambush, sink box, sneak boat or other water conveyance, prohibited by law, on the waters of this state, a fine of not less than twenty-five dollars, nor more than one hundred dollars, and shall stand committed to the county jail for thirty days unless such fine and costs are paid." [36 G. A. (S. F. 447, § 4.)] [33 G. A., ch. 153, § 4.] [30 G. A., ch. 92, § 3.] [29 G. A., ch. 103, § 7.] [27 G. A., ch. 66, § 1.] [20 G. A., ch. 67.] [18 G. A., ch. 193.] [17 G. A., ch. 156, § 2.]

SEC. 2552. Killing for traffic—destroying eggs or nests—penalty. That the law as it appears in section twenty-five hundred fifty-two, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

No person shall at any time or at any place within this state, trap, shoot or kill for traffic any of the birds, animals or game named in this chapter, nor shall any person shoot or kill more than eight prairie chickens, fifteen quails or twenty-five of the other birds or animals mentioned in this chapter in any one day, of any kind of said named animals, birds or game, nor shall any one person, firm or corporation have more than sixteen prairie chickens or twenty-five of either kind of said named birds or game named in this chapter in his or their possession at any time unless lawfully received for transportation; provided, however, the limit of ducks in possession is hereby made fifty. Nor shall any person capture or take, or attempt to catch or take, with any trap, snare or net any of the birds or animals named in the preceding sections, or in any manner wilfully destroy the eggs or nest of any of the birds named in this chapter. Any person, firm or corporation violating any of the provisions of this section shall be held to be guilty of a misdemeanor and punished as provided for in section twenty-five hundred fifty-six of the supplement to the code, 1907. [36 G. A. (S. F. 447, § 5.)] [36 G. A. (S. F. 624, § 4.)] [33 G. A., ch. 153, § 5.] [30 G. A., ch. 95, §§ 1, 2.] [18 G. A., ch. 193, § 2.] [17 G. A., ch. 156, § 3.]

SEC. 2551-a. Protection of certain animals.

An owner of property may lawfully injure to the property of such owner. *State v. Ward*, 152 N. W. 501.
kill a deer if such killing was reasonably necessary in order to prevent substantial

SEC. 2553. Trapping. It shall be unlawful for any person to kill, trap or ensnare any beaver, mink, otter or muskrat between the first day of April and the first day of December, except where such killing, trapping or snaring may be for the protection of private or public property. [36 G. A. (S. F. 621, § 1.)] [17 G. A., ch. 156, § 4.]

SEC. 2554. Having in possession—violation—penalty. That the law as it appears in section twenty-five hundred fifty-four, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“It shall be unlawful for any person, firm or corporation to buy or sell, dead or alive, any of the birds, game or animals named in this chapter, and it shall be unlawful to have the same in possession during the period when the killing of such birds, game or animals is prohibited, except during the first five days of such prohibited period; and the possession by any person, firm or corporation of any of such birds, game or animals during such prohibited period, except during the first five days thereof, shall be presumptive evidence of the violation of this chapter relating to game and he or they shall be held to be guilty of a misdemeanor and shall be punished as provided for in section twenty-five hundred fifty-six, of the supplement to the code, 1907.” [36 G. A. (S. F. 447, § 6.)] [33 G. A., ch. 153, § 6.] [17 G. A., ch. 156, § 5.]

SEC. 2555. Shipments—intra-state and interstate. That the law as it appears in section twenty-five hundred fifty-five, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“No person, company or corporation shall at any time ship, take or carry out of this state any of the birds or animals named in this chapter. No person, firm or corporation shall at any time ship to any person, firm or corporation within this state any of the birds or animals named in this chapter, except in strict compliance with the following provisions: It shall be lawful for any person to ship to any person within this state any game birds named, not to exceed one dozen in any one day, during the period when the killing of such birds is not prohibited; but before such shipment is made, he shall first make an affidavit before some person authorized to administer oaths that said birds have not been unlawfully killed, bought, sold or had in possession, are not being shipped for sale or profit, giving the name and post-office address of the person to whom shipped, and the number of birds to be so shipped. A copy of such affidavit, indorsed ‘a true copy of the original’ by the person administering the oath, shall be furnished by him to the affiant, who shall deliver the same to the railroad agent or common carrier receiving such birds for transportation, and the same shall operate as a release to such carrier or agent from any liability in the shipment or carrying of such birds. The original affidavit shall be retained by the officer taking the same, and may be used as evidence in any prosecution for violation of the sections of this chapter relating to game. Any person who shall ship more than one dozen of the birds named in this chapter in any one day, or any person shipping any of the birds named in this chapter without first complying with the provisions of this section, or any person, firm or corporation violating any of the provisions of this section at any time, shall be held to be guilty of a misdemeanor and shall be punished as provided for in section twenty-five hundred fifty-six of the supplement to the code, 1907. Provided, however, that it shall be lawful to have in possession game lawfully taken outside this state and lawfully brought into this state, but the burden shall rest upon the person in possession to establish the fact that such game so shipped into the state was lawfully killed and lawfully shipped into this state.” [36 G. A. (S. F. 447, § 7.)] [33 G. A., ch. 153, § 7.] [17 G. A., ch. 156, § 6.]

SEC. 2556. Penalty. That the law as it appears in section twenty-five hundred fifty-six, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"If any person use any device, kill, trap, ensnare, buy, sell, ship, or have in his possession, or ship, take or carry out of the state, or ship within this state contrary to the provisions of this chapter, any of the birds or animals named or referred to herein, or shall wilfully destroy any eggs or nests of the birds named or referred to in the preceding sections, he shall be guilty of a misdemeanor, and be punished by a fine of ten dollars for each bird, beaver, mink, otter, or muskrat, or other animals named or referred to in this chapter, and ten dollars for each nest and the eggs therein, so killed, trapped, ensnared, bought, sold, shipped, had in possession, destroyed, or shipped, taken, or carried out of the state, or shipped within this state contrary to law, and shall stand committed to the county jail for thirty days unless such fine and costs of prosecuting are sooner paid." [36 G. A. (S. F. 447, § 8.)] [33 G. A., ch. 153, § 8.] [29 G. A., ch. 103, § 8.] [17 G. A., ch. 156, § 7.]

SEC. 2559. Prosecutions—attorney's fee—opinion of attorney general. That the law as it appears in section twenty-five¹ fifty-nine (2559), supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"In all prosecutions under this chapter, any number of violations may be included in the information, but each one shall be set out in a separate count. Prosecutions for violations of any provision of this chapter may be brought either in the county in which the offense was committed, or in any other county where the person, company or corporation complained of has had or has in his or their possession any fish, birds or animals named herein and bought, sold, caught, taken, killed, trapped or ensnared in violation hereof. When requested by the fish and game warden the attorney general shall give his opinion, in writing, upon all questions of law pertaining to the office of such warden. Nothing in this chapter shall be construed as prohibiting any person from instituting legal proceedings for the enforcement of any provisions hereof." [36 G. A. (S. F. 447, § 9.)] [33 G. A., ch. 153, § 10.] [27 G. A., ch. 64, § 3.] [17 G. A., ch. 156, § 11.]

NOTE: The word "hundred" was probably inadvertently omitted after the word "twenty-five". REPORTER.

SEC. 2562. Deputy wardens—compensation—expenses—bonds—powers. That the law as it appears in section twenty-five hundred sixty-two, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"The fish and game warden may appoint three assistant fish and game wardens who shall receive a salary of twelve hundred dollars per year, and such number of deputies as he may deem necessary, who shall receive a compensation of two dollars and fifty cents per diem and actual expenses, for the time and money actually employed and expended by them in the enforcement of the provisions of this act. Such deputy wardens shall act under the advice and direction of the fish and game warden, and perform such duties in relation to their offices as may be required of them and submit, under oath, itemized statements of their per diem and expenses as aforesaid; and shall have full power and authority to serve and execute all warrants and process of law issued by any court in enforcing the provisions of this act, or any other law of this state relating to the propagation, preservation and protection of fish, game and birds, in the

same manner as any constable or sheriff may serve and execute the same and receive the same fee therefor, and for the purpose of enforcing the provisions of this act they may call to their aid any sheriff, deputy sheriff, constable or police officer or any other person, and it shall be the duty of all sheriffs, deputy sheriffs, constables and police officers and other persons when called upon to enforce and aid in enforcing the provisions of this act. All deputy wardens shall have power to arrest without warrant any person or persons found in the act of violating any law enacted for the purpose of propagation and protection of fish, game and birds. All deputy wardens shall give bonds conditioned for the faithful performance of their duties, in such amounts as may be fixed by the state executive council." [36 G. A. (S. F. 447, § 10.)] [35 G. A., ch. 203, § 1.] [33 G. A., ch. 153, § 9.]

SEC. 2562-1a. Repeal. That sections twenty-five hundred forty-four, twenty-five hundred fifty-four, twenty-five hundred fifty-five, twenty-five hundred sixty-two, and twenty-five hundred fifty-nine of the code and the law as it appears in sections twenty-five hundred forty, twenty-five hundred forty-a, twenty-five hundred fifty-one, twenty-five hundred fifty-two, and twenty-five hundred fifty-six of the supplement to the code, 1907, and section one of chapter two hundred three and chapters two hundred four and two hundred five of the acts of the thirty-fifth general assembly and the law as it appears in section twenty-five hundred sixty-two-a, supplement to the code, 1913, be and the same are hereby repealed, the foregoing is enacted in lieu thereof. [36 G. A. (S. F. 447, § 11.)]

SEC. 2562-a. Acts in conflict repealed—repealed. [36 G. A. (S. F. 447, § 11.)] [33 G. A., ch. 153, § 11.]

SEC. 2562-b. State ownership and title—exceptions. The ownership and title of all wild game, animals, and birds, found in the state of Iowa, except deer in parks and public and private preserves the ownership of which has been acquired prior to taking effect of this act and all fish in any of the public waters of the state, including all ponds, sloughs, bayous, or other waters adjacent to any public waters, which ponds, sloughs, bayous and other waters are stocked with fish by overflow of public waters, is hereby declared to be in the state, and no wild game, animals, birds, or fish shall be taken, killed, or caught in any manner at any time or had in possession, except the person so catching, taking, killing, or having in possession, shall consent that the title to said wild game, animals, birds, or fish, shall be and remain in the state of Iowa for the purpose of regulating and controlling the use and disposition of the same after such catching, taking, or killing. Any person desiring to engage in the business of raising and selling pheasants, wild duck, wood duck, quail and other game birds, or any of them, in a wholly enclosed preserve or enclosure, of which he is the owner or lessee, may make application in writing to the state fish and game warden for a license so to do. That state fish and game warden, when it shall appear that such application is made in good faith, shall upon the payment of an annual fee of two dollars, issue to such applicant a breeder's license permitting such applicant to breed and raise the above described game birds, or other game birds, or any of them, on such preserve or enclosure; and to sell the same alive at any time for breeding or stocking purposes; and to kill and use same; or sell same for food. Such license must be renewed annually upon the payment of the fee as hereinbefore set forth, and the possession of such license shall exempt the license holder from the penalties of this chapter for killing, having in possession, or selling the game birds, or any of them set forth

in this section; provided that said birds have been bred and raised upon the said preserve, or within said enclosure, by the license holder, or secured by him by purchase from without the state of Iowa. [36 G. A. (S. F. 580, § 1.)] [34 G. A., ch. 118, § 1.]

SEC. 2562-d. Deer—killing or capture.

This section does not prevent the owner of property from killing a deer, without the consent of the state game warden, when such killing was reasonably necessary to prevent substantial injury to the said owner's property. *State v. Ward*, 152 N. W. 501.

CHAPTER 15-A.

IN RELATION TO THE PROTECTION OF GAME.

SECTION 2563-a1. License to hunt. No person shall hunt, pursue, kill or take any wild animal, bird, or game in this state, with a gun, or trap fur-bearing animals or game without first procuring a license as herein provided. [36 G. A. (S. F. 621, § 2.)] [33 G. A., ch. 154, § 2.]

SEC. 2563-a4. Fees. An applicant for a license shall fill out an authorized application blank and subscribe and swear to it before the county auditor, or a notary or justice of the peace. Before the license is issued, the applicant, if a resident of the state of Iowa, and not a resident alien shall pay the county auditor the sum of one dollar as a license fee, and if a nonresident of the state of Iowa, or a resident alien, shall pay him the sum of ten dollars as a license fee. These fees the county auditor shall pay at the end of each month to the state treasurer, who shall place them to the credit of a fund known as the fish and game protection fund. [36 G. A. (S. F. 623, § 1.)] [33 G. A., ch. 154, § 5.]

SEC. 2563-u. Trapping, shooting or killing of pheasants prohibited. No person shall trap, shoot, kill or take in any manner, any Mongolian, ring-neck, English or Chinese pheasants, Hungarian partridge or other imported game birds in this state prior to the first day of October, A. D. nineteen hundred seventeen. [36 G. A. (S. F. 622, § 1.)] [32 G. A., ch. 134, § 1.]

CHAPTER 16.

OF THE STATE BOARD OF HEALTH.

SECTION 2571-1a. Physician to report whooping cough, etc. The physician attending cases of whooping cough, measles, mumps or chicken-pox shall be required to report the same to the local board of health. In case there is no attending physician, it shall be the duty of the parents or guardian or school teacher to report same to the local board of health. [36 G. A. (H. F. 136, § 1.)]

SEC. 2571-2a. Warning signs posted. It is the duty of the local board of health to cause a card with the name of the disease printed upon it to be placed upon the home where the patient resides, which shall act merely as a warning to the public. [36 G. A. (H. F. 136, § 2.)]

SEC. 2571-3a. Not a quarantine. That this act is not to be regarded as a quarantine but merely as a notice to the public. [36 G. A. (H. F. 136, § 3.)]

CHAPTER 16-A.

OF THE BACTERIOLOGICAL LABORATORY.

SECTION 2575-a7. Establishment—source of epidemics—examinations of water. The bacteriological laboratory of the medical department of the state university at Iowa City is hereby established as a permanent part of the medical department of the university work, and it shall in addition to its regular work perform all scientific analyses and tests, chemical, microscopical or other scientific investigations, which may be required by the state board of health, and it shall make prompt report of the results thereof, under such rules and regulations as the said state board of health may from time to time adopt. This laboratory shall in addition to the above prescribed duties make or cause to be made, bacteriological and chemical examinations of water whenever requested so to do by the state board of health or any state institution, or by any citizen, school or municipality when in the judgment of the local board of health such is necessary in the interest of the public health and for the purpose of preventing epidemics of disease. Such examinations shall be made without charge except for transportation charges, and actual cost of examination not to exceed two dollars.

This laboratory shall also make the necessary investigations by both laboratory and field work to determine the source of epidemics of disease and to suggest methods of overcoming such epidemics and to prevent the recurrence of such, whenever requested so to do by the state board of health, the executive officer of a state institution, or a local board of health. A copy of the report of every epidemiological investigation shall be sent to the secretary of the state board of health. [36 G. A. (S. F. 637, § 1.)] [30 G. A., ch. 101, § 1.]

SEC. 2575-a9. Appropriation—purposes. That section three of chapter one hundred and one of the laws of the thirtieth general assembly and chapter one hundred thirteen of the laws of the thirty-first general assembly be and the same are hereby repealed and the following enacted in lieu thereof:

There is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of more perfectly equipping the present bacteriological laboratory at the state university and for the purpose of enabling it to perform the duties hereby imposed, and to provide it with the necessary apparatus and assistants to render the same effective, the sum of six thousand dollars annually or so much thereof as may be necessary, to be additional salary of the director, epidemiologists, water analysts and other assistants, the expenses of said laboratory as may be necessary by this act, including postage, stationery, and other contingent and miscellaneous expenses which may be incurred in the maintaining of said laboratory and performing the duties required therein by the provision of this act. The director shall receive such additional salary not to exceed twelve hundred dollars per year as the state board of health may fix. The appropriations hereby provided shall be expended in the manner provided in section twenty-five hundred seventy-five of the code. The appropriation of five thousand dollars provided for the "epidemiology laboratory" in the annual appropriation of the thirty-sixth general assembly to the state university is hereby made available for the use of the laboratory and the work provided for in this chapter.

All laboratory work of the state board of health shall be done at or through the laboratory herein provided. [36 G. A. (S. F. 637, § 2.)] [32 G. A., ch. 137, § 1.] [31 G. A., ch. 113.] [30 G. A., ch. 101, § 3.]

CHAPTER 16-F.

OF NURSERY STOCK INFESTED WITH THE SAN JOSE SCALE.

SECTION 2575-a52. Annual appropriation. That section two thousand five hundred and seventy-five-a fifty-two, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"There is hereby appropriated out of any moneys not otherwise appropriated, the sum of four thousand five hundred dollars annually, or so much thereof as may be necessary, for carrying out the provisions of this act." [36 G. A. (S. F. 234, § 1.)] [35 G. A., ch. 210, § 1.] [27 G. A., ch. 53, § 6.]

CHAPTER 18.

OF PRACTICE OF PHARMACY.

SECTION 2584. Commissioners—powers—state divided—three districts. The commission of pharmacy shall consist of three competent pharmacists who have been for the preceding five years residents of the state and engaged in practicing pharmacy, one of whom shall be annually appointed by the governor and hold office for three years and until his successor is appointed and qualified. The commission shall have power to make all needed regulations for its government and for the proper discharge of its duties under this chapter, the same to be done without expense to the state, save the necessary blanks and stationery which shall, upon requisition, be furnished by the secretary of state, and make such other regulations not inconsistent with law and as authorized in this code, respecting the purchase, keeping and use of intoxicating liquors by registered pharmacists, not permit holders, as may be required for the prevention or abuse of the trust reposed in them, and such other matters as may be hereinafter specifically enumerated.

After July fourth, 1915, the state shall be divided into three districts for the purpose of enabling the commission of pharmacy to better enforce the laws relating to the practice of pharmacy and perform such other duties as are now imposed upon it. The first district shall comprise the counties of Audubon, Boone, Buena Vista, Calhoun, Clay, Carroll, Cherokee, Crawford, Dallas, Dickinson, Emmet, Greene, Guthrie, Hamilton, Hancock, Harrison, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Shelby, Sioux, Webster, Winnebago, Woodbury, and Wright; the second district shall comprise the counties of Allamakee, Benton, Black Hawk, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Delaware, Dubuque, Fayette, Floyd, Franklin, Grundy, Hardin, Howard, Iowa, Jackson, Jasper, Jones, Johnson, Linn, Marshall, Mitchell, Poweshiek, Scott, Story, Tama, Winneshiek, Worth; and the third district shall comprise the counties of Adams, Adair, Appanoose, Cass, Clarke, Davis, Decatur, Des Moines, Fremont, Henry, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monroe, Montgomery, Muscatine, Page, Pottawattamie, Polk, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, and Wayne. One commissioner shall reside in the first district, one in the second district, and one in the third district; and it shall be the duty of each commissioner to see that the laws relating to the practice of pharmacy are enforced in his district, provided, however, that the commis-

sioner of a district shall assist the commissioner of any other district in the performance of his duties at any time when in the judgment of the commission such assistance may be necessary, and this provision shall not be construed so-as to prevent the commission as a whole from performing any duty now imposed upon. [36 G. A. (S. F. 605, § 1.)] [23 G. A., ch. 35, § 13.] [21 G. A., ch. 83, § 1.] [18 G. A., ch. 75, § 3.]

NOTE: The word "it" appears to have been inadvertently omitted after the last word of this section. REPORTER.

SEC. 2587. Records open to inspection—salary. That section twenty-five hundred eighty-seven, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

"The books, accounts, vouchers, and funds belonging to or kept by said board of pharmacy shall at all times be open or subject to the inspection of the governor or any committee appointed by him.

"Each commissioner of pharmacy shall receive the salary of fifteen hundred dollars per annum; said salary to be paid in the same manner as the salaries of other state officers, and they shall be allowed the expenses necessarily incurred by them in the discharge of their duties. Their accounts shall be itemized and sworn to, and when approved by the executive council shall be paid by warrants of the auditor upon the treasurer out of the funds belonging to the commission of pharmacy. Such salaries shall be in full compensation for performing the duties pertaining to the office of pharmacy commissioner, including the conducting of examinations, inspections and enforcement of the pure drug, poison, narcotic and habit-forming drug laws of the state, and such other duties as may pertain to the enforcement of the pharmacy laws." [36 G. A. (S. F. 605, § 2.)] [34 G. A., ch. 123, § 3.] [26 G. A., ch. 59, § 3.]

SEC. 2588. Registered pharmacists—labeling of poisons. No person not a registered pharmacist shall conduct the business of selling at retail, or offering or exposing for sale, compounding or dispensing drugs, medicines or poisons, or chemicals for medicinal use, or compounding or dispensing physicians' prescriptions as a pharmacist, nor allow anyone who is not a registered pharmacist to so sell, or offer or expose for sale, compound or dispense such drugs, medicines, poisons or chemicals, or physicians' prescriptions, except such as are assistants to and under the supervision of one who is a registered pharmacist, and physicians who dispense their own prescriptions only; but no one shall be prohibited by anything contained in this chapter from keeping and selling proprietary medicines and such other domestic remedies as do not contain intoxicating liquors or poisons, nor from selling denatured alcohol and poison fly paper, concentrated lye or potash having written or printed on the package or parcel its true name and the word "poison," sales of which need not be registered. Whoever violates either provision of this section, for the former shall pay five dollars for each day of its violation, to be recovered in an action in the name of the state, brought by the county attorney under the direction of the commission, and for the latter shall be guilty of a misdemeanor, and punished accordingly. In actions or prosecutions under this chapter it need not be proven that the defendant has not a pharmacist's certificate, but such fact shall be a matter of defense. No one shall be prohibited by the provisions of this chapter, relating to the practice of pharmacy, from selling insecticides or fungicides consisting of hellebore, Paris green, nicotine preparations, arsenical preparations, copper sulphate, formaldehyde and crude carbolic acid in original packages, provided the package or parcel containing same has plainly written or

printed thereon its true name and if poisonous it shall be conspicuously marked with the word "poison" and its poisonous contents, correctly and conspicuously stated in conformity with the national insecticide act of June, nineteen hundred ten. Said insecticides and fungicides shall comply with the law of the state as to strength and purity and the sales of such preparations when marked as specified above need not be registered. [36 G. A. (S. F. 201, § 1.)] [34 G. A., ch. 124, § 1.] [33 G. A., ch. 160, § 1.] [22 G. A., ch. 71, § 21.] [22 G. A., ch. 81.] [21 G. A., ch. 83.] [19 G. A., ch. 137, § 4.] [18 G. A., ch. 75, §§ 1, 2, 12.]

SEC. 2589-a. Examinations—appropriation. That section twenty-five hundred eighty-nine-a, supplement to the code, 1913, be and the same is hereby repealed, and the following enacted in lieu thereof:

"To enable persons to engage in and conduct business as registered pharmacists within the meaning of section twenty-five hundred eighty-eight of the code, the commission shall hold not more than five examinations each year, one of which may be held at Iowa City and the others at Des Moines. Such examinations shall be held at such times and in such manner as the commissioners may determine, and to enable them to conduct such examinations in conformity with the requirements necessary to reciprocate with other states as authorized in section twenty-five hundred eighty-nine-b, there is hereby appropriated out of the fees of the office of pharmacy commission the sum not to exceed five hundred dollars for two years, for the purchase of laboratory equipment and necessary drugs and chemicals." [36 G. A. (S. F. 605, § 3.)] [34 G. A., ch. 123, § 2.] [31 G. A., ch. 115, § 2.] [27 G. A., ch. 70, § 1.] [22 G. A., ch. 71, § 20.] [21 G. A., ch. 83, § 2.] [18 G. A., ch. 75, §§ 5, 8.]

CHAPTER 19-B.

OF THE PREVENTION OF THE PROCREATION OF HABITUAL CRIMINALS, DEGENERATES AND OTHER PERSONS.

NOTE: This entire chapter, consisting of sections 2600-p to 2600-s, inclusive, supplement to the code, 1913, was repealed by H. F. 365, § 1, 36 G. A. See Sec. 2600-s1. REPORTER.

SECTION 2600-p. Unsexing—duty of board of parole.

This act is unconstitutional as providing a cruel and unusual punishment, because it denies to the prisoner to be operated upon due process of law, and because it is in effect a "bill of attainder" in that

it provides for the infliction of a punishment for past offenses by legislative act without jury trial. *Davis v. Berry*, 216 Fed. 413.

NOTE: For repeal of the act here referred to see Sec. 2600-s1.

SEC. 2600-s1. Repeal. That the law as it appears in chapter nineteen-B of title twelve supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof: [36 G. A. (H. F. 365, § 1.)]

SEC. 2600-s2. Sterilization authorized—consent of husband, wife, etc. That whenever the superintendent of any state hospital for the insane and a majority of his medical staff shall, after investigation and examination, agree that it is for the best interests of the patient and society, they are hereby authorized to perform, or cause to be performed by some capable physician or surgeon, the operation of sterilization on any such patient confined in said institution afflicted with insanity, idiocy, im-

becility, feeble-mindedness or syphilis; provided that said operation is approved by the board of control or a majority of the members thereof; and provided further, that the superintendent of the hospital shall have secured the written consent of the husband or wife, if the patient is a married person, and if an unmarried person, the written consent of the parent, guardian or next of kin, if any there be within this state, that said operation be performed. [36 G. A. (H. F. 365, § 1.)] [35 G. A., ch. 187, § 1.] [34 G. A., ch. 129, § 1.]

SEC. 2600-s3. Operation defined. The operation to be performed upon a male person shall be what is known as vasectomy, and upon a female patient what is known as section of the Fallopian tubes with implantation in the uterine muscles. [36 G. A. (H. F. 365, § 2.)] [35 G. A., ch. 187, § 1.] [34 G. A., ch. 129, § 1.]

SEC. 2600-s4. Annual report. The board of control shall make an annual report to the governor of the state fully covering their proceedings under the authority of this act, and also their observations and statistics regarding its benefits. [36 G. A. (H. F. 365, § 3.)] [35 G. A., ch. 187, § 3.]

SEC. 2600-s5. Unauthorized operation—penalty. Except as authorized in this act every person who shall perform, encourage, assist in, or otherwise promote the performance of either of the operations described in section two of this act for the purpose of destroying the power to procreate the human species, or any person who shall knowingly permit either of such operations to be performed upon such person, unless the same shall be a medical necessity, shall be fined not more than one thousand dollars or imprisoned in the penitentiary not to exceed one year, or both. [36 G. A. (H. F. 365, § 4.)] [35 G. A., ch. 187, § 4.] [34 G. A., ch. 129, § 2.]

CHAPTER 20.

OF THE SOLDIERS' HOME.

SECTION 2604. Commandant—inferior officers—vacancy. The board of trustees shall appoint a commandant to serve during the pleasure of the board, and who shall be one who has an honorable discharge from the United States army or navy, and whose salary shall not exceed two thousand dollars per year, and use and occupancy of the commandant's house with lights, fuel, ice and water, which shall include all allowances. The commandant may appoint, subject to the approval of the board, the adjutant, quartermaster, surgeon, and a chaplain together with such assistant surgeons as may, from time to time, be required, and the said adjutant and quartermaster shall be of like qualifications, as to service in the army or navy, with himself, and also a matron and other necessary subordinate employes, and they shall be subject to removal by him for misconduct or incompetency, but in the case of every removal a detailed statement of the cause shall be reported at once to the board of trustees and subject to its approval. The board shall fix the compensation to be paid the subordinate officers and employes of the home, not to exceed that paid for like services in similar institutions. Provided that the adjutant, quartermaster, surgeon and chaplain shall also be furnished without charge the houses erected by the state and now occupied by such officers, together with lights, heat, fuel, ice and water.

If at any time a vacancy shall exist in the office of commandant, adjutant, quartermaster or surgeon and a suitable person who has an honorable discharge from the United States army or navy is not available for the office, it shall be lawful to appoint any other person otherwise properly qualified to fill the vacancy. [36 G. A. (H. F. 339, § 1.)] [35 G. A., ch. 219, § 1.] [33 G. A., ch. 165, § 1.] [31 G. A., chs. 117, 118.] [29 G. A., ch. 112, § 1.] [29 G. A., ch. 111, § 1.] [21 G. A., ch. 58, § 16.]

SEC. 2606. Rules for admission. That section twenty-six hundred and six of the supplement to the code, 1907, is hereby repealed, and there is hereby enacted in lieu thereof the following:

The board of control of state institutions may receive into the home, under such rules and regulations, and subject to such conditions as said board may prescribe, the dependent persons not having sufficient means or ability to support themselves, designated as follows:

1. Honorably discharged Union soldiers, sailors and marines.
2. Women who, prior to the year eighteen hundred ninety-five, married honorably discharged Union soldiers, sailors or marines, and who have ceased to be the wives of such soldiers, sailors or marines by reason of their death or because divorced from them without fault on the part of the wives, and a subsequent marriage shall not deprive such women of their right to the benefits of the home, nor shall such right depend upon the presence of the husband in the home as a member of it.
3. Army nurses, and the wives, fathers and mothers of honorably discharged Union soldiers, sailors and marines.

The board may permit husbands and wives to occupy together cottages or other quarters on the home grounds. [36 G. A. (S. F. 304, § 1.)] [36 G. A. (S. F. 240, § 1.)] [35 G. A., ch. 220, § 1.] [31 G. A., ch. 119.] [24 G. A., ch. 95, §§ 4, 5.]

CHAPTER 21-A.

OF THE BOARD OF ACCOUNTANCY.

SECTION 2620-a. Certified public accountants—qualifications—privileges. That any citizen of the United States residing in the state of Iowa, or having a place for the regular transaction of business in the state of Iowa, as a practicing public accountant, and being over the age of twenty-five years, of good moral character, and who shall have received from the board of accountancy of the state of Iowa, a certificate as provided in this act shall be styled and known as a certified public accountant, and be entitled to use the abbreviations C. P. A. in connection with his name, and no other person and no firm all the members of which are not certified public accountants of this state, and no corporation in the state of Iowa shall assume such title or use the abbreviations C. P. A., C. A. or any other words, letters or figures to indicate that the person, firm or corporation using the same is a certified public accountant. [36 G. A. (H. F. 206, § 1.)]

SEC. 2620-b. Board of accountancy—appointment—tenure of office. Within thirty days after this act takes effect, the governor shall appoint three persons to constitute and be known as a board of accountancy. The board thus appointed shall be selected by the governor from a list of names of public accountants who have practiced in the state of Iowa on their own account, for a period of at least three years, one of whom shall be appointed for a term ending January first, nineteen hundred sixteen, one for a term

ending January first, nineteen hundred seventeen and one for a term ending January first, nineteen hundred eighteen, and upon expiration of each of said terms and of each succeeding term a member shall be appointed for a term of three years; provided, that the successors to the first members shall be selected from holders of certificates under this act. Any vacancies that may occur from any cause shall be filled by the governor for the unexpired term under the same conditions that govern regular appointments. [36 G. A. (H. F. 206, § 2.)]

SEC. 2620-c. Board to establish rules—organization—meetings. The board of accountancy shall at its first meeting formulate rules for its guidance, not inconsistent with this act, which rules may be changed at any regular meeting. It shall organize by the selection of one of its members as chairman and one as secretary and treasurer, and meet at least once in each year and oftener, as may be necessary, at such times and places as it may select, and a majority shall constitute a quorum. Such meetings at all reasonable times shall be open to the public. It may at any regular meeting examine and determine the qualifications of persons applying for certificates under this act. [36 G. A. (H. F. 206, § 3.)]

SEC. 2620-d. Examinations—dates—notice—scope—fees—register—waiver of examination. The time and place for holding examinations under this act shall be advertised for not less than three consecutive days in two daily newspapers published in this state, not less than twenty days prior to the date of such examination, and a notice of the same shall be mailed to all holders of certificates under this act, as well as applicants. The examination shall cover the following subjects,—theory of accounts, practical accounting, auditing and commercial law as affecting accountancy. Applicants for certificates before taking the examination must produce evidence satisfactory to the board that they are over twenty-five years of age, of good moral character, a graduate of a high school with a four years course, or have an equivalent education, or pass a preliminary examination to be set by the board, and that they have had at least three years practical accounting experience, at least one year of which shall have been as an accountant in the employ of a public accountant of recognized standing in the profession or in public practice on their own account. The fees for such examination shall be twenty-five dollars, for each applicant, payable to the treasurer of the board at the time of filing application and at least ten days prior to the holding of the examination. After the examination provided by this act, the board shall, if in its judgment the applicants are entitled thereto, issue certificates as provided in this act. The board shall maintain a register of the names and addresses of all persons receiving certificates under this act, and shall keep a record of all persons whose certificates have been revoked.

In the event the board shall waive the examination of any person, as in this act provided, a certificate shall likewise be issued to such person upon payment of the fees hereunder. [36 G. A. (H. F. 206, § 4.)]

SEC. 2620-e. When examination waived—fee. The board may in its discretion waive the examination of any applicant for a period not exceeding six months from and after the taking effect of this act, who in addition to the qualifications mentioned in sections one and four (except having passed the examination as provided) who is at the time of the passage of this act, actively engaged in the practice of accounting as a professional public accountant on his own account and who has been continuously engaged as such for at least three years next preceding the passage of this act. Each applicant for whom examination is waived, shall pay to the

treasurer of the board the sum of twenty-five dollars before his certificate is issued. [36 G. A. (H. F. 206, § 5.)]

SEC. 2620-f. Non-resident accountant. The board of accountancy may in its discretion register the certificate of any person who need not necessarily be a resident of the state of Iowa, and who is the lawful holder of a C. P. A. certificate issued under the laws of another state which extends similar privileges to certified public accountants of this state, provided, the requirements of said degree in the state which has granted it to the applicant are, in the opinion of the state board of accountancy, equivalent to those herein provided, or to holders of a degree of certified public accountant or chartered accountant or the equivalent thereof, issued to¹ any foreign government, provided, that the requirements of such degree are equivalent to those herein provided for the degree of certified public accountant. [36 G. A. (H. F. 206, § 6.)]

NOTE: ¹Doubtless should be "by". REPORTER.

SEC. 2620-g. Revocation of registration—notice—hearing. The board of accountancy may revoke or cancel the registration of any certificate issued under this act, for unprofessional conduct of the holder or other sufficient cause, provided, that written notice shall have been mailed to the holder of such certificate at least twenty days before any hearing thereon, stating the cause of such contemplated action, and appointing a day for full hearing thereon by the board; provided, further, that no certificate issued under this act shall be revoked until such hearing shall have been held or the opportunity for such hearing afforded the person charged. [36 G. A. (H. F. 206, § 7.)]

SEC. 2620-h. Compensation—bond of treasurer—biennial report. The members of the board shall receive as compensation ten dollars per day for the time actually employed and necessary expenses incurred in the discharge of their duties; provided, however that all compensation for services and expenses shall not exceed the amounts received as fees from applicants. All bills for expenses and per diem shall be audited and allowed by the executive council and shall be paid from the fees received under the provisions of this act. Any sum remaining after the payment of such compensation and expenses shall be paid into the state treasury on or before the first day of August of each year by the treasurer, who shall, on assuming his office, file with the secretary of state a good and sufficient bond in the penal sum of one thousand dollars. The board shall make a report biennially to the governor of its proceedings, with an account of all moneys received and disbursed, a list of names of all persons whose certificates have been revoked, together with recommendations, if any, for new legislation, and such other matters as the board may deem proper. [36 G. A. (H. F. 206, § 8.)]

SEC. 2620-i. Violations—penalty. If any person shall hold himself out to the public as having received a certificate as provided in this act, or shall assume to practice as a certified public accountant or chartered accountant, or to use the abbreviation C. P. A. or C. A. or any other letters, words or figures to indicate that the person using the same is such certified public accountant, without having received such certificate, or after the same shall have been revoked, he shall be deemed guilty of a misdemeanor, the penalty for which shall be a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, or imprisonment in the county jail for a period not exceeding six months. [36 G. A. (H. F. 206, § 9.)]

SEC. 2620-j. Misconduct—penalty. If any person practicing in the state of Iowa as a certified public accountant under this act, or if any person who is in the practice of public accountancy as a certified public accountant or otherwise, shall be found guilty of gross negligence or carelessness or shall wilfully falsify any report or statement bearing on any examination, investigation, or audit made by him or under his direction, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, and not more than one thousand dollars, or by imprisonment in the county jail for a period of not less than three months or more than one year or by both fine and imprisonment for each time he may be convicted of such a misdemeanor. [36 G. A. (H. F. 206, § 10.)]

SEC. 2620-k. Certificate holder to give bond. Every person having been granted a certificate under the provisions of this act shall give a bond in the sum of five thousand dollars to the auditor of state before entering upon his duties for the faithful performance of the same. [36 G. A. (H. F. 206, § 11.)]

TITLE XIII.

OF EDUCATION.

CHAPTER 2.

OF THE BOARD OF EDUCATIONAL EXAMINERS.

SECTION 2634-a. Compensation — secretary — employes — salaries. That section twenty-six hundred thirty-four-a of the supplement to the code [1902] be and the same is hereby repealed and the following enacted in lieu thereof:

Each member of the board shall receive for the time actually employed in such service, his actual necessary expenses, and those not salaried officers or employes of the state or any institution thereof shall be paid in addition, three dollars per day. The board shall have power to employ a secretary and prescribe his duties. He shall receive a salary not exceeding one hundred and twenty-five dollars per month and actual necessary expenses while engaged in the performance of his duties at places other than the capitol. The board shall have power to employ such persons as are necessary to assist in examinations and in reading answer papers and for clerical work and other necessary assistance. Persons so employed shall receive not to exceed fifty cents per hour for the time actually employed and actual traveling expenses to and from the place where their services are required. All expenditures authorized to be made under the provisions of chapter two of title thirteen of the code and of the supplement to the code [1902] and amendments thereto and under the provisions of chapter one hundred twenty-two, acts of the thirty-first general assembly, and under the provisions of this act shall be certified by the chairman of the educational board of examiners to the executive council for payment. If found correct the executive council shall cause same to be paid from any funds paid into the state treasury under the provisions of section twenty-six hundred thirty-one of the code and chapter one hundred twenty-two, acts of the thirty-first general assembly, and amendments thereto. [36 G. A. (S. F. 339, § 1.)] [32 G. A., ch. 6, § 4.] [27 G. A., ch. 73, § 1.] [25 G. A., ch. 36.] [19 G. A., ch. 167, § 8.]

SEC. 2634-b6. Examination for graduation — failure in certain branches — fee. That the law as the same appears in section twenty-six hundred thirty-four-b six, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“On the third Friday in January and the Wednesday and Thursday immediately preceding and on the third Friday in May and the Wednesday and Thursday immediately preceding, each year, in each high school approved under this act, an examination for graduation from the normal course shall be conducted under such rules as the state board of examiners shall prescribe, but the county superintendent of the county in which an approved high school may be located shall be designated as the conductor of said examination. Candidates for a certificate of graduation from the normal course failing in the examination in one or more subjects, may be permitted to enter the above examinations or the regular July teachers’

examination under such regulations as the superintendent of public instruction shall prescribe.

Each applicant for a certificate of graduation from the normal course in a county shall pay a fee of one dollar which shall entitle him to one examination in each subject required, provided however that applicants rewriting the examination in one or more subjects at the July teachers' examination as herein provided shall pay an additional fee of one dollar. One-half of the fees from the normal training examinations shall be paid into the state treasury on or before the first day of the succeeding month, and the remaining one-half shall be paid into the county institute fund of the county wherein the examination is held." [36 G. A. (S. F. 465, § 1.)] [34 G. A., ch. 131, § 7.]

CHAPTER 5-B.

OF THE STATE BOARD OF EDUCATION.

SECTION 2682-t. Mortgages—foreclosure—lands bid in. The finance committee of the board shall negotiate loans in accordance with the provisions of the preceding sections and shall release the mortgages securing loans when paid by a satisfaction piece signed by the chairman or secretary of said finance committee and the same shall be recorded in the office of the county recorder of the county where said mortgage is recorded, or by the chairman or secretary of said finance committee signing the same on the margin of the record of said mortgage, and shall take charge of the foreclosure of mortgages and collections from delinquent debtors to said fund. The foreclosure of any mortgage belonging to the state university or to the college of agriculture and mechanic arts shall be made in the name of the state board of education for the use and benefit of the institution to which it belongs; and, in case of a sale upon execution under foreclosure, the premises may be bid off in the name of the board of education for the benefit of the institution to which it belongs; and, if a deed therefor is executed, the premises shall be held for the benefit of such institution, and such lands shall be subject to lease or sale, the same as its other lands. [36 G. A. (H. F. 330, § 1.)] [35 G. A., ch. 222, § 1.] [33 G. A., ch. 170, § 18.]

SEC. 2682-y1. Co-operative agricultural extension work—assent to congressional act.

WHEREAS, The congress of the United States has passed an act approved by the president, May eighth, 1914, entitled "An act to provide for co-operative agricultural extension work between the agricultural colleges in the several states receiving the benefits of the act of congress approved July second, 1862, and of acts supplementary thereto, and the United States department of agriculture", and,

WHEREAS, It is provided in section three of the acts aforesaid that the grants of money authorized by this act shall be paid annually "to each state which shall by action of its legislature assent to the provisions of this act", therefore,

Be it enacted by the General Assembly of the State of Iowa:

Section 1. That the assent of the legislature of the state of Iowa be and is hereby given to the provisions and requirements of said act, and that the Iowa state board of education be and is hereby authorized and empowered to receive the grants of money appropriated under said act

and to organize and conduct agricultural and home economics extension work which shall be carried on in connection with the Iowa state college of agriculture and mechanic arts in accordance with the terms and conditions expressed in the act of congress aforesaid. [36 G. A. (H. F. 127, § 1.)]

CHAPTER 6.

IOWA SOLDIERS' ORPHANS' HOME.

SECTION 2691. Appropriation—per capita allowance. That the law as it appears in section twenty-six hundred ninety-one of the supplement to the code, 1907, is hereby repealed and in lieu thereof is enacted the following:

For the support of the home there is hereby appropriated out of any money in the state treasury not otherwise appropriated, or so much thereof as may be needed, fourteen dollars for each child actually supported, and in addition the expense of his transmission to the home, which sums shall be paid upon abstracts and certificates as required by the law as it appears in section twenty-seven hundred twenty-seven-a forty-two and section twenty-seven hundred twenty-seven-a forty-three of the supplement to the code, 1907. The number of children shall be ascertained by taking the average attendance for the preceding month. Provided, however, that if the average number of children shall be less than five hundred in any month the auditor of state and the treasurer of state shall credit the home with seven thousand dollars for that month and the sum so credited shall be drawn from the state treasury in the same manner and for the same purposes as the regular monthly per capita allowance is drawn. [36 G. A. (H. F. 283, § 1.)] [35 G. A., ch. 229, § 1.] [30 G. A., ch. 106, § 1.] [16 G. A., ch. 94, § 5.] [C. '73, §§ 1630-1.]

SEC. 2692. Counties liable. That the law as it appears in section twenty-six hundred ninety-two of the supplement to the code, 1907, is hereby repealed and in lieu thereof is enacted the following:

Each county shall be liable for sums paid by the home in support of all its children, other than the children of soldiers, to the extent of seven dollars per month for each child, and when the average number of children shall be less than five hundred in any month each county shall be liable for its just proportion for each child of the amount credited to the home for that month. The sums for which each county is so liable shall be charged to the county, and collected as a part of the taxes due the state, and paid by the county at the same time state taxes are paid. [36 G. A. (H. F. 283, § 2.)] [35 G. A., ch. 229, § 2.] [30 G. A., ch. 106, § 2.] [27 G. A., ch. 78, § 5.] [16 G. A., ch. 94, § 6.]

CHAPTER 6-A.

OF STATE AGENTS.

SECTION 2692-a. State agents—appointment—salary—office—supplies. That the law as it appears in section twenty-six hundred ninety-two-a, supplement to the code, 1913, be and the same is hereby amended by striking out all of said section and substituting in lieu thereof the following:

That the board of control of state institutions is hereby authorized to appoint not more than four persons to act as state agents for the soldiers' orphans' home, the industrial schools and the Iowa industrial reformatory for females. The salaries of such agents shall be fixed by said board, in no case to exceed seventy-five dollars per month, and they may hold their positions during its pleasure. The board shall procure and furnish the agents with office room and such furniture, books, blanks and supplies as may be necessary for the proper discharge of their duties, in the same manner as supplies are now furnished other officers of the board. Provided, that the board may furnish such office room and supplies to said agents at one or more of the institutions for which they are to act, and may require the institutions to furnish the agents with room, board and facilities for transacting business when stopping therein, without charge. [36 G. A. (H. F. 596, § 1.)] [33 G. A., ch. 172, § 1.] [31 G. A., ch. 181, § 1.]

SEC. 2692-c. Appropriation—how expended—money advanced. That section two of chapter one hundred seventy-two of the acts of the thirty-third general assembly and the law as it appears in section twenty-six hundred ninety-two-c as amended are hereby repealed and in lieu thereof is enacted the following:

There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of seven thousand dollars annually for the payment of salaries and expenses of the state agents and other expenses incurred under the provisions of this act, such salaries and expenses to be paid in the manner provided by section twenty-seven hundred twenty-seven-a six of the supplement to the code, 1907. Provided that the board of control may cause to be advanced from the funds hereby appropriated to each agent from time to time the sums to be used in defraying the official expenses of such agent, but the aggregate amount of money so advanced and not expended at any time shall not exceed the sum of two hundred fifty dollars, and the agent shall give security to be approved by the board for the proper use and accounting each month of all money so advanced. [36 G. A. (H. F. 596, § 2.)] [34 G. A., ch. 134, § 1.] [33 G. A., ch. 172, § 2.] [31 G. A., ch. 181, § 3.]

CHAPTER 8.

OF INDUSTRIAL SCHOOLS.

SECTION 2708. Commitment—conditions—procedure.

Where a minor 17 years of age was sentenced to pay a fine on his plea of guilty of larceny by the police court, and thereafter the case was sent to the district court under papers entitled in the juvenile court and proceedings had thereon without notice to the parents and the court committed him to the industrial school, held that as the juvenile court was not a separate court, and did not have jurisdiction over minors over 16 years of age, the mistake in the title of the papers was a matter of description and not jurisdictional, that as the parents were both present at the hearing the purpose of the service of a notice had been accomplished, and

the district court had jurisdiction to send the minor to the industrial school notwithstanding sentence by the police court. *DeKay v. Oliver*, 161-550, 143 N. W. 508.

The fact that the proceedings under this section are entitled in the juvenile court does not affect the jurisdiction of the district court, the words of such title being construed as term of description and not of jurisdiction. That the required notice to the parents of the minor is not given does not render a commitment void where the parents are present at the hearing. And the fact that the minor was convicted of a crime and sentenced by a police court instead of being sent forthwith to the dis-

trict court, which thereafter took up the matter, did not deprive the district court of jurisdiction; for when the cause was transferred to the district court, the judg-

ment of the police court imposing a fine and alternative imprisonment became inoperative. *Ibid.*

SEC. 2709. Complaint by parent or guardian.

Under this section before amended by the addition of the last sentence, where a girl committed to the Industrial School and while at large attained her majority, viz., 18 years, and also married, an order of the trial court releasing her was re-

versed, as the girl when re-taken was not illegally restrained and her period of detention did not expire until she became 21 years of age. *McPherson v. Day*, 162-251, 144 N. W. 4.

SEC. 2713. Support—per capita allowance. That chapter one hundred thirty-seven of the acts of the thirty-fourth general assembly is hereby repealed, and in lieu thereof is enacted the following:

For the support of the industrial school there is hereby appropriated out of any money in the state treasury not otherwise appropriated, or so much thereof as may be necessary, fourteen dollars monthly for each boy and sixteen dollars monthly for each girl actually supported in said school, counting the average number therein for each month; the monthly statement for each department to be verified by its superintendent and presented to the state auditor who shall draw his warrant upon the state treasurer for the same; provided, however, that when the average number of inmates in the department for boys shall be less than four hundred eighty for any month said department shall be credited by the auditor of state and the treasurer of state with the sum of sixty-eight hundred dollars, and when the average number of inmates in the department for girls shall be less than two hundred thirty-five for any month said department shall be credited by the auditor of state and the treasurer of state with the sum of thirty-seven hundred sixty dollars, and any sum which shall be credited to either department as aforesaid shall be drawn from the state treasury as the regular monthly per capita allowance is drawn. [36 G. A. (H. F. 371, §§ 1, 2.)] [35 G. A., ch. 231, § 1.] [34 G. A., ch. 137, § 1.] [31 G. A., ch. 130, § 1.] [30 G. A., ch. 143.] [29 G. A., ch. 159, § 1.] [28 G. A., ch. 101, § 1.] [28 G. A., ch. 100, § 10.] [27 G. A., ch. 81, § 1.] [23 G. A., ch. 54.] [19 G. A., ch. 92, § 1.] [17 G. A., ch. 97, § 1.] [15 G. A., ch. 21, § 1.]

CHAPTER 8-A.

IOWA INDUSTRIAL REFORMATORY FOR FEMALES.

NOTE: This entire chapter, comprising §§ 2713-a to 2713-n of the supplement to the code, 1913, was repealed by H. F. 366, 36 G. A., and the following nineteen sections enacted in lieu thereof. See § 2713-n19. REPORTER.

SECTION 2713-n1. Iowa Industrial Reformatory for Females established. That there is hereby established an institution which shall be known as the Iowa Industrial Reformatory for Females. The place for said institution shall be selected by the board of control of state institutions in some convenient locality in the state. [36 G. A. (H. F. 366, § 1.)] [28 G. A., ch. 102, § 1.]

SEC. 2713-n2. By whom controlled—superintendent—salary—assistants. Said reformatory shall be under the control of the board of control of state institutions, and the immediate management thereof shall be in charge of a female superintendent, who shall be appointed, and whose

compensation shall be fixed, by the board of control at an amount not exceeding two thousand dollars per annum, and, in addition she shall be allowed board and a dwelling for herself and minor children. The necessary subordinate officers and employees shall be appointed by the superintendent and the compensation to be paid all officers and employees shall be fixed according to the provisions of the law as it appears in sections twenty-seven hundred twenty-seven-a1 to and including section twenty-seven hundred twenty-seven-a51, supplement to the code, 1913, and all amendments thereof, so far as applicable and not otherwise specified, shall apply to and govern the business management and support of said reformatory and its inmates. [36 G. A. (H. F. 366, § 2.)] [28 G. A., ch. 102, § 2.]

SEC. 2713-n3. Subordinate employees—number—how fixed—salary—rules and regulations. The board of control shall determine what subordinate officers and employees are required to carry on and manage the reformatory, and fix the number and compensation thereof, and shall provide for their appointment by the superintendent. The board of control is authorized to make from time to time such rules and regulations for the government, discipline, and management of the reformatory as the board shall deem advisable, including the power to segregate said inmates. [36 G. A. (H. F. 366, § 3.)] [28 G. A., ch. 102, § 10.]

SEC. 2713-n4. Board to procure grounds—equipment—opening. The board of control shall so soon as is practicable procure suitable grounds for said reformatory and construct and provide the buildings, fixtures and equipment necessary to open and maintain the same and it may be opened when it is ready for the reception of inmates. [36 G. A. (H. F. 366, § 4.)] [28 G. A., ch. 102, § 3.]

SEC. 2713-n5. Board to notify judges and clerks—commitments from inferior courts. At least thirty days before the opening of the reformatory the board of control shall notify each judge of the superior and district courts, and each clerk of the district court of each county of the state of the time when the reformatory will be open for reception of inmates. The board of control may, from time to time, and whenever in their judgment the reformatory will accommodate more inmates than are then confined therein, notify each of the several justices of the peace and judges of the police courts of the state that said institution will receive other inmates and the number of such inmates which may be received from any county during a given period of time; and thereafter until notified by said board of control to the contrary the said justices of the peace and judges of the police courts throughout the state may commit all females sentenced to thirty days to such reformatory. [36 G. A. (H. F. 366, § 5.)] [28 G. A., ch. 102, § 9.]

SEC. 2713-n6. Females removed from reformatory. When said reformatory is ready for occupancy all females now confined in the reformatory at Anamosa shall be removed to the reformatory herein provided for. [36 G. A. (H. F. 366, § 6.)]

SEC. 2713-n7. Females—where committed. All females, over sixteen years of age, hereafter convicted in any district or superior court shall, if imprisonment be imposed, be committed to the reformatory herein created, provided any female under sixteen years of age and over the age of twelve years convicted of offenses punishable by life imprisonment, may be committed either to the industrial school or to said reformatory as the court may see fit. [36 G. A. (H. F. 366, § 7.)]

SEC. 2713-n8. Conviction on appeal—term of commitment. Any such female hereafter convicted in either of said courts on appeal from a conviction of an offense punishable by the inferior court with a fine of not exceeding one hundred dollars or imprisonment not exceeding thirty days, may, if imprisonment be imposed, be committed by said district or superior court to said reformatory for an indeterminate period not exceeding ninety days. [36 G. A. (H. F. 366, § 8.)]

SEC. 2713-n9. Females to be accompanied by a female attendant—expenses. The judge who commits a girl or woman to the reformatory may direct that she be taken there by a woman or other suitable person to be designated in the warrant, or if taken by a sheriff or other officer that she be accompanied by a woman so designated. The costs and expenses allowed for taking girls and women to the reformatory shall be the same as those allowed by law for taking girls to the industrial school for girls and shall be audited and paid in like manner by the counties from which they are sent. [36 G. A. (H. F. 366, § 9.)]

SEC. 2713-n10. Transfer to and from industrial school. Any woman or girl over the age of fourteen years who is an inmate of the industrial school for girls, who is unruly and incorrigible, or whose presence is dangerous and detrimental to the school, may, on the recommendation of the superintendent of the school and after an investigation by the board of control of state institutions, be transferred by order of said board of control to the reformatory, and the expenses of the transfer shall be paid from the funds of the school. And the board may, on the recommendation of the superintendent of the reformatory and after an investigation by the board, transfer any inmate of the reformatory to the industrial school for girls, and the expenses of the transfer shall be paid from the funds of the reformatory. And, after a transfer to either institution is made, the person transferred shall be subject to all the provisions of law and regulations of the institution to which she is transferred the same as though she had originally been committed thereto. [36 G. A. (H. F. 366, § 10.)]

SEC. 2713-n11. Duty of superintendent. It shall be the duty of the said superintendent, under the direction of the board of control, to provide instructors and appliances for and to instruct and train the inmates of the reformatory according to their capacity and needs in religion, morality, physical culture and in such common school and other branches of learning, in domestic and mechanical arts, and in such other branches of industry as shall afford the moral, mental and physical training and skill which shall seem best to prepare the inmates to lead orderly and virtuous lives and to become self-supporting and useful members of society. And the superintendent may require any inmate of the reformatory to perform any service suited to her strength and attainments which may be needed for the benefit or to accomplish the purposes of the reformatory, or which may be furnished or approved by the board of control. [36 G. A. (H. F. 366, § 11.)] [28 G. A., ch. 102, § 4.]

SEC. 2713-n12. Females—how long detained. No female committed to the reformatory who was convicted of a felony shall be detained in the reformatory under one commitment for a period longer than the maximum term of imprisonment provided by law for the crime of which she was convicted, and no female committed to the reformatory who was not convicted of a felony shall be detained therein under one commitment longer than five years. [36 G. A. (H. F. 366, § 12.)]

SEC. 2713-n13. Parole and discharge. The board of control shall have the power to order the parole or discharge of any inmate of the reformatory as a reward for good conduct and proficiency in studies and for satisfactory work in the industrial department, if there be reasonable ground to believe that such inmate if released will lead a virtuous and honorable life. The board may also in unusual and special cases parole and discharge inmates if the reasons therefor shall be deemed sufficient and urgent. If the inmate be paroled, the parole may be on conditions which shall be prescribed by the board of control and may be terminated for a failure to comply with such conditions. [36 G. A. (H. F. 366, § 13.)] [28 G. A., ch. 102, § 7.]

SEC. 2713-n14. Clothing and money furnished on parole or discharge—employment. When an inmate is paroled or discharged, the superintendent may, with the approval of the board of control, furnish her with a supply of clothing and a receptacle therefor, and transportation to the place where she is to be employed or if not employed, to the place from which she was committed or to any place she may select not more distant than the place of commitment, and with a sum of money not exceeding twenty-five dollars. It shall be the duty of the superintendent, so far as is practicable, to obtain for each inmate before she is paroled or discharged a home and suitable employment if they are not otherwise provided. [36 G. A. (H. F. 366, § 14.)]

SEC. 2713-n15. Arrest of those escaping or violating parole. Any person committed to or confined in said reformatory who shall escape may be arrested and taken or returned to said reformatory, if found in the vicinity of the reformatory, by an officer or employee thereof without any other authority than this act, and by any peace officer or other person on the request in writing of the superintendent. If any paroled inmate shall violate the conditions of her parole, she may be arrested and returned to the reformatory by any officer or employee thereof, or by any peace officer or other person, on the request in writing of the superintendent approved by the board of control; and the reasonable expenses incurred in returning such inmate shall be paid from the funds of the reformatory. [36 G. A. (H. F. 366, § 15.)]

SEC. 2713-n16. Assisting escape—penalty. Whoever unlawfully aids or assists any inmate lawfully committed to the reformatory to escape therefrom, or knowingly conceals such inmate after her escape, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the penitentiary not exceeding five years. [36 G. A. (H. F. 366, § 16.)]

SEC. 2713-n17. Appropriation. There is hereby appropriated out of any money in the treasury not otherwise appropriated for the purpose of maintaining the reformatory, including the payment of the compensation of officers and employees, for instruction of inmates, the furnishing of food, clothing, and all necessary supplies, and transportation for paroled and discharged inmates and return to the reformatory of paroled and escaped inmates, the sum of fifteen dollars per month, or so much thereof as shall be necessary for each inmate, estimated on the basis of the average number of inmates for the preceding month; but, in case the average number of inmates shall be fewer in any month than one hundred twenty-five, then and in that case the appropriation shall be two thousand dollars for each of such months, or so much thereof as shall be necessary. [36 G. A. (H. F. 366, § 17.)] [28 G. A., ch. 102, § 13.]

SEC. 2713-n18. Temporary quarters in case of fire, etc. In case the buildings of the reformatory shall at any time become unfit for the

purposes of the reformatory by reason of fire, storms, or other cause, the board of control shall make the best temporary provision practicable for the confinement and care of the inmates at some other place in the state. In case such temporary arrangement shall be made, all laws applicable to the reformatory as established by this act shall apply to the reformatory in the new location, and the reasonable cost of the change, including the transfer of inmates, shall be paid from any money in the state treasury not otherwise appropriated. [36 G. A. (H. F. 366, § 18.)]

SEC. 2713-n19. Repeal. The law as it appears in chapter eight-A of title thirteen, supplement to the code, 1913, and all acts and parts of acts in conflict with this act are hereby repealed. [36 G. A. (H. F. 366, § 19.)]

CHAPTER 10-A.

OF COUNTY AID FOR THE BLIND.

SECTION 2722-i. Board of supervisors to aid the blind. That it shall be lawful for any county to contribute such sum or sums of money from the poor fund toward the support of any blind person who may come under the provisions of this act. [36 G. A. (H. F. 175, § 1.)]

SEC. 2722-j. Financial aid from the county. That all male persons over the age of twenty-one years, and all female persons over the age of eighteen years, who are declared to be blind in the manner hereinafter set forth, and who come within the provisions of this act, shall at the discretion of the county board of supervisors, receive as a benefit one hundred fifty dollars per annum, payable quarterly, upon warrants properly drawn upon the treasurer of the county of which such person or persons are residents. [36 G. A. (H. F. 175, § 2.)]

SEC. 2722-k. Who not entitled to relief. That no person or persons who are charges of any charitable institution of this state, or any county or city thereof, or persons having an income of more than three hundred dollars per annum, or persons who have not resided within the state of Iowa continuously for five consecutive years and in their respective counties one year, immediately before applying for said benefit, shall be entitled to the provisions of this act. [36 G. A. (H. F. 175, § 3.)]

SEC. 2722-l. Examiner of the Blind—appointment. It is hereby made the duty of the county board of supervisors in each county in this state, to appoint a regular practicing physician, whose official title shall be "Examiner of the Blind", who shall keep an office open in some convenient place during the first week of each year for the examining of applicants for said benefit. [36 G. A. (H. F. 175, § 4.)]

SEC. 2722-m. Duties of examiner—fee. It is hereby made the duty of the examiner of the blind to examine all applicants for benefit, referred to him by the county board of supervisors, and to endorse on the application a certificate to each applicant, showing whether he or she is blind or not. Said examiner shall keep a register in which he shall enter the facts contained in each certificate. He shall be paid from the county treasury for his services the sum of two dollars for each applicant so examined. [36 G. A. (H. F. 175, § 5.)]

SEC. 2722-n. Application for relief—how made. All persons claiming the benefit provided herein may go before the county clerk of their respective counties, and make affidavit to the facts which bring him or

her within the provisions of this act, which shall be deemed an application for said benefit; two citizens, residents of the county, shall be required to make affidavits to the fact that they have known said applicant to be a resident of the state for five years and the county for the one year immediately preceding the filing of said application; the county clerk shall bring the same to the attention of the county board of supervisors, who shall refer the application to the examiner of the blind for said county. [36 G. A. (H. F. 175, § 6.)]

SEC. 2722-o. Duty of clerk. The county clerk shall register the name, address and number of applicant, and date of the examination of each of the applicants who has been so determined to be entitled to said benefit, and each year, on or before the fifteenth day of January, he shall certify to the county board of supervisors the names and residences of each applicant. [36 G. A. (H. F. 175, § 7.)]

SEC. 2722-p. Duty of board of supervisors. It is hereby made the duty of the county board of supervisors of each county in this state to cause warrants on the county treasurer to be drawn, properly endorsed, payable to each of said persons in said county each quarter in each year thereafter, during the life of said persons, while they are residents of said county or until said disability is removed. [36 G. A. (H. F. 175, § 8.)]

CHAPTER 11-B.

OF THE BOARD OF CONTROL OF STATE INSTITUTIONS.

SECTION 2727-a3. Officers—secretary—salary—acting secretary—supplies. The board shall be provided by the proper authorities with suitably furnished offices at the seat of government, and shall employ a competent secretary, who shall receive a salary not to exceed two thousand five hundred dollars per annum, and may also hire a stenographer and such other employes as may be necessary. In the absence or disability of the secretary, and the business of the board requires it, the board of control may appoint a member of the board as acting secretary during such absence or disability, who shall at such time have the powers of the secretary of the board. Said appointment shall be made of record in the proceedings of the board, and no additional compensation shall be paid because of the service of such acting secretary. This board shall, by the proper authorities, be also furnished with all necessary books, blanks, stationery, printing, postage stamps, and such other office supplies as are furnished other state officers. It shall present to each general assembly an itemized account of its expenditures, to the end that the legislature may, for the future, fix the maximum amount of such expenditures. [36 G. A. (S. F. 180, § 1.)] [28 G. A., ch. 143, § 4.] [27 G. A., ch. 118, § 3.]

NOTE: § 1 of S. F. 180, 36 G. A., under which the change is made in above section, is as follows:

"Section 1. That the law as it appears in section twenty-seven hundred twenty-seven-a three, supplement to the code, 1913, be and the same is hereby amended by striking out the words 'two thousand' in line four of said section, and substituting in lieu thereof the words 'two thousand five hundred'."

Evidently the sectional headings were counted as one line. REPORTER.

SEC. 2727-a11. Monthly visitation—may appoint a woman. That the law as it appears in section twenty-seven hundred twenty-seven-a eleven, supplement to the code, 1913, be and the same is hereby amended

by striking out all of said section and substituting in lieu thereof the following:

“The board, by a committee, or its secretary, shall visit each hospital for the insane once each month, and in making such visits shall be vested with the full power to examine all parts of said institution; they shall visit each ward in the different buildings; shall examine the food served the different inmates, and shall give each patient in the hospital opportunity to talk with the visitor alone.

“If the board deem it proper it may appoint a woman, whose duty it shall be to visit such hospital and make such inspection as is directed by the board, and to make a report in writing to the board of such visit, and who shall be paid as compensation the sum of four dollars per day for each and every day employed in the discharge of her duties, and the necessary traveling expenses by the nearest practicable route from her residence to the institution visited, to be paid from the funds of the institution upon proper audit of the bill for such services and expenses by the board in the manner provided for payment of current expenses of institutions.” [36 G. A. (H. F. 459, § 1.)] [27 G. A., ch. 118, § 11.]

SEC. 2727-a44. Contingent fund. That the law as it appears in section twenty-seven hundred twenty-seven-a forty-four, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

“The board of control may permit such contingent funds as in its judgment are deemed necessary, to remain in the hands of the managing officer of each institution, from which expenditures may be made for the payment of freight, postage, purchasing produce and other commodities requiring a cash settlement, discounting bills, and paying salaries to employes of the institution whose services terminate during the month. A full, minute and itemized statement of every expenditure made during the month from such funds shall be submitted by the proper officer of said institution to the board under such rules and regulations as may be by said board prescribed. If necessary, the board shall make proper requisition upon the auditor of state for a warrant on the state treasurer to secure the said contingent funds for each institution.” [36 G. A. (S. F. 514, § 1.)] [27 G. A., ch. 118, § 43.]

SEC. 2727-a50. Purchase of supplies—rules and regulations. It shall be the duty of the board to make specific rules and regulations respecting the manner in which supplies shall be purchased and contracts made for the several institutions, so as to insure the competition and publicity necessary to secure the economical management of each institution. Jobbers, or others desirous of selling supplies to an institution shall, by filing with the chief executive officer of such institution, or with the secretary of the board, a memorandum showing their address and business, be afforded an opportunity to compete for the furnishing of the supplies under such limitations and rules as the board may prescribe. In purchasing all supplies, local dealers and Iowa producers shall have the preference, when such can be given without loss to the state. When samples are furnished the same shall be properly marked and preserved for six months after purchase of such merchandise. [36 G. A. (S. F. 207, § 1.)] [27 G. A., ch. 118, § 48.]

CHAPTER 11-D.

OF THE STATE COLONY FOR EPILEPTICS.

SECTION 2727-a93. Establishment—object—government. That there is hereby established the state hospital and colony for epileptics. The object of the colony shall be the custody, care and treatment of epileptics and the scientific study of epilepsy. The board of control of state institutions shall have the same power and control over said colony as is now given it by the law as it appears in sections twenty-seven hundred twenty-seven-a one to section twenty-seven hundred twenty-seven-a fifty-one inclusive, of the supplement to the code, 1907, and all amendments thereto, and said acts and amendments shall apply to and govern said colony in every respect in so far as they are not in conflict with the provisions of this act. [36 G. A. (H. F. 597, § 1.)] [35 G. A., ch. 236, § 1.]

SEC. 2727-a96. Amendment of chapter by paragraphs. That chapter eleven-D of title thirteen of the supplement to the code, 1913, be and the same is hereby amended by adding to said chapter the following:

“Par. 1. State hospital and colony for epileptics—object—management—transfer of patients. The state hospital and colony for epileptics shall be devoted to securing humane, curative, scientific and economical care and treatment of epileptics and shall be under the management, care and control of the board of control of state institutions, which board shall make and enforce such rules and regulations as it may deem necessary for the management and control of the institution and for the admission and retention of all voluntary, involuntary and private patients to such hospital, and for their treatment, care, education and discharge and shall fix the rate of compensation to be paid by private patients. The board shall have full power to transfer epileptics from any other state hospital or institution under the control of said board to the hospital and colony for epileptics, to transfer insane epileptics from the hospital and colony to other state institutions, and to re-transfer such epileptics if deemed expedient. [36 G. A. (H. F. 597, § 2.)]

“Par. 2. Officers—employes—how appointed—number—qualifications—salary. The officers and employes of the hospital and colony shall consist of a superintendent and such other officers and employes to be appointed by the superintendent as the board of control of state institutions may deem necessary for the proper operation and management of said institution, the number and compensation of such officers and employes to be fixed by the board of control. The superintendent shall be a well educated physician with at least five years experience in the actual practice of medicine and shall be appointed by the board of control for a term of four years, and shall receive such salary as the board may fix not exceeding three thousand dollars per annum, and shall be furnished with a dwelling-house and the necessary household provisions and supplies for himself, wife and minor children. [36 G. A. (H. F. 597, § 2.)]

“Par. 3. Duty of superintendent—discipline. In addition to the duties which may now be imposed by law, the superintendent shall oversee and secure the individual treatment and professional care of each and every patient residing in the hospital and colony, and shall enforce such rules as may be adopted by the board of control, for the reception, examination, retention and discharge of patients and shall keep a full and complete record of the condition of all patients and make notations as to their prospects of recovery. He shall have the general superintendency of the buildings, grounds and farm with their furniture, equipment, stock and fixtures

and the immediate direction and control of all persons employed in and about the institution under such rules as may be adopted by the board of control, and he shall maintain salutary discipline among all employes, patients and inhabitants of the hospital and colony and shall have the immediate custody and control of every patient admitted to the colony until properly discharged, and may restrain and discipline any patient in such manner as he may deem best for the welfare of the patient, subject at all times to such regulations as may be made by the board of control. [36 G. A. (H. F. 597, § 3.)]

“Par. 4. Opening of hospital. When said hospital and colony buildings are erected, furnished, equipped and ready for use the board of control shall notify the governor of the fact, who shall thereupon issue his proclamation for the opening of said hospital and colony for the reception of patients. [36 G. A. (H. F. 597, § 2.)]

“Par. 5. Custody of patients. All persons admitted to said hospital and colony as sane epileptics shall until paroled or discharged be under the custody and control of the superintendent of said hospital, and said superintendent may restrain any such patient when he deems it necessary for the welfare of the patient and the proper conduct of the institution. Any person admitted as a sane epileptic, who is of legal age, or the parent or guardian of such patient, if a minor, may at any time obtain the discharge of such patient from the institution by giving at least ten days' notice in writing to the superintendent of the desire to obtain such discharge, and when the patient is thus discharged he will not be again admitted except under a warrant of commitment as herein provided. When a patient has been admitted as sane and afterwards becomes violent or insane, the board of control by and with the advice of the superintendent upon complaint being made by an officer or employe of the institution may regularly commit such patient after a hearing to said hospital and colony as an insane epileptic and note that fact upon the records of the institution, and such action by the board shall have the same force and effect as though the commitment was made by order of the commissioners of insanity, and the person so committed shall have the same right to appeal from the action of the board as in cases before an insane commission. [36 G. A. (H. F. 597, § 2.)]

“Par. 6. Commitments—procedure. The commissioners of insanity in each county shall have the same power and authority to commit persons to the state hospital and colony for epileptics, except in cases of voluntary commitments to such hospital and colony, as is now conferred by law upon such commissioners in connection with the commitment of patients to the state hospital for the insane, and all laws relating to the admission of patients to the state hospital for the insane shall apply to admission of patients to the state hospital and colony for epileptics in all cases where such laws may be applicable. Application for the commitment of any person to the state hospital and colony for epileptics, other than voluntary commitments, must be made in form of information verified by affidavit alleging that the person in whose behalf the application is made is believed by the informant to be afflicted with the disease known as epilepsy, and that such person is a fit subject for the care, custody, treatment and control of the state hospital and colony for epileptics, and that such person is found within the county where the information is filed, and shall also state the place of residence of such person if known, and if not known the best information or belief of the informant as to such residence according to the facts in each case. [36 G. A. (H. F. 597, § 2.)]

“Par. 7. Per capita allowance—appropriation. The board of control of state institutions shall fix the per capita allowance which may be charged by the said state hospital and colony for epileptics for the care, treatment and maintenance of each patient therein, which shall not exceed the sum of fifteen dollars per capita per month, which shall be based upon reports of the superintendent to the board of control and shall be credited to said institution by the auditor and treasurer of state upon certificate of the board of control and may be drawn against as provided in chapter eleven-B of title thirteen, supplement to the code, 1913. Provided that until such time as the institution is actually treating and caring for three hundred patients the sum of four thousand dollars per month, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated for the support and maintenance of said institution.” [36 G. A. (H. F. 597, § 2.)]

CHAPTER 12.

OF COUNTY HIGH SCHOOLS.

SECTION 2728. How established.

A school corporation of a county maintaining a county high school, with a four-year course, being as a matter of law a part of the county high-school scheme, is “offering a four-year high school course” within the meaning of Ch. 146, Acts 34 G. A., [Sec. 2733-1a] and is not liable for the tuition of pupils residing therein while

attending high school outside of their district and not in the county high school. The parents of such children are liable to the school corporation where such children attended, for the tuition of such children. *Ind. Sch. Dist. of Stuart v. Carter*, 150 N. W. 445.

SEC. 2730. Site—tax—approval of electors. As soon as convenient after the organization of the board, it shall proceed to select the best site that can be obtained without expense to the county, at the place named in the petition upon which the vote was taken, for the erection of the necessary school buildings, the title to be taken in the name of the county, and shall procure plans and specifications for the erection of such buildings, and make all necessary contracts for the erection of the same, the cost of which, when completed, shall not exceed the amount of the tax so levied therefor. They shall also annually make and certify to the board of supervisors on or before the first Monday of September of each year, an estimate of the amount of funds needed for improvements, teachers’ wages and contingent expenses for the ensuing year, designating the amount for each, which, in the aggregate shall not exceed in any one year, one mills [mill] on the dollar, upon the taxable property of the county. No expenditures for buildings or other improvements shall be made, or contract entered into therefor, by said board, involving an outlay of to exceed five hundred dollars in any one year, without the same first being submitted to the electors of the county in which said school be located, for their approval; the tax to be levied and collected in the same manner as other county taxes, and paid over by the county treasurer in the same manner as school funds are paid to district treasurers. [36 G. A. (H. F. 587, § 1.)] [27 G. A., ch. 84, § 2.] [C. ’73, §§ 1702-3, 1705.]

SEC. 2733-1a. Attendance at schools outside home district—tuition. That chapter one hundred forty-six of the acts of the thirty-fourth general assembly is hereby repealed and the following is enacted in lieu thereof:

Any person of school age who is a resident of a school corporation which does not offer a four-year high school course and who has completed the course as approved by the department of public instruction for such corporation shall be permitted to attend any public high school or county high school in the state approved in like manner, that will receive him. Any person applying for admission to any high school under the provisions of this act shall present the officials of said high school the affidavit of his or her father, mother or guardian that such applicant is of school age and a resident of a school district of this state, specifying the district. He shall also present a certificate signed by the county superintendent showing proficiency in the common school branches, reading, orthography, arithmetic, physiology, grammar, civics of Iowa, geography, United States history, penmanship and music. The school corporation in which such student resides shall pay to the secretary of the corporation in which such student shall be permitted to enter a tuition fee equal to the average cost of tuition and the average proportion of contingent expenses in the high school department in the latter corporation during the time he so attends, not exceeding, however, a total period of four school years; such payment to be made out of the teachers' fund and the contingent fund or out of the general fund of the debtor corporation and such tuition fee as collected by the secretary shall be turned over by him with an itemized statement, to the treasurer of the school funds on or before February fifteenth and June fifteenth of each year, provided the maximum fee collected from any district for each pupil shall not exceed the sum of three and one-half dollars per month except in high schools where free textbooks are provided by the district such additional amount may be charged as will cover the cost of the textbooks furnished to such pupil. If payment is refused or neglected the board of the creditor corporation shall file with the auditor of the county of the pupil's residence a statement certified by its president specifying the amount due for tuition and for contingent expenses respectively, and the time for which the same is claimed; and the auditor shall transmit to the county treasurer an order directing such treasurer to transfer the amount of such account from the debtor corporation to the creditor corporation, and the treasurer shall pay the same in accordance therewith. No school corporation situated in a county maintaining a county high school shall be required to pay the tuition of pupils at any high school other than such county high school, but this shall not apply to pupils who, while residing at home, attend some high school other than that of the school corporation in which they reside; and the tuition to be paid by school corporations in such county shall be three and one-half dollars per pupil per month, provided that, in counties having a county high school where a child resides at home and attends a high school outside the district of his residence other than the county high school, and the school corporation where the child resides pays the tuition for such child, and at the end of the school year it is found that less pupils have attended the county high school from the district where such child resides than was entitled to attend under the county high school apportionment, then and in that case the school corporation where such child resides shall be entitled to be reimbursed from the county high school funds for the tuition so paid, not exceeding in the aggregate an amount equal to the taxes contributed by such district to said county high school funds for the tax year preceding, fair and equitable credit being given to the county high school fund for pupils actually attending said county high school during said school year from the district where said child resides. The county superintendent shall, on being applied to for such purpose, determine in writing the amount due

such corporation from the county high school fund, and furnish such corporation with a copy of such finding. Within twenty days thereafter such corporation may appeal to the district court from such finding by serving written notice on the county superintendent of the taking of such appeal. On the service of said notice the county superintendent shall file a copy of his finding in the office of the clerk of the district court and the clerk shall docket the cause without fee. The matter shall be tried on appeal as in equity and without formal pleading. The decision of the district court shall be final. The treasurer shall, upon the filing with him of any final decision, immediately transfer from the county high school funds to the credit of the corporation entitled to the same the amount directed to be transferred. [36 G. A. (H. F. 587, § 2.)] [35 G. A., ch. 239, § 1.] [35 G. A., ch. 240, § 1.] [34 G. A., ch. 146, §§ 1-4.]

SEC. 2733-1a. Attendance at schools outside home district—tuition.

A school corporation of a county maintaining a county high school, under Ch. 12, Title 13, of the Code, with a four-year course, being as a matter of law a part of the county high-school scheme, is "offering a four-year high school course" within the meaning of this section, and is not liable for the tuition of pupils residing therein

while attending high school outside of their district and not in the county high school. The parents of such children are liable to the school corporation, where such children attended, for the tuition of such children. *Ind. Sch. Dist. of Stuart v. Carter*, 150 N. W. 445.

CHAPTER 13.

OF THE COUNTY SUPERINTENDENT.

SECTION 2734-b. Qualifications—powers and duties—deputy. That the law as it appears in section twenty-seven hundred thirty-four-b, supplement to the code, 1907, be and the same is hereby repealed and the following enacted in lieu thereof:

The county superintendent, who may be of either sex, shall be the holder of a regular five-year state certificate or a life diploma, and shall have had at least five years' experience in teaching or superintending, but this provision as to experience shall not apply until September first, nineteen hundred eighteen, provided that any county superintendent of schools now serving shall be deemed eligible to reappointment or re-election under this act. The county superintendent shall, under the direction of the superintendent of public instruction, serve as the organ of communication between the department of public instruction and the various officers and instructors in his county, and shall transmit or deliver to them all books, pamphlets, circulars or communications designed for them. He shall visit the different schools in his county at least once during the school year and also when requested by a majority of the directors of any school corporation. He shall also, at the request of the superintendent of public instruction, visit and report upon such schools as may be designated. He may appoint a deputy, for whose acts he shall be responsible, and who may act in his stead except in visiting schools and trying appeals, the salary of such deputy to be fixed by the representatives in convention assembled. He shall, on the first Monday of each month, file with the county auditor an itemized and verified statement of his actual and necessary expenses incurred during the previous month in the performance of his official duties within his county, and such expenses shall be paid by the county board of supervisors out of the county fund, but the total amount so paid for any

one year for such purposes shall not exceed the sum of two hundred fifty dollars. [36 G. A. (H. F. 6, §§ 1, 2.)] [35 G. A., ch. 107, § 3.] [31 G. A., ch. 122, § 2.] [27 G. A., ch. 85, § 1.] [16 G. A., ch. 136, § 2.] [C. '73, §§ 1765, 1770.] [R. § 2069.]

SEC. 2734-c. Examinations. On the last Friday, and Wednesday and Thursday preceding, in the months of January, June, July and October, the county superintendent shall meet and, with such assistants as may be necessary, examine all applicants for a teacher's certificate. Such examinations shall be held at the county seat, in a suitable room which shall be provided for that purpose by the board of supervisors; but the county superintendent may at his discretion cause to be held at the time of any regular examination an additional examination at some other place in the county. The questions used in such examinations shall be furnished by the educational board of examiners, who shall cause the same to be printed, and the examinations shall be conducted strictly under rules prescribed by the board.

On the last Friday of August and the Wednesday and Thursday preceding, the county superintendent of each county shall conduct an additional examination to which only such persons as file certificates of attendance during the summer immediately preceding at a summer school approved for the twelve weeks of normal training provided for in section twenty-seven hundred thirty-four-p, supplement to the code, 1913, shall be admitted.

This examination shall be under the same regulations as to preparation of questions, grading of papers, granting of certificates as the four examinations provided for in the first part of this section. [36 G. A. (S. F. 563, § 1.)] [31 G. A., ch. 122, § 3.] [19 G. A., ch. 161, § 2.] [17 G. A., ch. 143.] [C. '73, §§ 1766, 1768, 1774.] [R. §§ 2066, 2068, 2073.] [C. '51, § 1148.]

CHAPTER 14.

OF THE SYSTEM OF COMMON SCHOOLS.

SECTION 2746. Annual meeting of corporation.

Where it was proposed, under section 2794, Code Supp. 1913, to consolidate the territory or parts of territory of several subdistricts—some nine tracts in all—into an independent school district, held, that the posting of five notices within the territory of the said nine tracts was sufficient. To hold that the statute required the posting of five notices in each subdistrict, or

part thereof, would in effect be a judicial amendment to the statute. *Scofield v. Ferguson*, 151 N. W. 497. *Townsend v. Garrett*, 152 N. W. 565.

Notices posted March 18th for a meeting on March 28th complies with this section. *Consolidated School Dist. v. Martin*, 152 N. W. 623.

SEC. 2757. Meetings of directors—election of officers. That section twenty-seven hundred fifty-seven of the code be and the same is hereby repealed and the following enacted in lieu thereof:

The board of directors of all independent city, town and village corporations, school townships maintaining school or schools with high school departments, and consolidated independent school districts shall organize on the third Monday in March, and those of all other school corporations on the first day of July, unless that date falls on Sunday, in which case the day following. Such organization shall be effected by the election of a president from the members of the board, who shall be entitled to vote as a member. Such special meetings may be held as may be determined by

the board, or called by the president, or by the secretary upon the written request of a majority of the members of the board, upon notice specifying the time and place, delivered to each member in person, but attendance shall be a waiver of notice. Such meetings shall be held at any place within the civil township in which the corporation is situated. On the first day of July, unless that date falls on Sunday, in which case on the day following, the board of all independent city, town and village corporations, school townships maintaining school or schools with high school departments, and consolidated independent school districts and the retiring board in all other school corporations shall meet, examine the books of, and settle with the secretary and treasurer for the year ending on the thirtieth day of June preceding, and for the transaction of such other business as may properly come before it. On the same day the board of each independent city, town and village corporation, school townships maintaining school or schools with high school departments, and consolidated independent school districts, except as provided in section twenty-seven hundred fifty-four of this chapter, and the new board of every other school corporation, shall elect from outside the board a secretary and treasurer, but in independent districts no teacher or other employe of the board shall be eligible as secretary. All officers shall be elected by ballot and the vote shall be recorded by the secretary. Should the secretary or treasurer fail to report as provided in sections twenty-seven hundred sixty-five and twenty-seven hundred sixty-nine of this chapter, it shall be the duty of the new board to take any action necessary to secure a proper settlement. [36 G. A. (S. F. 156, § 1.)] [31 G. A., ch. 136, § 3.] [18 G. A., ch. 176.] [15 G. A., ch. 27.] [C. '73, §§ 1721-2.] [R. §§ 2035-6, 2076.] [C. '51, § 1121.]

SEC. 2775-a. Elementary agriculture—domestic science—manual training—instruction—teachers' examination. The teaching of elementary agriculture, domestic science, and manual training shall, after the first day of July, nineteen hundred fifteen, be required in the public schools of the state; and the state superintendent of public instruction shall prescribe the extent of such instruction in the public schools. And after the date aforesaid elementary agriculture and domestic science or manual training shall be included among the subjects required in the examination of those applicants for teachers' certificates who are required by the provisions of this act to teach agriculture and domestic science. [36 G. A. (S. F. 359, § 1.)] [35 G. A., ch. 248, § 1.]

SEC. 2778. Contracts—election of teachers—employment of teachers in subdistricts. The board shall carry into effect any instruction from the annual meeting upon matters within the control of the voters, and shall elect all teachers and make all contracts necessary or proper for exercising the powers granted and performing the duties required by law. But the board may authorize any subdirector to employ teachers for the schools in his subdistrict. Contracts with teachers must be in writing, and shall state the length of time the school is to be taught, the compensation per week of five days or month of four weeks, and such other matters as may be agreed upon, signed by the president and teacher, and filed with the secretary before the teacher commences to teach under such contract.

The board of directors of each independent school district of any city, town, village and of each consolidated independent school district shall have the power to employ a superintendent of schools for a term of not to exceed three years, who shall execute the orders and regulations of the board and have such powers and duties as they may prescribe, with such duties and powers as are now or may hereafter be prescribed by the laws

of the state, provided, however, that no such contract be made until a superintendent has served at least one year in the position to which it is proposed to elect him for the longer period. [36 G. A. (H. F. 27, § 1.)] [28 G. A., ch. 107, § 1.] [22 G. A., ch. 60.] [C. '73, §§ 1723, 1757.] [R. §§ 2037, 2055.]

This statute is not unconstitutional under section 1, Article 1, of the Constitution declaring all men equal and entitled to acquire, possess and protect property, nor under section 6 of the same Article

requiring all laws of a general nature to have a uniform operation, and forbidding the granting of special privileges or immunities. *Bopp v. Clark*, 147 N. W. 172.

SEC. 2791. Attaching territory to adjoining corporation.

The action of the county superintendent as herein provided is essential. *Townsend*

v. Garrett, 152 N. W. 565.

SEC. 2793-a. Corporation limits changed.

This section is not invalid as delegating to municipal authorities control over the boundaries of a school district, since the actual control is in the hands of the voters and not the municipal authorities. *Wise v. Palmer*, 147 N. W. 167.

This provision of this section, providing for a corresponding extension of the

boundaries of the independent school districts therein, are based upon the supposition that, if conditions warrant the extension of the boundaries of the municipality, they also warrant a like extension of the boundaries of the school district. *Ibid.*

SEC. 2794. Formation of independent district. Upon the written petition of any ten voters of a city, town or village of over one hundred residents, to the board of the school corporation in which the portion of the town plat having the largest number of voters is situated, such board shall establish the boundaries of a proposed independent district, including therein all of the city, town or village, and also such contiguous territory as is authorized by a written petition of a majority of the resident electors of the contiguous territory proposed to be included in said district, in not smaller subdivisions than entire forties of land, in the same or any adjoining school corporations, as may best subserve the convenience of the people for school purposes, and shall give the same notices of a meeting as required in other cases, at which meeting all voters upon the territory included within the contemplated independent district shall be allowed to vote by ballot for or against such separate organization. When it is proposed to include territory outside the town, city or village, the voters residing upon such outside territory shall be entitled to vote separately upon the proposition for the formation of such new district, by presenting a petition of at least twenty-five per cent. of the voters residing upon such outside territory, and if a majority of the votes so cast is against including such outside territory, then the proposed independent district shall not be formed, provided that a sub-district containing a village with a population of seventy-five or more, may, under the provisions of this act organize into an independent school district. [36 G. A. (H. F. 96, § 1.)] [29 G. A., ch. 126, § 1.] [19 G. A., ch. 118, § 1.] [18 G. A., ch. 139.] [C. '73, §§ 1800-1.] [R. §§ 2097, 2105.]

The jurisdiction of the board of the school corporation attaches upon the presentation of the first petition signed by ten voters and the fact that it erred in its conclusion in canvassing the petition

signed by the electors of contiguous territory did not defeat its jurisdiction. *School Corporation v. Ind. School Dist.*, 162-257, 144 N. W. 20.

SEC. 2794-a. Consolidated independent districts—organization—dissolution. (a) *Organization—petition—election—board of directors.* When a petition describing the boundaries of contiguous territory contain-

ing not less than sixteen sections within one or more counties is signed by one third of the electors residing on such territory, and approved by the county superintendent, if of one county, and the superintendent of each if of more than one county, and by the state superintendent of public instruction if the county superintendents do not agree, and filed with the board of the school corporation in which the portion of the proposed district having the largest number of voters is situated, requesting the establishment of a consolidated independent district, it shall be the duty of said board, within ten days, to call an election in the proposed consolidated district, for which they shall give the same notices as are required in section twenty-seven hundred forty-six of the code, and twenty-seven hundred fifty of the supplement to the code, 1907, at which election all voters residing in the proposed consolidated district shall be entitled to vote by ballot for or against such separate organization. When it is proposed to include in such district a city, or town or village, the voters residing upon the territory outside the incorporated limits of such city, town or village shall vote separately upon the proposition for the creating of such new district. The judges of said election shall provide separate ballot boxes in which shall be deposited the votes cast by the voters from their respective territory, and if a majority of the votes cast by the electors residing either within or without the limits of such city, town or village, is against the proposition to form a consolidated independent corporation, then the proposed corporation shall not be formed. If a majority of the votes so cast in each territory shall be in favor of such independent organization, the organization of the proposed consolidated independent school corporation shall be completed by the election of a board of directors for said school corporation, as provided in section twenty-seven hundred ninety-five of the code, and when so organized shall not be reduced to less than sixteen sections unless dissolved as provided by this act. No school corporation from which territory is taken to form such a consolidated independent corporation shall, after the change, contain less than four government sections, which territory shall be contiguous and so situated as to form a suitable corporation. And where after the formation of such consolidated school corporation, whether heretofore or hereafter formed, there is left in any school township one or more sub-districts each of such sub-districts containing four or more government sections, each of such pieces of territory shall thereby become a rural independent school corporation, and it shall be the duty of the officers of the former school township to call an election in each of such rural independent districts for the purpose of electing school officers in the manner provided by law for the election of officers in rural independent school corporations.

(b) *Organization of board—taxes previously certified—levy for general fund.* The organization of the school board in consolidated independent school corporations shall be effected on or before the first day of July following their election, and when completed, all taxes previously certified shall be void so far as the property within the limits of the consolidated independent school corporation is concerned, and the board of said consolidated independent school corporation shall at a regular meeting or a special meeting called for the purpose, at any time prior to the third Monday in August of each year, levy for the general fund of said school the amount of all necessary taxes for all school purposes, which shall not exceed fifty dollars for each person of school age, except that where an approved high school course is maintained in such school the levy may be sixty dollars for each person of school age the amount so levied to be certified by them to the county board of supervisors on or before the first Monday of Septem-

ber in each year, and the board of supervisors shall levy said tax at the same time, and in the same manner that other school taxes are required to be levied.

(c) *Central school—transportation.* It shall be the duty of the school board of any consolidated independent school corporation and school townships maintaining a central school to provide suitable transportation to and from school, for every child of school age living within said district, and outside the limits of any city, town or village, but the board shall not be required to cause the vehicle of transportation to leave the public highway to receive or discharge occupants thereof. The board shall from time to time, by resolution regularly adopted, number and designate the route to be traveled by each conveyance in transporting children to and from school. The school board may require that children living an unreasonable distance from school shall be transported by the parent, or guardian, a distance of not to exceed two miles, to connect with any vehicle of transportation to and from school; or may, in the discretion of the board, contract with an adjoining school corporation for the instruction of any child living an unreasonable distance from school, and they shall allow a reasonable amount of compensation for the transportation of children to and from the point where they are taken over, or discharged from, the vehicle used to convey them to and from school, or for transporting to an adjoining district. In determining what an unreasonable distance would be, consideration shall be given to the number and age of the children, the condition of the roads, and the number of miles to be traveled in going to and from school. The board shall have the right on account of inclemency of the weather to suspend the transportation of any route upon any day or days when in the judgment of the said board it would be a hardship on the children, or when the roads to be traveled are unfit or impassable.

(d) *Contracts for transportation—rules and regulations.* The school board of any consolidated independent school corporation shall contract with as many suitable persons as they deem necessary for the transportation of children of school age to and from school, such contract to be in writing and shall state the number of the route, the length of time contracted for, the compensation to be allowed per week of five school days, or per month of four school weeks, and may provide that two weeks' salary shall be retained by the board pending full compliance therewith by the party contracted with, and shall always provide that any party or parties to said contract and every person in charge of vehicles conveying children to and from school, shall be at all times subject to any rules or regulations said board shall adopt for the protection of the children, or to govern the conduct of the person in charge of said conveyance.

(e) *School building—tax levy—location.* It shall be the duty of the school board of any consolidated independent district to provide a suitable school building within such district, and shall at any regular meeting or at a special meeting called for that purpose submit the question of levying a tax for the building of any school building suitable for the needs of the district, or for the repairing of any school building where the cost of such repairs exceeds the sum of two thousand dollars to the qualified voters of said district, and all moneys received from such source to be placed in the schoolhouse fund of said corporation and to be used for such purposes only. In locating said building they shall take into consideration the geographical position, number and convenience of the scholars, and may submit the question of location to the voters of the district at any regular meeting or special meeting called for that purpose; providing that whenever a city, town or village containing a school population of twenty-five or more, is

included within any consolidated independent district, then said building shall be located within the incorporated limits of said city, town or village, on such a site as the school board may determine.

(f) *Dissolution—petition—election—boards of directors—division of assets and liabilities.* Whenever a petition signed by one third of the electors in a consolidated independent school corporation asking that said district be dissolved and describing the boundaries of the district or districts proposed to be organized out of the territory then included in such consolidated independent school corporation and having the approval of the county superintendent, if one county, and the superintendent of each if more than one county, and by the state superintendent of public instruction if the county superintendents do not agree, is filed with the board of said consolidated independent district, it shall be the duty of said board within ten days to call an election for which they shall give the same notices as are required in section twenty-seven hundred forty-six of the code, and twenty-seven hundred fifty of the supplement to the code, 1907, at which election all voters residing within the district shall be allowed to vote by ballot for or against such dissolution. If a majority of all votes cast at said election be in favor of dissolving the consolidated district, same shall be dissolved and the organization of a new district or districts be forthwith completed by the election of a board of directors as provided by statute; provided, however, that such dissolution shall become effective only when the reorganization of the territory included in the original consolidated district is completed. The assets and liabilities of any such school corporation thus dissolved shall be equitably divided as provided in section twenty-eight hundred and two of the supplement to the code, 1907.

(g) *Violation of transportation rules and regulations—penalty.* Any person driving, managing, or in charge of any vehicle used in transporting children to and from school, in any consolidated independent school corporation, who shall be found guilty of violating any of the rules and regulations adopted by the board of said school for the guidance of any person in charge of such conveyance, shall be guilty of a misdemeanor, and for the first offense shall be fined not less than five dollars or more than ten dollars and for a subsequent offense shall be fined not less than twenty-five dollars or more than fifty dollars and shall be dismissed from the service. [36 G. A. (H. F. 354, § 1.)] [36 G. A. (S. F. 101, § 1.)] [34 G. A., ch. 143, § 1.] [31 G. A., ch. 141.]

As to sufficiency of notice of election see *Scofield v. Ferguson*, 151 N. W. 497; *Townsend v. Garrett*, 152 N. W. 565; *Consolidated Dist. v. Martin*, 152 N. W. 623.

The legality of the election is not affected by the petition calling for the location of the school house at or near a particular locality. *Consolidated Independent School Dist. v. Martin*, 152 N. W. 623.

A sub-district of a school district township is not a "school corporation" within the meaning of the provision requiring that no school corporation from which territory is taken shall, after the change, contain less than four government sections. *Ibid.*

The failure to provide separate ballot boxes as provided by Par. (a) of this section was held not to invalidate the election

when it was shown that all the votes within the limits of the platted village were in favor of consolidation, and that a large majority of the votes in the territory outside of the platted city limits were in favor of consolidation. *State v. Booth*, 149 N. W. 244.

Where a portion of a platted but unincorporated village was sought to be included in a school corporation by virtue of an election, a failure to provide separate ballot boxes for the district, including the village, and for the outside territory, did not render the election void. *Ibid.*

The word "incorporated" as it appears in Par. (a) of this section in reference to the limits of villages is construed as meaning the same as "platted". *Ibid.*

SEC. 2794-g. Annual appropriation. That the law as it appears in section twenty-seven hundred ninety-four-g, supplement to the code, 1913,

be and the same is hereby repealed and the following enacted in lieu thereof:

"For the purpose of carrying out the provisions of this act there is hereby appropriated annually out of any money in the state treasury, not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary. In the event the foregoing appropriation shall be insufficient in any year to pay in full the state aid to which the schools described in sections twenty-seven hundred ninety-four-b, twenty-seven hundred ninety-four-c and twenty-seven hundred ninety-four-d, supplement to the code, 1913, the said appropriation shall be distributed among the several schools pro rata in proportion to the amount they would have received had said appropriation been sufficient to pay in full the amounts provided for in said sections." [36 G. A. (S. F. 282, § 1.)] [35 G. A., ch. 250, § 6.]

SEC. 2807. Levy by board of supervisors.

Where taxes were levied upon land in one school district at a rate applicable to an adjoining district and the same were erroneously paid to the adjoining district, the district in which the land was situated might recover back the taxes thus obtained as for money had and received, even though complaint might have been made by the taxpayers. *Ind. School Dist. of Kelly v. School Twp. of Washington*, 162-42, 143 N. W. 837.

The Board of Supervisors fixes the per centum of the tax necessary to raise the amount certified to it by the secretary of the school board and the fact that they fix the per centum at more or less than is

necessary to raise the amount certified does not destroy the right of the school district to receive the tax levied upon the property within its limits. Where the tax was levied on and collected from property within one school district and by mistake was paid by the county treasurer to an adjoining district, the district containing the property on which the tax was levied and within which the tax was collected had the right to recover the money erroneously paid, regardless of the fact that a mistake in levying the tax made the per centum on different property in the plaintiff district different. *Ibid.*

SEC. 2812-e. Form—duration—rate of interest—where registered.

All of said bonds shall be substantially in the form provided for county bonds, but subject to changes that will conform them to the action of the board providing therefor, shall run not more than twenty years, and may be sooner paid if so nominated in the bond; be in denomination of not more than one thousand dollars or less than one hundred dollars each, to bear a rate of interest not exceeding five per centum per annum, payable semiannually, to be signed by the president and countersigned by the secretary of the board of directors, and shall not be disposed of for less than par value, nor issued for other purposes than this chapter provides. All of said bonds shall be registered in the office of the county auditor. The expenses of engraving and printing of bonds may be paid out of the contingent fund. [36 G. A. (S. F. 630, § 1.)] [33 G. A., ch. 183, § 1.] [32 G. A., ch. 152, § 4.]

SEC. 2814. Schoolhouse sites—acquisition.

The consent of the owner referred to in the last part of this section applies to the whole, and authorizes a school district, which is not a consolidated district, to condemn in excess of one acre for play grounds, the owner having consented. *Dennis v. Ind. School Dist.*, 148 N. W. 1007.

One who fails to object to assessment

of damages but appeals from the referee's award, then withdraws this pleading and elects to proceed to trial as to the amount of his damages and is awarded an increase, which with the original award is deposited, will be held to have consented to the taking of land. *Ibid.*

SEC. 2816. Reversion.

The nonuser of school grounds for two years works reversion of the land to the owner of the tract from which such school

grounds were carved. *Hopkins v. School Dist.*, 151 N. W. 443.

SEC. 2818. Appeal to county superintendent.

An appeal to the county superintendent by a person aggrieved by the decision or order of the board of directors is the appropriate remedy. *School Corporation v. Ind. School Dist.*, 162-257, 144 N. W. 20.

CHAPTER 14-E.**OF PUBLIC RECREATION AND PLAY GROUNDS.**

SECTION 2823-u7. Power to acquire land for school garden or farm—summer home—objects and purposes. The school board in cities including cities under special charters and commission form, having a population of twenty thousand or more, is hereby empowered to purchase or lease for educational purposes a tract of land outside of the boundaries of such city, for a school garden or school farm in like manner and under the same restrictions as in the case of school property in the said city and to erect suitable buildings thereon, and to furnish the same, and to appoint managers in a suitable manner. The said tract of land to be maintained for the purpose of providing a summer home for pupils of the city who may desire to continue their study all the year round, and for supplying to them an opportunity to perform productive work in such vocational lines as agronomy, olericulture, viticulture, apiculture, pomology, agriculture, and the auxiliary arts, carpentry, masonry, and any other wholesome and voluntary employment, and to diversify such work with open air exercises and recreations of both physical and intellectual character; also for enabling the pupils of the elementary schools and of the high school opportunities for visitation and observational study at all seasons in connection with their school work; it being the intent and purpose of this statute to develop in the state of Iowa the educational principle and work commonly comprised in the name "Park Life", as exemplified experimentally and discussed educationally and sociologically in this state.

Where such school garden or school farm is maintained, the said school board shall seek to correlate its functions with the regular work of the schools in the most practical and efficient manner. [36 G. A. (H. F. 524, § 1.)]

CHAPTER 16.**OF THE SCHOOL FUND.****SECTION 2849. Loans.**

Simple interest should be computed on each installment of interest from maturity. *Hamilton Co. v. Chase*, 152 N. W. 580.

SEC. 2850. Applications—taking up incumbrances. All applications to borrow from the permanent school fund shall be made to the auditor of the county in which the land is situated which it is proposed to mortgage as security, who shall cause the proper appraisement to be made, and, if satisfactory, shall examine any abstract of title which the proposed borrower may submit, or he may cause an abstract to be prepared at such proposed borrower's expense. If the title is found to be perfect, and the lands unincumbered, he shall certify this fact and submit the application and all the papers connected therewith to the board of supervisors at its next meeting, regular or called, at which meeting the loan shall be approved

or disapproved. If the application is accepted, the auditor shall complete the contract by taking a note payable to the county, and a mortgage upon the lands securing the same, and certify the same to the treasurer, who shall pay over to the borrower the amount named in the note, less a fee of two dollars to be paid to the auditor for his services. The board may reject the application for any good cause. And if it shall happen that a loan is made upon real estate which is in fact incumbered other than for taxes, the board of supervisors may, when necessary for the safety of the loan, appropriate out of any school fund on hand, if such incumbrance does not exceed one half of the real value of the lands, so much as may be needed to take up and purchase the same, and may also at any meeting, by resolution, assign without recourse, upon payment of the amount due, any school fund note and mortgage to one holding a subsequent lien upon the mortgaged real estate. [36 G. A. (S. F. 340, § 3.)] [32 G. A., ch. 151, § 4.] [C. '73, §§ 1864, 1868-9, 1875.] [R. § 1984.]

SEC. 2852. Renewals—limitation of action.

Lapse of time is no bar to an action to *Hamilton Co. v. Chase*, 152 N. W. 580. recover any part of the school fund. *Ham-*

SEC. 2854. Suits—attorney's fees—purchase on execution.

Failure of auditor to notify the delin- failure to pay. *Hamilton Co. v. Chase*, 152 quent debtor furnishes no excuse for N. W. 580.

CHAPTER 17-A.

CONSOLIDATION OF THE MISCELLANEOUS PORTION OF STATE LIBRARY WITH THE HISTORICAL DEPARTMENT.

SECTION 2881-j. Custody of public archives—repealed. [36 G. A. (H. F. 572, § 1.)] [31 G. A., ch. 142, § 1.]

See § 2881-o.

SEC. 2881-k. Transfer and delivery of public archives—repealed. [36 G. A. (H. F. 572, § 1.)] [32 G. A., ch. 157, § 1.] [31 G. A., ch. 142, § 2.]

See § 2881-o.

SEC. 2881-l. State library and historical department authorized to receive archives—certification—repealed. [36 G. A. (H. F. 572, § 1.)] [34 G. A., ch. 148, § 1.] [32 G. A., ch. 157, § 2.] [31 G. A., ch. 142, § 3.]

See § 2881-o.

SEC. 2881-m. Hall of public archives—repealed. [36 G. A. (H. F. 572, § 1.)] [31 G. A., ch. 142, § 4.]

See § 2881-o.

SEC. 2881-n. Appropriation—how expended—repealed. [36 G. A. (H. F. 572, § 1.)] [32 G. A., ch. 157, § 3.] [31 G. A., ch. 142, § 5.]

See § 2881-o.

SEC. 2881-o. Repeal. That sections twenty-eight hundred eighty-one-j, twenty-eight hundred eighty-one-k, twenty-eight hundred eighty-one-l, twenty-eight hundred eighty-one-m, twenty-eight hundred eighty-one-n, supplement to the code, 1913, be and they are hereby repealed and the following enacted in lieu thereof: [36 G. A. (H. F. 572, § 1.)]

NOTE: The following five sections of this chapter, together with the first above section, comprise all of H. F. 572. The following five sections are designated in said bill by letters only, viz: "a", "b", etc. It has been deemed more convenient to give them section numbers. **REPORTER.**

SEC. 2881-p. Public archives—custody. That for the care and preservation of the public archives the curator of the historical department of Iowa is hereby given the custody of all the original public documents, papers, letters, records and other official manuscripts of the state executive and administrative departments, offices or officers, councils, boards, bureaus and commissions, ten years after the date or current use of such public documents, papers, letters, records or other official manuscripts. Provided, that the executive council shall have the power and authority to order the transfer of such records or any part thereof at any time prior to the expiration of the limit of ten years hereinbefore provided or to retain the same in the respective offices beyond such limit according as in the judgment of the council the public interest or convenience may require. [36 G. A. (H. F. 572, § 1-a.)]

SEC. 2881-q. Heads of departments authorized to deliver records. That the several state executive and administrative departments, officers or offices, councils, boards, bureaus and commissioners, are hereby authorized and directed to transfer and deliver to the historical department such of the public archives as are designated in section 1-a, of this act, except such as in the judgment of the executive council should be longer retained in the respective offices. [36 G. A. (H. F. 572, § 1-b.)]

SEC. 2881-r. Curator authorized to receive records. That the curator of the historical department is hereby authorized and directed to receive such of the public archives and records as are designated in section 1-a of this act and provide that the same be properly arranged, classified, labeled, filed, calendared and indexed, all under the direction of the board of trustees of the state library and historical department. [36 G. A. (H. F. 572, § 1-c.)]

SEC. 2881-s. Executive council to equip receiving rooms. That for the care and permanent preservation by the curator of the historical department of the public archives hereinbefore designated, the executive council is hereby authorized and directed to furnish and equip such room or rooms in the Historical, Memorial and Art Building as may be deemed necessary for the purpose of this act, and the room or rooms thus provided for shall be known as the division of public archives. [36 G. A. (H. F. 572, § 1-d.)]

SEC. 2881-t. Curator to certify to copies—conditions authorizing removal—fees. Upon and after the receipt by the historical department into its division of public archives of any such public archives, copies thereof may be made, certified and authenticated by the curator in the same manner and with the same validity as the officer from whom the same were secured. The curator shall have and exercise the same custody and control over said public archives as had theretofore been exercised by those from whose offices they were received, but they shall not be removed from the historical department except by the consent of the curator and upon the subpoena of a court of record or the order in writing of the person from whose office they were originally derived. Said curator shall charge and collect for certified copies the same fees as are allowed by law to the secretary of state for certified copies, which fees shall be turned into the state treasury. Such certificates issued by the curator shall have the same legal effect as like certificates issued by the secretary of state. [36 G. A. (H. F. 572, § 1-e.)]

CHAPTER 18-A.

LIBRARY COMMISSION AND FREE PUBLIC SCHOOL LIBRARIES.

SECTION 2888-h. Expenses—appropriation. That section twenty-eight hundred eighty-eight-h [of the supplement to the code, 1907,] be and the same is hereby repealed and the following enacted in lieu thereof:

No member of the commission shall ever receive any compensation for services as a member, but the traveling expenses of members in attending meetings of the commission, or in visiting or establishing libraries and other incidental and necessary expenses connected with the work of the commission, shall be paid including the necessary expense in the maintenance and extension of the traveling library system, provided that the whole amount of said expense and salaries shall not exceed the sum of fifteen thousand dollars in any one year, not more than nine thousand dollars of said sum to be used in the payment of salaries. All bills and accounts incurred by the commission or by its members under the law, and all expenses of the members of the commission, and its secretary and its assistants shall be itemized, verified and certified by the chairman and secretary of the commission, and be audited and allowed by the executive council before being paid. The state auditor shall issue warrants therefor upon the state treasurer; and there is hereby annually appropriated from any funds in the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars to carry into effect the provisions of this act, and any balance not expended in any one year may be added by the commission to the expenditure for any ensuing year. [36 G. A. (S. F. 272, § 1.)] [35 G. A., ch. 259, § 1.] [33 G. A., ch. 190, § 2.] [29 G. A., ch. 173, § 7.]

PART SECOND.

PRIVATE LAW.

TITLE XIV.

OF RIGHTS OF PROPERTY.

CHAPTER 2-A.

OF SALE OF ABANDONED RIVER CHANNELS, SAND BARS OR ISLANDS—BOUNDARY COMMISSION.

SECTION 2900-a7. Sale—how effected—rights of bona fide occupants. Such lands shall be sold in the following manner: Any person who has in fact lived upon any such land and occupied the same, as a home, continuously for a period of three or more years immediately prior to the time of the appraisalment thereof, and such occupancy has been in good faith for the purpose of procuring title thereto whenever by law such title could be vested in him by purchase from the proper authority, or any person who has acquired possession of such land by inheritance, or by purchase made in good faith from a former occupant, or occupants, whose occupancy dates back over a period of three years prior to the date of appraisalment of the land, shall have first right to purchase such land at the appraised value; provided such bona fide occupant shall file his application for the purchase thereof at the appraised value with the secretary of state within sixty days after the day the appraisalment is made, and shall accompany such application with affidavits showing proof of such bona fide occupancy. If no application has been filed by such bona fide occupant within the sixty-day period above provided, then the secretary of state shall advertise the sale of such land once each week for four consecutive weeks in two newspapers of general circulation published in the county wherein the land is situated, and proof of publication shall be filed with the secretary of state. The sale shall be made upon written bids addressed to the secretary of state and the advertisements shall fix the time when such bids will be received and opened. All bids shall be opened by the secretary of state or by the clerk of the state land office at the

time fixed, and the land thereupon may be sold to the highest bidder and at not less than the appraised value. [36 G. A. (S. F. 319, § 1.)] [31 G. A., ch. 212, § 6.]

CHAPTER 2-B.

OF MEANDERED LAKES AND LAKE BEDS.

NOTE: This entire chapter, consisting of §§ 2900-a19 to 2900-a27, supplement to the code, 1913, was repealed by S. F. 2, 36 G. A. See § 2900-b. REPORTER.

SECTION 2900-b. Repeal. The law as it appears in chapter two-B, title fourteen, of the supplement to the code, 1913, be and the same is hereby repealed; provided, however, that this repeal shall not apply to any lake or lake bed, which, under authority of the executive council has been already drained or in the draining of which the sum of five hundred dollars has been in good faith expended or to lakes where the lake bed was, prior to January first, 1915, sold by the state under the provisions of said chapter, but no such excepted lake bed shall be hereafter sold by the state or leased for more than one year. [36 G. A. (S. F. 2, § 1.)]

SEC. 2900-c. Highway commission to inspect lakes—report ordered—requirements. The highway commission shall inspect and investigate the various lakes of the state effected¹ by this act and classify them into three classes as follows, to wit:

1. Lakes which should be preserved.
2. Lakes which should be drained, the state retaining ownership of the lake bed.
3. Lakes which should be ordered drained, and the lake beds sold.

Said inspection and investigation shall be made and completed prior to January first, 1917, and full written report made for submission to the thirty-seventh general assembly upon convening and not later than January fifteenth, 1917, which report shall contain the findings and recommendations of said commission covering the following matters:

1. As to lakes to be preserved, a general statement as to the lake, the improvements required and the estimated cost thereof.
2. As to lakes to be drained, the state reserving title, a general statement as to acreage of lake bed, cost of drainage and estimated value when drained and reasons for drainage rather than preservation.
3. As to lakes to be drained and beds sold, a general statement as to acreage, cost of drainage, value when drained, estimated price at which same should be sold and reasons for drainage and sale rather than preservation or drainage, the state retaining title. [36 G. A. (S. F. 2, § 2.)]

¹Probably "affected" was intended. REPORTER.

SEC. 2900-d. Highway commission to designate engineers—expenses. The highway commission is hereby authorized to use any employees of the engineering department of the State Agricultural College at Ames or of the engineering department of the State University of Iowa at Iowa City when such employees are not in the judgment of said highway commission required at said colleges, in making such inspection and investigation and in making any surveys required in such inspection and investigation and in preparing the report above mentioned. Students of said institutions may be permitted to aid in said work. The highway commission may appoint as chief in charge of said work, any of said employees or the state engineer and any other competent employee of the state may be designated to aid in said work when in the judgment of said

commission not elsewhere needed and this provision shall take precedence over all other provisions of law as to specific employment. When any of the persons herein designated are engaged in said work at a place other than at the place of regular employment, their actual expenses shall be audited by the executive council and paid by the state from the general fund. [36 G. A. (S. F. 2, § 3.)]

SEC. 2900-e. Draining meandered lakes. Every person who shall drain or cause to be drained, or shall attempt to drain in any manner, any lake, pond or body of water, which shall have been meandered and its metes and bounds established by the government of the United States in the survey of public lands, shall be guilty of a misdemeanor and be punished by a fine not exceeding one thousand dollars. Provided, this shall not apply where the drainage was or is authorized by law. [36 G. A. (S. F. 3, § 1.)]

CHAPTER 3.

OF PERPETUITIES AND GIFTS.

SECTION 2901. Disposition of property.

The provisions of this section do not apply to charitable trusts which are allowed by law to be as permanent as possible. *In re Cleven's Estate*, 161-289.

Gifts to charitable uses do not come within the prohibition of this statute and any gift not inconsistent with existing

laws, which is promotive of science, or tends to the education, enlightenment, benefit, or amelioration of the condition of mankind or the diffusion of useful knowledge, or is for the public convenience, is a charity. *Wilson v. First Nat'l Bank*, 164-402, 145 N. W. 948.

CHAPTER 4.

OF THE TRANSFER OF PERSONAL PROPERTY.

SECTION 2906. Sales or mortgages—recording.

The recording of a contract of conditional sale does not amount to constructive notice where the parties to the instrument are non-residents, and where personal property is sold under such a contract to be attached to realty of a third person, which fact is known to the seller, the third person must have actual notice of the reserved title or his rights will not

be affected by the contract, and constructive notice given by recording the contract is not sufficient. *Allis-Chalmers Co. v. City of Atlantic*, 164-8, 144 N. W. 346.

An unrecorded sale of personal property without notice is valid when the purchaser is in actual possession of the property when the sale is made. *Levitt v. Brendel*, 144 N. W. 19.

SEC. 2911. Mortgagees entitled to possession.

A mortgagee of personal property is entitled to its possession. *Krebo v. Sawyer*, 162-593, 144 N. W. 345.

SEC. 2911-a. Bulk sales of merchandise—notice to creditors. No person, firm, or corporation engaged in the retail or wholesale business of buying and selling merchandise for profit shall at a single transaction, and not in the regular course of business, sell, assign, or deliver the whole, or a major part of his stock or fixtures, or stock and fixtures in trade unless he shall, not less than seven days previous to such sale, assignment, or delivery, send or cause to be sent to his creditors by registered mail, a notice of his intention to make such transfer, assignment or delivery.

which notice shall be in writing describing in general terms the property to be sold, assigned, or delivered, and the parties thereto. [36 G. A. (S. F. 235, § 1.)] [34 G. A., ch. 150, § 1.]

SEC. 2911-b. Violation—presumption of fraud. All such sales, assignments, or deliveries of commodities which shall be made without the formalities required by the provisions of section one hereof, will be presumed to be fraudulent and void as against all persons who were creditors of the vendor at the time of such transaction; except creditors to whom notice was mailed as provided in section twenty-nine hundred eleven-a, but if such creditors have received any part of the purchase price paid they shall be required to contribute equitably to those who have not received such notice. [36 G. A. (S. F. 235, § 2.)] [34 G. A., ch. 150, § 2.]

CHAPTER 5.

OF REAL ESTATE.

SECTION 2913. Estate in fee simple.

Section applied. *Yeager v. Farnsworth*, 145 N. W. 87.

SEC. 2914. Conveyance passes grantor's interest.

A conveyance construed and held to grant a life estate only. *Price v. Ewell*, 151 N. W. 79.

Section applied. *Yeager v. Farnsworth*, 145 N. W. 87.

Whether a grantor's deed irrevocably carried all of his interest in real estate, or whether he intended the deed to be

merely testamentary, and therefore revocable, must be determined from the terms of the deed. *In re Tolerton's Est.*, 150 N. W. 1051.

A deed executed, delivered and accepted vesting instant title in grantee with no reservation in grantor except an income, is beyond grantor's recall. *Ibid.*

SEC. 2917. Future estates.

While estates may be created to commence in the future, yet the estate in the grantee must be created by the instrument

and at the time of its execution and delivery. *Ransom v. Pottawattamie Co.*, 150 N. W. 657.

SEC. 2918. Declarations of trust.

A resulting trust will be declared in favor of a principal and against his agent who fraudulently contracts for the purchase of land in his own name instead of the name of his principal. *Havener Land Co.*, 149 N. W. 617.

A trust creating an interest in a lien upon land cannot be established by parol. *Salinger v. McAllister*, 146 N. W. 8.

Where a wife obtains a deed from her husband on the promise of giving a specified amount to the husband's children by a former wife, at his death, and at the time does not intend to fulfill her promise, she is a trustee *ex maleficio*, and the trust

is within the exception herein provided. *Stout v. Stout*, 146 N. W. 474.

In an action to establish a resulting trust arising out of defendant's fraud in breaching his fiduciary duty as plaintiff's agent, parol evidence is admissible to show the facts and circumstances out of which the resulting trust arises. *Havener Land Co. v. MacGregor*, 149 N. W. 617.

A resulting trust is one arising by operation of law, and the facts from which the trust arises may be shown by parol. *In re Mahin's Estate*, 161-459, 143 N. W. 420.

SEC. 2921. Covenants.

A wife joining with her husband in a deed to land owned by the husband is not bound by the covenants of warranty

therein contained unless expressly so stated. *Erickson v. Johnson*, 152 N. W. 575.

SEC. 2923. Tenancy in common.

This section does not prevent the creating of an estate of joint tenancy where apt words, disclosing such intention, are used. *Woods v. Logue*, 149 N. W. 613.

This statute is a reversal of the effects of such conveyances at common law. *Ibid.*

SEC. 2924. Vendor's lien.

One having a vendor's lien may waive the same and sue at law for the amount

due. *Kretzinger v. Emering*, 150 N. W. 1038.

SEC. 2924-b. Estate not enlarged.

Estates vested under the rule in Shelley's case prior to the enactment of this section remain undisturbed. *Woodford v.*

Glass, 150 N. W. 69.

Certain deed held to be squarely within the rule in Shelley's case. *Ibid.*

CHAPTER 6.
OF THE CONVEYANCE OF REAL ESTATE.
SECTION 2925. Recording.

A purchaser of a co-tenant's interest under execution, takes with notice all equities in favor of the co-tenant in actual possession at the time of the sale, though such equities be not evidenced by a re-

corded instrument, the provisions of this section being not applicable in such a case. *McNamera v. McNamera*, 149 N. W. 642.

SEC. 2948. Certificate of acknowledgment.

The name of the county for which a notary public is appointed is an essential part of his title and the recital of the name of the county in the caption to a certificate of acknowledgment does not

cure the defect caused by the failure of the notarial certificate to show the county for which he was appointed. *Reeves & Co. v. Columbia Bank*, 147 N. W. 879.

SEC. 2963-a. Acknowledgments legalized—absence of acknowledgment—instruments recorded prior to 1905. That the law as it appears in section twenty-nine hundred sixty-three-a, supplement to the code, 1913, is hereby repealed and the following enacted in lieu thereof:

That any instrument in writing affecting the title to real estate within the state of Iowa, to which is attached no certificate of acknowledgment or to which is attached a defective certificate of acknowledgment, which was, prior to January first, nineteen hundred five, recorded or spread upon the records in the office of the recorder of the county in which the real estate described in such instrument is located, is, together with the recording and the record thereof, legalized and declared as valid, legal and binding as if such instrument had been properly acknowledged and legally recorded. [36 G. A. (H. F. 184, § 1.)] [35 G. A., ch. 265, § 1.]

SEC. 2963-a1. First preceding section not applicable to pending litigation. Nothing in this act shall affect pending litigation. [36 G. A. (H. F. 184, § 2.)]

SEC. 2963-1. Conveyances legalized—by foreign administrators, trustees, guardians or commissioners prior to 1900. In all cases where, prior to the year A. D. 1900, an executor, administrator, trustee, guardian, assignee, receiver, referee or commissioner, acting as such in this or any state, has conveyed in such trust capacity real estate lying in this state and such conveyance has been of record since prior to the first day of January, A. D. 1900, in the county where the real estate so conveyed is located and which conveyance purports to sustain the title in the present record owner or owners thereof, such conveyance shall not be

held void or insufficient by reason of the fact that due and legal notice of all proceedings with reference to the making of any such conveyance was not served upon all interested or necessary parties or that such executor, administrator, trustee, guardian, assignee, receiver, referee or commissioner is not shown to have been duly authorized by an order of court to make and execute such conveyance, that a bond was not given therefor, or that no report of the sale was made; or such sale or deed of conveyance was not approved by order of court or that any such foreign executor, administrator, trustee, guardian, assignee, receiver, referee or commissioner was not appointed or qualified in the state of Iowa prior to the making of such conveyance or that the record thereof fails to disclose compliance with any other provisions of law, and all such conveyances are hereby legalized and declared valid, legal and binding and of full force and effect. Allotments by referees in partition shall be considered conveyances within the meaning of this section. [36 G. A. (H. F. 566, § 1.)] [36 G. A. (H. F. 306, § 1.)] [35 G. A., ch. 272, § 8.]

SEC. 2963-v. Instruments legalized—defective acknowledgment by attorney in fact. That no instruments affecting real estate, including satisfactions of mortgages, executed by a party as attorney in fact for the grantor, or grantors, where a duly executed and sufficient power of attorney is on record in the county in which the land is situated, shall be held invalid for the reason that the attorney in fact executed and acknowledged the said instrument in the following form: "A. B., attorney in fact for C. D." instead of "C. D., by A. B. his attorney in fact", but all such instruments heretofore filed for record are hereby legalized and made valid as if the record showed the execution and acknowledgment thereof in the latter form above. [36 G. A. (S. F. 209, § 1.)]

SEC. 2963-w. Last preceding section limited in effect. Nothing in this act contained shall be construed as affecting pending litigation. [36 G. A. (S. F. 209, § 2.)]

SEC. 2963-x. Instruments legalized—attorney in fact—no power of attorney on record. That no instruments affecting real estate, including satisfactions of mortgages, executed and duly recorded prior to January first, 1900, by a party purporting to act for the grantor, or grantors, as attorney in fact, shall be invalid by reason of the fact that no power of attorney is of record in the county in which the land is situated authorizing him to so act, but all such instruments are hereby legalized and made valid as if the record showed a duly executed power of attorney authorizing the attorney to act in the premises. [36 G. A. (S. F. 208, § 1.)]

SEC. 2963-x1. Last above section limited in effect. Nothing in this act contained shall be construed as affecting pending litigation. [36 G. A. (S. F. 208, § 2.)]

SEC. 2963-x2. Legalization of assignment of mortgage or lien—margin of record. In any case where an assignment of a mortgage or other recorded lien on real estate has heretofore been made by written assignment thereof on the margin of the record where such mortgage or other lien is recorded or entered, such assignment shall be deemed to have passed all the right, title, and interest therein, which the assignor at the time had, with like force and effect as if such assignment had been made by separate instrument duly acknowledged and recorded, and any such assignment or a duly authenticated copy thereof when accompanied

by a duly authenticated copy of the record of the instrument or lien it purports to assign, shall be admissible in evidence as is provided by law for the admission of the records of deed and mortgages. [36 G. A. (S. F. 627, § 1.)]

CHAPTER 7.

OF OCCUPYING CLAIMANTS.

SECTION 2964. Proceedings.

To entitle a party to the benefit of this section and section 2969 it must appear that the claimant made the improvements in good faith under the belief that he was owner and that he had color of title thereto or possession by himself or by those under whom he claims, the necessary time before making the improvements before bringing the action to recover. *Benton v. Dumbarton Realty Co.*, 161-600, 143 N. W. 586.

The fact that land conveyed by a deed

SEC. 2967. Color of title.

Where the improvements were made in good faith under color of title, before the expiration of five years from date of occupancy, and title to the land is not challenged for more than five years after the erection thereof, the party is entitled to the benefit of the occupying claimant's act. *Benton v. Dumbarton Realty Co.*, 161-600, 143 N. W. 586.

This statute is remedial and should be

SEC. 2968. Settlers.

The facts held sufficient to show that plaintiff was an occupying claimant under this section. *Benton v. Dumbarton Realty Co.*, 161-600, 143 N. W. 586.

An occupant of land who applied for

has been washed away and other land deposited by accretion in its place does not prevent the deed from being color of title where a party went into possession of the land in good faith and a void deed may amount to color of title. Plaintiff may rely upon several instruments as color of title and the fact that he attempts to strengthen his original title by acquiring another does not deprive him of the right to claim under his original deed. *Ibid.*

construed so as to effect the objects intended. In determining the rights of an occupying claimant, only the lots to which he claims title should be considered. Where a person occupies land for more than five years he will be protected as to improvements placed upon the land in good faith within the five years, especially where his title is not challenged for more than five years. *Ibid.*

a patent in 1905, which patent was issued in 1906, and who thereafter continued in possession of the land until December, 1911, was an occupying claimant within the meaning of this section. *Ibid.*

CHAPTER 8.

OF THE HOMESTEAD.

SECTION 2974. Conveyance or incumbrance.

A single person (a widow) may, by a written unrecorded contract, create a valid incumbrance on her homestead that will be good against her heirs. *Scott v. Brenton*, 150 N. W. 56.

The homestead right is a favorite of the law. Its surrender or waiver will not be presumed from words of general and indefinite meaning in a deed. *Plistil v. Kaspar*, 150 N. W. 584.

Especially will there be no waiver of the homestead right under the general terms of an antenuptial agreement, when the parties to such agreement have subsequently manifested their understanding of the agreement by an express reservation of the homestead right in each other in the very deed to the one seeking to defeat the right. *Ibid.*

SEC. 2976. Liable for debts antedating purchase—by written contract.

The continuity of the homestead is not interrupted,—no new homestead is created—by the shifting of title, legal or equitable, from one spouse to another, the homestead being for the conservation of the family home. *Peoples Nat'l Bk. v. Maxson*, 150 N. W. 601.

A party whose debt was contracted prior to the acquisition of the homestead has a lien on the homestead when his debt is reduced to judgment and has a right to have an execution issue and be satisfied by a sale of the homestead after the other property of the debtor has been exhausted, but the judgment when obtained is the same as any other judgment and will continue as a lien for ten years. *James v. Weisman*, 161-488, 143 N. W. 428.

The widow is entitled to have her distributive share set off to her so as to include the homestead, and neither the homestead, or the proceeds of its sale where the property cannot be divided in kind, are liable for incumbrances in which she had joined until the other property covered by the mortgages is first exhausted. *Walther v. Ruark*, 143 N. W. 503.

The homestead can be resorted to only

SEC. 2985. Occupancy by surviving spouse—descent.

The distributive share is the primary right of the spouse. Evidence reviewed and held to show that the surviving spouse took the distributive share and not the homestead right. *Bosworth v. Blaine*, 152 N. W. 567.

There is nothing in this section preventing the parent during his or her lifetime from charging the homestead with his or her debts by proper contract. *Scott v. Brenton*, 150 N. W. 56.

Where a widow continued to occupy the homestead for 22 months after the death of her husband and until the executors of his will filed their final report, when she elected to take under the provisions of the will, not having been re-

quired to elect at an earlier date by parties in interest, she had the right to so occupy it and was not chargeable with rent for its use. *In re Baker's Estate*, 145 N. W. 898.

Under provisions of the code of 1873 like to those in this section, held that if the survivor occupy the homestead for more than ten years without taking any steps to have the distributive share set aside, the presumption of an election to take the homestead arises and this presumption will prevail in the absence of proof of an election to the contrary. *Shelangowski v. Schrack*, 162-176, 143 N. W. 1081.

for a deficiency and governs in the marshaling of liens between different mortgages, some of which include the homestead while others do not and though the mortgagor makes no claim. *Century Sav. Bank v. Moody*, 204 Fed. 963.

With the exception that other property has to be first exhausted in payment of a judgment against the homestead before the homestead is liable, a judgment for a debt incurred prior to the acquisition of the homestead is in all respects the same as judgments which are liens on property not of a homestead nature. *James v. Weisman*, 161-488, 143 N. W. 428.

Where a widow joined her husband in the execution of a mortgage which covered property subsequently set off as a homestead to her, and she elected to take her distributive share in the estate, and the property was sold because impractical to divide in kind, she did not lose her homestead exemption on account of the sale, but the proceeds of what was declared to be from the homestead were only liable for the payment of the mortgage after the other property was first exhausted. *Walther v. Walther*, 161-560.

CHAPTER 9.

OF LANDLORD AND TENANT.

SECTION 2991. Tenant at will—notice to quit.

One holding over after the expiration of a lease is presumed to be a tenant at will

but such presumption is not conclusive. *Sanders v. Suttle Bros. Co.*, 143 N. W. 492.

SEC. 2992. Landlord's lien.

So intermingling the rent account with other accounts that the amount due for rent cannot be determined, acts as a

waiver of all lien. *Hagarty v. Maudsley*, 150 N. W. 4.

Where a tenant absconded before the expiration of the term, leaving his wife in possession, and she and the landlord make an arrangement by which she surrenders possession, the lease is not thereby terminated so as to require an action to enforce the landlord's lien to be brought within six months from that date. *Ralston Savings Bank v. Fisher*, 147 N. W. 162.

An action against a purchaser of property subject to a landlord's lien for converting it to his own use is an action to enforce the lien within the provisions of this section. *Ibid.*

A purchaser, without notice, of crops

SEC. 2993. Attachment.

An action to enforce a landlord's lien is commenced when the original notice is given the sheriff for service, even though the action is in attachment and the peti-

tion upon which a landlord has a lien, is liable to the landlord for the value of the crops purchased, as the purchaser takes the crops subject to the lien, unless the landlord has waived his rights or is estopped. In this particular case, held that the landlord was not estopped to assert his right to a lien. *Hodges v. Trans-Mississippi Grain Co.*, 162-496, 143 N. W. 501.

Rent accruing after the filing of a petition in bankruptcy against the lessee is not a "debt absolutely owing" to the lessor within meaning of the Bankruptcy Act. *In re Abrams*, 200 Fed. 1005.

tion is not filed until more than six months have elapsed since the expiration of the term. *Ralston Savings Bank v. Fisher*, 147 N. W. 162.

CHAPTER 11.

OF EASEMENTS IN REAL ESTATE.

SECTION 3004. Adverse possession—use.

The absolute right to maintain a boundary line in a certain place may be acquired by adverse possession. *Dake v. Ward*, 150 N. W. 50.

Where a person and her grantors not only knowingly permit the maintenance of certain ditches along a highway and a culvert across the same, but for many years maintain a ditch dug across the land connecting with the highway ditches, she could not use this section to defeat the

existence of an easement for the maintenance of such highway ditches discharging on her land. *Hayes v. Oyer*, 164-697, 146 N. W. 857.

Open, exclusive and notorious possession of a railway right of way, under claim of right for more than ten years, establishes an easement in the right of way by adverse possession. *Shimanek v. Chicago, M. & St. P. Ry. Co.*, 152 N. W. 574.

TITLE XV.

OF TRADE AND COMMERCE.

CHAPTER 1.

OF WEIGHTS, MEASURES AND INSPECTION.

SECTION 3009-i. Small fruit—onion sets—capacity of boxes. All sales of blackberries, blueberries, cranberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries, also onion sets, in packages of one peck or less, may be sold by the quart, pint, or half-pint, dry measure; and all berry boxes sold, used, or offered for sale, within the state shall be of an interior capacity of one quart, pint, or half-pint, dry measure. Any berry boxes or measures not conforming to this section shall be confiscated by the inspector. [36 G. A. (S. F. 289, § 1.)] [35 G. A., ch. 266, § 9.]

SEC. 3009-j. Violations—exceptions permitted—written statement of weight and price—bottomless measures. All dry commodities, weighing ten ounces or more, except drugs, section comb honey and those specified in section nine, shall be bought or sold only by standard weight or numerical count, lineal measure or surface measure, except where parties otherwise agree in writing. Whenever any product is sold and the selling price is determined other than by numerical count, lineal or surface measure, and the product does not have the net weight plainly written, stamped or printed thereon, the seller shall at the time of delivery, upon the request of the purchaser, furnish a plainly written or printed statement showing the name of the article sold, the quantity in net weight thereof, and the price paid for each item. Any person, firm or corporation, who sells, barter, trades or delivers a less weight or amount to a purchaser than that which is asked for or agreed upon, of any article or commodity, shall be deemed guilty of a misdemeanor and shall be punished as herein provided. Provided, however, that reasonable variation shall be permitted, and tolerances and exemptions as to small packages shall be established, by rules and regulations made by the state dairy and food commissioner. The use of bottomless measures is hereby declared a violation of this act, unless they conform in shape to the United States standard measure. [36 G. A. (S. F. 289, § 2.)] [35 G. A., ch. 266, § 10.]

SEC. 3009-m. Slot or automatic weighing devices—license tag and fee. It shall be unlawful for any person, firm or corporation by himself, or as the officer, servant, agent, or employe of any person, firm or corporation to operate or use or display for use any scale or scales, known as money in the slot or automatic scale or scales or any weighing device, apparatus, or machine, which is used or intended for use to determine the weight of any person or persons, where compensation is derived, or any public or custom scale for which a fee is charged or accepted for weighing, unless said scale or device is licensed by the commissioner. Upon payment

of the license fee of three dollars, the commissioner shall issue a metal license tag bearing the words "Licensed by the Dairy and Food Commissioner, State of Iowa, No.....," each tag to be numbered consecutively and bear the year for which license is valid. The tag shall be displayed prominently on the front of the weighing device and the defacing or wrongful removal of such a tag shall be deemed a misdemeanor. Absence of the license tag shall be prima-facie evidence that the weighing device is being operated contrary to law. No license shall be issued until the annual fee of three dollars is paid to the commissioner for each scale or weighing device operated or used. Any person desiring to secure said license shall make application therefor upon blanks to be furnished by the commissioner. The commissioner may withhold or revoke any license for cause. All licenses issued under this act shall expire December thirty-first, 1914, and on December thirty-first of each year thereafter. All license and inspection fees collected under this act shall be paid into the state treasury by the commissioner. Provided, however, that products weighed upon any scale bearing inspection card, issued by the dairy and food commission, shall not be required to be re-weighed by any ordinance of any city or town or city under special charter or under the commission form of government nor shall their sale, at the weights so ascertained, and because thereof, be, by such ordinance, prohibited or restricted. [36 G. A. (S. F. 289, § 3.)] [35 G. A., ch. 266, § 13.]

SEC. 3009-n. Inspection of scales, weights and measures—jurisdiction—fee. The commissioner and his assistants are each hereby empowered and it is hereby made their duty to make an inspection of scales, weights and measures wherever the same are kept for use in connection with the sale of merchandise or other commodities sold by weight or measurement, or where the price to be paid for producing or manufacturing any article or commodity is based upon the weight or measurement thereof, within this state. The commissioner and his assistants may, for the enforcement of this act and in the performance of their official duties, with or without formal warrant, enter or go in or upon any stand, place, building or premises; or may stop vendor, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever, for the purpose of making the proper tests. An inspection fee shall be charged the person owning or operating the scale so inspected in accordance with the following schedule, to wit:

Scales over 500 lbs. capacity up to and including 4000 lbs. capacity	\$1.00 each
Scales over 4000 lbs. capacity up to and including 21000 lbs. capacity	3.00 each
Scales over 21000 lbs. capacity not including railroad track scales	5.00 each
Railroad track scales	10.00 each
All hopper or automatic scales.....	2.00 each

No person shall be required to pay more than two inspection fees for any one scale in any one year. Whenever such inspection shall be made upon the complaint of any person, other than the owner of the scale, and upon examination the scale is found by the inspector to be accurate for weighing, the inspection fee for such inspection shall be paid by the person making complaint.

Whenever special request is made for an inspection of a scale the actual expenses of the same shall be paid by the owner of said scale, or the one making complaint as herein provided. [36 G. A. (S. F. 289, § 4.)] [35 G. A., ch. 266, § 14.]

SEC. 3009-p. Possession of false scales or measures—penalty. If any person engaged in the purchase or sale of merchandise or other commodities by weight or measurement or in the employment of labor where the price thereof is to be determined by weight or measurement of the articles or thing upon which such labor is bestowed, be found having in his place of business any inaccurate scales, weights or measures or other apparatus for determining the quantity of any commodity, which do not conform to the standards of weight and measurement of this state, [he] shall be guilty of a misdemeanor and upon conviction shall be punished as provided in this chapter. [36 G. A. (S. F. 289, § 5.)] [35 G. A., ch. 266, § 16.]

SEC. 3009-r. Violation—penalty. Any person, firm or corporation, or agent thereof, who refuses to comply on demand, with any of the requirements of this act or who shall violate any of its provisions, or who shall obstruct or hinder the commissioner, or any of his assistants, in the discharge of any duty imposed by this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days. [36 G. A. (S. F. 289, § 6.)] [35 G. A., ch. 266, § 18.]

SEC. 3029-a. Inspection of scales, weights and measures—repealed. [36 G. A. (S. F. 289, § 7.)] [34 G. A., ch. 154, § 1.]

See § 3029-d1.

SEC. 3029-b. Upon complaint—repealed. [36 G. A. (S. F. 289, § 7.)] [34 G. A., ch. 154, § 2.]

See § 3029-d1.

SEC. 3029-c. Violation—penalty—repealed. [36 G. A. (S. F. 289, § 7.)] [34 G. A., ch. 154, § 3.]

See § 3029-d1.

SEC. 3029-d. Expense of procuring standards—how paid—repealed. [36 G. A. (S. F. 289, § 7.)] [34 G. A., ch. 154, § 4.]

See § 3029-d1.

SEC. 3029-d1. Repeal. That sections three thousand twenty-nine-a, three thousand twenty-nine-b, three thousand twenty-nine-c, and three thousand twenty-nine-d, supplement to the code, 1913, and other acts or parts of acts in conflict herewith be and the same are hereby repealed. [36 G. A. (S. F. 289, § 7.)]

CHAPTER 2.

OF MONEY OF ACCOUNT AND INTEREST.

SECTION 3038. Rate of interest.

This section is not repealed by section *Savings Bank v. Fitzgerald*, 149 N. W. 497. 3060-a57 of the Supplement of 1913. *Perry*

SEC. 3040. Illegal rate prohibited.

This section is not repealed by section *Savings Bank v. Fitzgerald*, 149 N. W. 497. 3060-a57 of the Supplement of 1913. *Perry*

SEC. 3041. Usury—penalty.

A holder in due course takes a negotiable instrument subject to forfeiture for usurious interest contracted for, whether included in the principal or not. *Perry* *Savings Bank v. Fitzgerald*, 149 N. W. 497. This section is not repealed by section 3060-a57 of the Supplement of 1913. *Ibid.*

SEC. 3041-a. Interest in excess of two per cent per month criminal—penalty—inspection charge—recording fee. Every person or persons, company, corporation or firm, and every agent of any person, persons, company, corporation or firm, who shall take or receive, or agree to take or receive directly or indirectly, by means of commissions or brokerage charges, or otherwise, for the forbearance or use of money a rate greater than two per cent per month, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than ninety days. Nothing herein contained shall be construed as authorizing a higher rate of interest than is now provided by law.

But the person or corporation making the loan shall be permitted to charge and include within the loan, a reasonable amount for the inspection or investigation of the security, and also the cost of drawing the papers, not exceeding one dollar, and cost of recording the same, which cost of inspection or investigation shall not exceed ten per cent of the amount loaned when the loan is under fifty dollars nor more than five dollars in any event, and no recording fee shall be included unless an instrument is actually recorded. [36 G. A. (S. F. 527, § 1.)]

SEC. 3042. Assignee.

This section is not repealed by section *Savings Bank v. Fitzgerald*, 149 N. W. 497. 3060-a57 of the Supplement of 1913. *Perry*

CHAPTER 3.

OF NOTES AND BILLS.

SECTION 3047. Open account assignable.

An assignment of wages by the head of a family, a brakeman in the employ of a railroad, to secure the payment of the purchase price of a watch of a standard fixed by the railroad company and required to be carried by its employees as an aid to the safety and security of its property and passengers, which is accepted by the railroad company, does not come within the provisions of this section requiring the signing and acknowledgment of the instrument by both husband and wife. *Van Laningham v. Chicago, M. & St. P. Ry. Co.*, 145 N. W. 464.

CHAPTER 3-A.

OF NEGOTIABLE INSTRUMENTS.

SECTION 3060-a1. Form of negotiable instrument.

The negotiability of a note payable at a fixed time is not affected by the fact that by the terms of a mortgage securing its payment it may become payable before the date named on its face. *Des Moines Savings Bank v. Arthur*, 143 N. W. 556.

SEC. 3060-a16. Delivery—when effectual—when presumed.

Between immediate parties the delivery of a note may be shown to have been conditional and not for the purpose of

transferring the property in the instrument. *Selma Svgs. Bank v. Harlan et al.*, 149 N. W. 882.

SEC. 3060-a30. What constitutes negotiation.

The term "holder in due course" is applicable only to one who takes the instrument by negotiation from another person who is a holder. *Builders Lime & Cement Co. v. Weimer*, 151 N. W. 100.

In the absence of any evidence of an indorsement, assignment, delivery or gift,

the mere naked possession by a stranger of a negotiable instrument, payable to order, raises no presumption of ownership in such possessor, the action being between such possessor and the payee or his representative. *Roy v. Duff*, 152 N. W. 606.

SEC. 3060-a52. What constitutes a holder in due course.

A note payable "on or before four—after date" is not complete and regular on its face; such defect destroys its negotiability. He who takes such a note is not a holder in due course. *In re Philpott's Est.*, 151 N. W. 825.

One who received a promissory note from the maker in part payment of a debt due from the maker cannot establish that he is a "holder in due course" by show-

ing that said note prior to the time he received it had been held by other "holders in due course". When the note found its way back into the hands of the maker such former holdings "in due course" lost their former force and effect, even though the maker did re-issue the note. *Builders Lime & Cement Co. v. Weimer*, 151 N. W. 100.

SEC. 3060-a53. When person not deemed holder in due course.

A demand note negotiated an unreasonable time after its date proclaims to all the world, "I have been dishonored. Take me at your peril." What constitutes an

unreasonable delay depends on the facts of the particular case. *In re Philpott's Estate*, 151 N. W. 825.

SEC. 3060-a55. When title defective.

The endorsee of a note may in the first instance rest on the presumption of law that he is a "holder in due course", but the moment it appears that the title of the original payee was defective, or that the original payee has negotiated the note in order to prevent a defense thereto, then such endorsee must show that he is in fact a "holder in due course". *Miller, Watt & Co. v. Mercer*, 150 N. W. 694.

A note including usury is not based on an "illegal consideration" within the meaning of this section. *Perry Savings Bank v. Fitzgerald*, 149 N. W. 497.

The title of the holder of a note procured in payment of an unsound stallion fraudulently warranted to be sound and negotiated to defeat a defense thereto, is defective. *Bank v. Buck Bros.*, 161-362.

SEC. 3060-a56. What constitutes notice of defect.

When a note is shown to have been procured in payment of an unsound stallion fraudulently warranted to be sound and negotiated to defeat defenses thereto, the title is defective and the burden rests on the holder to show that he procured it without notice of such defects. *Bank v.*

Buck Bros., 161-362.

To justify the implication of bad faith, the circumstances must show wilful neglect or such gross carelessness as fairly tends to that conclusion. *Farmers' & Merchants' State Bank v. Shaffer*, 147 N. W. 851.

SEC. 3060-a57. Rights of holder in due course.

This section does not impliedly repeal Code section 3038 fixing the rate of interest, section 3040 prohibiting a higher rate, section 3041 providing the penalty for usury, nor section 3042 declaring that

the assignee of a usurious contract may recover the consideration paid, less any sum realized. *Perry Savings Bank v. Fitzgerald*, 149 N. W. 497.

SEC. 3060-a59. Who deemed holder in due course.

The endorsee of a note may in the first instance rest on the presumption of law that he is a "holder in due course", but the moment it appears that the title of the original payee was defective, or that the original payee has negotiated the note in order to prevent a defense thereto, then

such endorsee must show that he is in fact a "holder in due course". *Miller, Watt & Co. v. Mercer*, 150 N. W. 694.

The law proceeds on the assumption that every holder of negotiable instrument is *prima facie* a holder in due course, but whenever it appears that the instrument

was negotiated "in breach of faith or under such circumstances as amount to a fraud", then the law presumes no longer but calls upon the holder to prove that he is in fact a "holder in due course". *In re Philpott's Est.*, 151 N. W. 825.

In a particular case, held that the evi-

dence was sufficient to take to the jury the question of fraud and the question whether or not the note was negotiated to avoid that defense, so as to place the burden of proving that he was a bona fide purchaser upon the plaintiff. *Merchants National Bank v. Grigsby*, 149 N. W. 626.

SEC. 3060-a120. When persons secondarily liable on—discharged.

A person secondarily liable on the instrument is discharged:

1. By an act which discharges the instrument.
2. By the intentional cancellation of his signature by the holder.
3. By the discharge of a prior party.
4. By the valid tender of payment made by a prior party.
5. By a release of the principal debtor, unless the holder's right of recourse against the party secondarily liable is expressly reserved.
6. By an agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved. [36 G. A. (S. F. 316, § 1.)] [29 G. A., ch. 130, § 120.]

SEC. 3060-a125. What constitutes a material alteration.

The fraudulent substitution in a negotiable promissory note of the words "or bearer" for the words "or order" constitutes a material alteration and avoids the

note except in the hands of a holder "in due course". *Builders Lime & Cement Co. v. Weimer*, 151 N. W. 100.

SEC. 3060-a199. Indemnifying bond to protect payer.

Section applied in a particular case. *In re Barrett's Estate*, 149 N. W. 247.

SEC. 3060-a200. Indemnifying bond to protect payer.

In an action on a note and mortgage where it appeared from the testimony of the plaintiff at the trial that the same were lost, the defendant was not entitled to a reversal or modification of a decree in favor of the plaintiff on the ground that

the suit was not brought under this section, when no demand for a bond was made by him or the question raised on the trial in the lower court. *Newton Savings Bank v. Howerton*, 145 N. W. 292.

CHAPTER 4.

OF TENDER.

SECTION 3061. Offer in writing.

One cannot excuse his tender, insufficient in amount, because the defendant is

making unwarranted demands. *Rystad v. Buena Vista Co.*, 152 N. W. 364.

SEC. 3063. Receipt—objection.

A tender, coupled with a condition that it be received "in full settlement", is not a legal tender. *Simons v. Petersberger*, 151 N. W. 392.

An abstract of title is not an "instrument" within the meaning of this section. *Waters v. Pearson*, 144 N. W. 1026.

CHAPTER 6.

OF PRIVATE SEALS.

SECTION 3070. Failure of—fraud.

The doctrine that a consideration is either a benefit moving to the promisor or a detriment agreed to be suffered by the

promisee, applied. *Jewett Lumber Co. v. Martin*, 152 N. W. 493.

CHAPTER 8.

OF MECHANICS' LIENS.

SECTION 3089. Who may have lien.

The dower of the widow is not subject to a mechanic's lien filed more than 90 days after the last item of material was

furnished and after the dower was set off to the widow. *Stewart v. Whicher*, 150 N. W. 64.

SEC. 3092. Filing statement.

An action to enforce a mechanic's lien by a principal contractor is barred in two years and ninety days from the date on which the last of the materials was furnished, whether the lien was filed within ninety days after the last material was furnished, or not. *Stewart v. Whicher*, 150 N. W. 64.

brances" within the meaning of this section, though the said third-class claims were filed, allowed, and an order of the court entered for the sale of the land in order to pay them more than ninety days after the last item of material was furnished by the contractor. *Ibid.*

Third-class claims in probate (those filed within six months after notice of administration is given) are not "incum-

The death of the owner does not deprive the contractor of the right to perfect and enforce his lien. *Ibid.*

SEC. 3093. Subcontractor's lien—liability of owner to original contractor—discharge of lien.

Where a building contract was entered into by a husband, when in fact the land was owned by the wife, but she approved of the contract and knew of the claims of material men, the rights of laborers and material men were the same as if she personally made the contract. And where the

owner paid certain material men whose liens had not been filed, with knowledge of other claims which were afterwards filed within the provided time, the owner was liable to the owners of such other claims. *Wheeler Lumber Bridge & Supply Co. v. White*, 164-495, 145 N. W. 917.

SEC. 3094. Subcontractor's claim after thirty days. That section three thousand ninety-four of the code, 1897, be, and the same is hereby repealed and the following enacted in lieu thereof:

A subcontractor may, at any time after the expiration of said thirty days, file his claim for a lien with the clerk of the district court, and give written notice thereof to the owner, or his agent or trustee, which notice may be served by any person, and if the party to be served, his agent, or trustee, is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was filed with the clerk, and from and after the service of such notice his lien shall have the same force and effect, and be prosecuted or vacated by bond, as if filed within the thirty days, but shall be enforced against the property or upon the bond, if given by the owner, only to the extent of the balance due from the owner to the contractor at the time of the service of such notice upon him, his agent or trustee; but if in such case the bond is given by the contractor, or person contracting with the subcontractor filing the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor. [36 G. A. (S. F. 176, § 1.)] [16 G. A., ch. 100, § 8.] [15 G. A., ch. 49.] [C. '73, § 2133.]

SEC. 3102. Public buildings or bridges—claim of subcontractor.

The statement may be verified by the attorney when the showing of his knowledge is sufficient. *Ludowici Caladon Co. v. Ind. Sch. Dist.*, 149 N. W. 845.

A school district may, though not authorized so to do and though protected by a bond, complete its partially erected

building when abandoned by the contractor, and may apply the unpaid payments under the contract to the cost of such completion, even though this defeats the material man in his attempt to establish a lien on the fund. *Ibid.*

The right of a material man to estab-

lish a claim against the fund is subject to the right of the public corporation to make payments in accordance with its contract, and it is immaterial whether such payments be in money or in that which is treated as its equivalent. The burden of proof to show that payments were in excess of those provided in the contract rests on the material man. *Ibid.*

Where one, as a subcontractor, furnished material for and performed labor on a building erected by a school district, purchasing in part the materials furnished from a brick company, the payment by the school corporation of the money for such materials to the brick company which had not perfected its claim under this section or complied therewith was unauthorized; the school corporation could not deduct the amount so paid from the amount due the contractor; and the contractor in turn could not set off such amount against the plaintiff in a suit brought by the assignee of the sub-contractor furnishing the material and labor. *Bain v. Bruce*, 164-327, 145 N. W. 865.

Laborers who filed their claims in the manner provided in this section, but not within thirty days, held to have an equitable right to participate in the fund consisting of moneys unpaid to the contractor as against the contractor and the sureties on his bond. *Humboldt County v. Ward Bros.*, 145 N. W. 49.

A city under a contract for a public improvement authorizing it to withhold warrants or certificates in such an amount as will satisfy unpaid claims for labor and

material can withhold warrants or certificates to that extent, pay the amount that they evidence, or the amount remaining unpaid under the contract, into court, and implead all interested parties that an adjustment may be had without compelling the holders of such claims to perfect them under this section. *City of Boone v. Gary*, 162-695, 144 N. W. 709.

A material man takes preference over general creditors in the fund due the contractor even though the contractor has made an assignment for benefit of creditors. *Des Moines Bridge & Iron Works v. Plane*, 163-18, 143 N. W. 866.

While a sub-contractor is not entitled to a lien for materials furnished on a building erected by the state, he is entitled to a preference as against general creditors, if timely action is taken to assert such right, and the sureties on the contractor's bond who have become liable for the material furnished are entitled to the amount in which they have become liable, to preference over general creditors. *Des Moines Bridge & Iron Works v. Plane*, 163-18, 143 N. W. 866.

The material man furnishing material to the principal contractor engaged in constructing a drainage improvement under chapter 2-A, supplement to the code, 1913, is not entitled to the so-called mechanic's lien under this section against the county whose board of supervisors entered into a contract on behalf of the drainage district for the construction of such improvement. (But now see sec. 1989-a57). *Iowa Pipe & Tile Co. v. Parks*, 151 N. W. 438.

SEC. 3103. Adjudication of claims.

A city having the right under a contract for a public improvement to withhold warrants or certificates in such an amount as will satisfy unpaid claims for labor or material may bring the amount unpaid under the contract into court and

implead in equity all the rival claimants to it that an adjustment may be had and this may be done irrespective of whether the holders of such claims have perfected them under the preceding section. *City of Boone v. Gary*, 162-695, 144 N. W. 709.

CHAPTER 10.

OF WAREHOUSEMEN, CARRIERS, HOTELKEEPERS, LIVERY STABLE KEEPERS AND HERDERS.

SECTION 3130. Unclaimed property—lien for charges.

A carrier who fails to comply with the provisions of this and the following four sections in disposing of goods is guilty of technical conversion, and is liable for the

reasonable market value of the goods at the destination thereof on the date of disposal. *Martin Woods Co. v. Chicago, R. I. & P. Ry. Co.*, 161-639, 143 N. W. 497.

SEC. 3132. Perishable property.

Where a carrier sold two car loads of peaches without complying with the provisions of this section as to making affidavit and giving notice, it was guilty of a conversion and the measure of its lia-

bility is the reasonable market value of the goods at the place of conversion. *Martin Woods Co. v. Chicago, R. I. & P. Ry. Co.*, 161-639, 143 N. W. 497.

TITLE XVI.

OF THE DOMESTIC RELATIONS.

CHAPTER 2.

OF HUSBAND AND WIFE.

SECTION 3153. Property rights of married women.

This and the following sections have so far removed the legal disabilities of married women as to permit them to engage in independent occupations and have and control their own earnings with the same freedom as if unmarried, and death

of such a woman occasioned by negligence, affords a cause of action against the wrongdoer for the resulting injury to her estate. *Nolte v. Chicago, R. I. & P. Ry. Co.*, 147 N. W. 192.

SEC. 3155. Remedy by one against the other.

The wife holding a valid enforceable claim against her husband may take the same good faith steps to secure payment

that she could take were he a stranger. *Miller, Watt & Co. v. Mercer*, 150 N. W. 694.

CHAPTER 3.

OF DIVORCE, ANNULING MARRIAGES, AND ALIMONY.

SECTION 3171. Jurisdiction.

A signed but unrecorded decree of divorce subsequently set aside and the proceedings dismissed is a nullity, and has no bearing on subsequent divorce proceedings. *Wiley v. Wiley*, 151 N. W. 205.

In divorce proceedings, no particular length of residence in the county where

suit is brought is required. *Todhunter v. DeGraff*, 164-567, 146 N. W. 66-69.

Residence of one of the parties in the county in which the action is brought must be alleged in the petition to give the court jurisdiction of a divorce proceeding. *Gelwicks v. Gelwicks*, 160-675.

SEC. 3172. Petition.

Failure to allege the township of plaintiff's residence does not deprive the court of jurisdiction but is a mere defect or irregularity

which could have been cured by objection on the trial. *Gelwicks v. Gelwicks*, 160-675.

SEC. 3174. Causes.

Evidence reviewed and held insufficient to justify a decree of divorce on the ground of cruel and inhuman treatment. *Main v. Main*, 150 N. W. 590.

Evidence reviewed and held to entitle a wife to a decree for separate maintenance. *Smith v. Smith*, 151 N. W. 1085.

A wife suing for divorce is not precluded from relying on desertion, though she refuses reconciliation, when her state of feeling against her husband is the result of his own evil conduct. An offer of reconciliation by guilty spouse after the expiration of two full years of desertion without cause does not obliterate his offense. *Tipton v. Tipton*, 151 N. W. 90.

Where a husband and wife never lived together in the same house, each by mu-

tual agreement living separately in the homes of their respective parents, a marital relation capable of being severed by desertion is created. *Ibid.*

When one party to a marriage has fully shown a right to a divorce and demands it, the court has no power to deny such relief. *Ibid.*

The violent language and conduct of the husband toward his wife may find excuse, though not justification, in the fact that she, by her own questionable conduct, had given him strong grounds to doubt her chastity. *Wiley v. Wiley*, 151 N. W. 205.

Incompatibility of temper is, of itself, no ground for divorce. *Meyer v. Meyer*, 150 N. W. 74.

SEC. 3177. Maintenance during litigation.

The first or preliminary order for attorney fees, alimony and suit money does not exhaust the jurisdiction of the court over such matters. Such matters necessarily can only be finally disposed of at the termination of the litigation when the condition and value of services can be

fully determined. *Main v. Main*, 150 N. W. 590.

Attorney fees may be taxed after entry of decree denying divorce and after appeal therefrom has been taken, said decree expressly reserving the matter of attorney fees for future determination. *Ibid.*

SEC. 3180. Alimony—custody of children—changes.

Modifications of decrees of divorce in regard to financial support may be entered when there is proof of a substantial and material change, financially or otherwise, in the conditions of the parties. *Schlarb v. Schlarb*, 150 N. W. 593.

A modification of a decree requiring payment of \$25 per month for support of two young children until they reach their majority to \$50 for the same period, the entire amount of \$7,800 to fall due on default in any month's payment, held unreasonable. *Ibid.*

Applications for modifications of decree of divorce should be by supplemental petition and not by motion. *Ibid.*

A decree wholly excluding a parent from association with his or her children should be granted only upon the clearest proof of a sound reason therefor. *Ibid.*

An order modifying a divorce decree as regards the custody of a minor child may provide a suspension of the order pending an appeal. *Scott v. Wheeler*, 151 N. W. 1100.

CHAPTER 4.**OF MINORS.****SECTION 3189. Contracts—disaffirmance.**

Section considered with reference to legal services. *Hickman & Wells v. McDonald*, 164-50, 145 N. W. 322.

CHAPTER 5.**OF THE GUARDIANSHIP OF PERSONS AND PROPERTY.****SECTION 3194. Of property.**

The father of a minor, as such, has no authority over the property of the minor

not acquired from either parent. *Hopkins v. Lee*, 162-165, 143 N. W. 1002.

SEC. 3219. Guardians of.

To warrant the appointment of a guardian for a person claimed to be insane, there must appear such unsoundness of mind as shows that the party against

whom the proceeding is brought is incompetent to look after and care for his property. *Caltrider v. Sharon*, 164-287, 145 N. W. 540.

SEC. 3223. Provisions made applicable.

A defect in the service of a notice of action against an insane person, which does not render the service void, but which is at most only an irregularity, is cured

by the appearance of the regular guardian of the insane defendant. *State Bank v. Gish*, 149 N. W. 600.

CHAPTER 7.**OF ADOPTION.****SECTION 3252. Instrument acknowledged and recorded.**

An instrument insufficient to meet the formalities of statutory adoption may be enforceable in equity, but a mere prepon-

derance of evidence will not establish such a contract. *Daniels v. Butler*, 149 N. W. 265.

SEC. 3253. Effect.

Contract in a particular case construed and held not to constitute a contract of

adoption under the provisions of this chapter. *Riley v. McKinney*, 149 N. W. 603.

TITLE XVII.

OF THE ESTATES OF DECEDENTS.

CHAPTER 2.

OF WILLS AND LETTERS OF ADMINISTRATION.

SECTION 3270. Disposal of property by will.

An estate may be disposed of by contract, oral or written. Such contracts usually take the form of contracts of adoption insufficient to meet the formalities of statutory adoption yet enforceable in equity. To establish such a contract a mere preponderance of evidence is not sufficient. *Daniels v. Butler*, 149 N. W. 265.

Evidence reviewed as to the disease with which deceased was suffering and held to present a jury question as to testamentary capacity. *Nomack v. Horsley*, 152 N. W. 65.

The limitation of gifts under this section is not applicable to a gift to a trustee for charitable purposes. *In re Cleven's Estate*, 161-289.

A will provided: "I bequeath to my wife (certain named lands). I further wish her to have (certain other named lands). After my wife's death it is my wish that the land be sold and the money be equally divided between my five heirs". Held, the wife took a life estate only. *Canaday v. Baysinger*, 152 N. W. 562.

SEC. 3275. Interest of witness.

A subscribing witness to a will cannot derive any benefit therefrom. *In re Richard's Estate*, 143 N. W. 1106.

SEC. 3283. Probate—jury trial.

In view of the provisions of this and the preceding section, certain expenses in filing and offering for probate must necessarily be incurred in determining whether the property of a deceased person shall be distributed according to the terms of the

purported will, or descend as provided by statute, and therefore such costs are properly chargeable against the estate even though the attempt to probate is unsuccessful. *In re Smith's Estate*, 146 N. W. 836.

SEC. 3297. Administration granted.

The nomination in a will of a certain person as executor will be confirmed by the court unless strong and persuasive reasons against so doing are made to appear. The discretion of the probate court in such

a case will not be questioned on appeal unless the action of the court appears to have been arbitrary, unjust and without reason. *In re Doolittle's Estate*, 149 N. W. 873.

SEC. 3303. Letters.

The authority of the administrator with respect to the estate is defined by statute. He can have no other. He cannot bind the

estate by new and independent contracts in behalf of the estate. *In re Munger's Estate*, 150 N. W. 447.

SEC. 3305. Limitation.

A judgment creditor of a decedent, whose statutory lien of ten years has expired, stands in the relation of a general creditor of decedent's estate and, where no administration has been granted, has

the duty of securing the appointment of an administrator within five years, and filing his claim as required by law, or his remedy on the judgment is barred. *James v. Weisman*, 161-488, 143 N. W. 428.

SEC. 3308. Releases of liens by foreign administrator, executor or guardian—certificate. That section thirty-three hundred and eight of the code is hereby repealed and the following enacted in lieu thereof:

Any administrator, executor or guardian appointed by the courts of any other state or country is authorized to release and discharge of record in any manner and by any instrument authorized by law to the same extent as any such officer appointed under the laws of this state could do, any judgment rendered by the supreme court or by any court of any county where such judgment is a lien on property, or any mortgage or deed of trust given as a mortgage on property within this state belonging to the estate or to the minor or other person represented by him, and may also release and discharge any property in this state from the lien of such judgment, mortgage or deed of trust; but such release shall not be valid or effective unless there is filed either before or after the execution thereof, in the office of the clerk of the district court of the county in this state wherein the property sought to be released is situated, the certificate of the judge or clerk of the proper court, duly attested, that said executor, administrator or guardian was prior to the date of such release or instrument appointed such officer by such court and that, as shown by the records of such court, he had not been discharged before that date; but nothing herein contained shall authorize any administrator, executor or guardian of another state or country to release or discharge any judgment, mortgage or deed of trust in this state while any administrator, executor or guardian of the estate to which such judgment, mortgage or deed of trust belongs, is authorized to act by virtue of appointment, and qualification under the laws thereof. [36 G. A. (H. F. 11, § 1.)] [35 G. A., ch. 275, § 1.] [25 G. A., ch. 51.] [21 G. A., ch. 103.]

CHAPTER 3.

OF THE SETTLEMENT OF ESTATES.

SECTION 3310. Inventory.

Property of the deceased in the possession of his duly qualified administrator is not subject to attachment. *McCoy v. Flynn*, 151 N. W. 465.

SEC. 3312. Exempt personal property.

Property exempt to decedent as the head of the family should be set apart under the direct provisions of this section. *In re Smith's Estate*, 146 N. W. 836.

SEC. 3313. Life insurance—damages for death—widow deemed heir.

The words "heirs at law" in a policy of insurance include the surviving spouse, irrespective of who procured the policy. That the statute was enacted after the issuance of the policy will not prevent the surviving spouse from sharing in the proceeds, as the heirs are those who answer that description at the time of the death of the insured and are determined by the statutes then in force. *Thompson v. Northwestern Mut. Life Ins. Co.*, 161-446, 143 N. W. 518.

SEC. 3315. Discovery of assets.

A bank which has issued drafts to a decedent prior to his disappearance, which drafts have not been presented and cannot be found, may be required to stop payment on such drafts and issue duplicates, upon the administrator's giving bond to protect it. *In re Barrett's Estate*, 149 N. W. 247.

SEC. 3338. Claims—statement—notice—allowance.

Claims in probate are not subject to the same rules of pleading which prevail in ordinary actions, yet may be subject to motion for more specific statement. *Sulzenbarger v. Ahrens*, 150 N. W. 71.

It is not necessary that a claim filed against an estate be stated with the same accuracy and fulness as in a petition at law, nor are the same affirmative proofs to the allegations of the claim required. *Craig v. Craig Estate*, 149 N. W. 454.

While a claim in probate takes the place of a petition and is subject to demurrer if it fails to show any grounds for

its allowance, strict rules of pleading and practice do not apply to it, and where an amendment to such claim is filed which is germane to the original claim or does not destroy the identity of it or does not set up some other new or different claim, such amendment relates back to the time of filing of the original claim. *Chariton Nat'l Bank v. Whicher*, 145 N. W. 299.

An allowance of a claim by the clerk against an estate is not final until acted upon by the court itself. *Ryan v. Hutchinson*, 161-575, 143 N. W. 433.

SEC. 3340. Denial.

The allowance of a claim by the clerk is temporary or provisional and subject to review by the court and allowance by

the executor without an allowance by the court itself is not final. *Ryan v. Hutchinson*, 161-575, 143 N. W. 433.

SEC. 3341. Hearing—trial by jury.

Where there has been a final hearing on a claim against an estate it is conclusive in the absence of fraud or collusion

between the claimant and the executor. *Ryan v. Hutchinson*, 161-575, 143 N. W. 433.

SEC. 3346. Executor interested.

The allowance of claims in which the administrator is interested will be specially scrutinized. In instant case allowance of

such a claim is set aside because procured by fraud on the court and heirs. *In re Scholes Est.*, 152 N. W. 3.

SEC. 3347. Expenses of funeral—allowance to widow.

A monument is not strictly a funeral expense within the meaning of this section. A claim for nursing deceased during the

last sickness is to be preferred to a claim for a monument. *In re Lester's Est.*, 150 N. W. 1033.

SEC. 3349. Limitation.

A judgment creditor of a decedent whose statutory lien of ten years has expired stands in the relation of a general creditor having a claim against the estate, and unless he files his claim based on the judgment in the estate and has the same allowed and approved or files the same and serves notice thereof within one year after notice of the appointment of an adminis-

trator, his remedy on the judgment is barred. *Jamcs v. Weisman*, 161-488, 143 N. W. 428.

This section does not apply where a devisee of specific real estate encumbered by mortgage applies for a discharge of a mortgage out of the personal estate. *In re Brackey's Estate*, 147 N. W. 188.

CHAPTER 4.**OF THE DESCENT AND DISTRIBUTION OF THE INTESTATE'S PROPERTY.****SECTION 3366. Share of surviving spouse—dower.**

Dower attaches upon the concurrence of seizin of the husband and coverture of the wife, continues thereafter as an incumbrance upon the land, and becomes fully vested upon the death of the husband, freed from liability for a mechanic's lien filed more than 90 days after the last item of materials was furnished and after the dower was set off to the widow. *Stewart v. Whicher*, 150 N. W. 64.

Where a property was left to testator's

wife for life and after her death it was provided that all the property of which testator "may die seised" should go to his daughter, the daughter became "possessed" within the meaning of this section, immediately upon the testator's death, so as to entitle her husband to dower therein, though the daughter died before her mother. *O'Connor v. Halpin*, 147 N. W. 185.

SEC. 3367. Homestead.

Where a deceased husband in the purchase of real estate assumed a mortgage as a part of the purchase price, the widow had a right to have her distributive share set off, including the homestead, free from

the mortgage indebtedness, except for a deficiency after the other property left by the deceased had been exhausted. *Haynes v. Rolstin*, 164-180, 145 N. W. 336.

SEC. 3376. Share not affected by will—election.

Clear and satisfactory evidence is required to establish an election on the part of the widow to take under the will in lieu of her distributive one-third. *Berry v. Donald*, 150 N. W. 1048.

Where a widow dies within six months after the death of her husband, the testator, without having elected to take under the will, she will be held to have taken her statutory one-third of the estate. *In re Smith's Estate*, 146 N. W. 836.

The degree of mental incapacity which shall justify an election under the direction of the court is the same as that which obtains generally with reference to the performance of any act, by one whose sanity is questioned. Under the provision of the code of 1873 where the provisions of the will were not inconsistent with the right of the widow to take her distributive share or were not repugnant to or did not destroy other specific provisions of the will so as to defeat the intention of the testator, she could take both her distributive share and her share under the provisions of the will and was not put to an election. *In re Stevens' Estate*, 144 N. W. 644.

The distributive share is the primary right of the spouse. Evidence reviewed and held to show that the surviving spouse took the distributive share and not the homestead right. *Bosworth v. Blaine*, 152 N. W. 567.

SEC. 3377. Election as between distributive share and occupancy of homestead—mental incapability.

A surviving spouse who occupies a homestead for over ten years without electing to have his distributive share set apart

is presumed to have elected to accept a homestead interest. *Shelangowski v. Schrack*, 162-176.

SEC. 3378. Descent—to children.

Property distributed by will does not descend under this statute, but passes "by

the will, as an instrument of purchase". *Parker v. Foxworthy*, 149 N. W. 879.

SEC. 3385. From father.

Evidence considered and held to show such general and notorious recognition of the paternity of an illegitimate child as to entitle the child to inherit. *Robertson v. Campbell*, 147 N. W. 301.

One suing to quiet title to real estate as the illegitimate child of the deceased owner must show the illegitimacy and that the deceased generally and notoriously recognized her as his child. *Ibid.*

It is not necessary that the recognition should be universal but it is sufficient if, in his associations with neighbors and friends, the claimed father makes no attempt to conceal the relationship he bears to the child but acknowledges it openly whenever reference to the subject is made. *Ibid.*

Declarations by the father, since deceased, as to the paternity of the child

may be proved even though ordinarily hearsay. *Ibid.*

As used in this section, "general" means extensive, common to many or the majority, but not universal, while "notorious" means not concealed, open, generally or commonly known or spoken of. *McNeill v. McNeill*, 148 N. W. 643.

SEC. 3387. Escheat.

The provision of this and succeeding sections providing with reference to payment to the treasurer of proceeds of land

Evidence reviewed and held not to meet the requirements of this statute. *Ibid.*

Evidence in a particular case held insufficient to prove general and notorious recognition. *Hays v. Claypool*, 164-297, 145 N. W. 874.

do not render a treaty provision between United States and Great Britain inapplicable. *McKeown v. Brown*, 149 N. W. 593.

SEC. 3391. Payment to person entitled.

An action brought by one showing herself entitled to property theretofore escheated to the state, in which the state treasurer and auditor are made parties,

is not such an action against the state as that suit cannot be maintained without the state's consent. *McKeown v. Brown*, 149 N. W. 593.

CHAPTER 5.

OF ACCOUNTING AND MISCELLANEOUS PROVISIONS.

SECTION 3394. Report.

Intermediate reports of an executor or administrator are subject to correction

upon hearing of the final report. *Ryan v. Hutchinson*, 161-575, 143 N. W. 433.

SEC. 3399. Settlement contested.

Beneficiaries of an estate may, on the hearing on the administrator's final report, file objections charging the administrator with fraud and collusion against an estate and are entitled to a hearing thereon. *In re Miller's Est.*, 149 N. W. 227.

Whether an administrator is liable for negligence when not guilty of bad faith, *quaere. Ibid.*

Service by publication of a notice of an application for final settlement made by an administratrix is of the same force and effect as personal service and one interested must attack the final settlement within three months. *In re Feldner's*

Estate, 149 N. W. 38.

Where all interested parties are given notice of the filing of the final report of the executor or administrator and his application for discharge, they are in court, and must take notice of all objections filed against the report. If they do not appear in person, or take an appeal in the name of the executor or in their own from an adverse order or judgment, the executor or administrator by representation stands for them and they are bound by the order or judgment rendered on the hearing on the final report. *Ryan v. Hutchinson*, 161-575, 143 N. W. 433.

SEC. 3404. Effect.

Section applied. *In re Feldner's Estate*, 149 N. W. 38.

SEC. 3415. Compensation.

In making an allowance to an administrator for extraordinary expenses, the court will wholly ignore the amount which the administrator has paid, or agreed to pay, for the services, the reasonable value of the services being the sole standard. *In re Munger's Estate*, 150 N. W. 447.

Burden of proof is on the administrator to show that the "allowances" to which

he is entitled for extraordinary expenses, are (1) just, (2) reasonable, (3) actual, and (4) necessary, and pertain directly to the protection of the estate. *Ibid.*

The words "ordinary services" defined and applied, with respect to compensation of executors and administrators, to particular facts. *In re Carmody's Estate*, 145 N. W. 16.

SEC. 3416. Removal of executor.

An administrator who has been dilatory in the administration and settlement of the estate may be removed on that

ground. *Willson v. District Court*, 147 N. W. 766.

SEC. 3422. Notice of application for discharge.

An executor is a representative of the estate, and when proper notice is given of a hearing of his final report, and the parties notified fail to appear or appearing do not appeal from ruling on the objections, and the executor does not appeal therefrom, then such rulings become final and certiorari will not lie to review the proceedings. *Ryan v. Hutchinson*. 161-

575, 143 N. W. 433.

The notice, herein provided for, is not necessary to meet any constitutional requirement, for the reason that all parties in interest are presumptively present or properly represented by the court or by the administrator. *In re Feldner's Estate*, 149 N. W. 38.

PART THIRD.

CODE OF CIVIL PRACTICE.

TITLE XVIII.

OF PROCEDURE IN COURTS OF ORIGINAL JURISDICTION.

CHAPTER 1.

OF PRELIMINARY PROVISIONS.

SECTION 3426. Form of actions.

All that is necessary for one who invokes the power of a court to protect a right or redress a wrong is that he makes a plain statement of the facts upon which his action is based, avoiding mere legal conclusions, and he may recover whatever

the law will allow for breach of contract or for tort without reference to the name or form of action, which might have been necessary at the common law. *Lee v. Coon Rapids Bank*, 144 N. W. 630.

SEC. 3427. Equitable proceedings.

An action to compel the levy of an assessment to pay a loss under a policy of insurance as per its terms is properly

brought on the equity side of the calendar. *Johnson v. Hawkeye Commercial Men's Assoc.*, 152 N. W. 561.

SEC. 3428. Action on note and mortgage.

Where a note is given secured by a mortgage an action may be maintained on either unless a stipulation in one or the

other prevents. *Des Moines Savings Bank v. Arthur*, 143 N. W. 556.

SEC. 3432. Error—effect of.

Whether plaintiff docketed and tries his cause on the law, equity or probate side of the calendar is immaterial, unless objection is made thereto. *In re Estate of Heaver*, 150 N. W. 698.

calendar. *Hanan v. Messenger*, 150 N. W. 673.

An action to recover a money judgment unaccompanied by any equitable issue has no place on the equity side of the

Bringing an action on the wrong side of the calendar will not work an abatement or a dismissal. The remedy is by motion to transfer. *Fallers v. Hummel*, 151 N. W. 1081.

SEC. 3434. By defendant.

An action to foreclose a real estate mortgage being properly on the equity side of the calendar, is not rendered transfer-

able to the law calendar by the interposition of a law issue. *Bennett Bank v. Smith*, 152 N. W. 717.

SEC. 3435. Equitable issues.

An issue which is purely defensive, and which goes to the very heart of the plaintiff's right to recover, and which, if found by the jury in defendant's favor, effectually forecloses plaintiff's right to recover, presents in a law action no equitable issue. *Dille v. Longwell*, 148 N. W. 637.

compel the transfer of the entire cause to the equity calendar by injecting into the cause an equitable issue, which does not reach to the whole cause of action. *Ibid.*

Where suit is commenced at law on a note and defendant pleads a mistake and asks a reformation and also pleads other defenses, he was only entitled to have the question of reformation tried in equity, and therefore a motion to have the whole case transferred and tried by equitable proceedings is properly overruled. *Ibid.*

Equitable issues which may be decisive of the entire controversy may well be fully tried out before the making of orders in regard to dividing the issues and trying some of them at law. In such a case any right to have the issues so divided is waived when the motion to so divide was made at the close of the affirmative testimony on the equitable issue and overruled, and was not renewed at the close of all the evidence on such issue. *Day v. Dyer*, 152 N. W. 53.

SEC. 3437. Errors waived.

Error in bringing an action in equity is waived by failure to make a motion to transfer it to the law side of the calen-

dar for trial. *Kamrar v. Butler*, 164-293, 145 N. W. 879.

SEC. 3438. Uniformity of procedure.

This section refers only to what are designated as civil actions or special actions and does not refer to probate pro-

ceedings upon reports of executors or administrators. *In re Feldner's Estate*, 149 N. W. 38.

SEC. 3440. Judgments not annulled in equity.

In an action on a foreign judgment the defendant may set up a counterclaim arising out of the contract which is the basis

of the foreign judgment. *Price v. Macomber*, 144 N. W. 1020.

SEC. 3443. Actions survive.

Section referred to. *Hough v. Ill. Cent. Ry. Co.*, 149 N. W. 885.

A right of action based on tort for the recovery of both actual and exemplary

damages is assignable because of the provision of this section providing for survival to personal representatives. *Dunshree v. Standard Oil Co.*, 146 N. W. 830.

SEC. 3444. Civil remedy not merged in crime.

Section referred to. *Hough v. Ill. Cent. Ry. Co.*, 149 N. W. 885.

SEC. 3445. Actions by or against legal representatives—substitution.

Section referred to. *Hough v. Ill. Cent. Ry. Co.*, 149 N. W. 885.

SEC. 3446. Construction of code provisions.

A statute authorizing the voting and levying of tax in aid of the construction of a railroad is in derogation of the com-

mon law, and is to be most strongly construed against the railroad company. *Mitchell v. R. R. Co.*, 148 N. W. 975.

CHAPTER 2.

OF LIMITATION OF ACTIONS.

SECTION 3447. Period of.

An amendment to a petition "expanding or elaborating" the allegations of the petition already filed sets up no new

cause of action rendering the claim subject to a plea of the statute of limitation. *Blake v. City*, 151 N. W. 74.

A written notice of injuries because of a defective bridge, sufficient in all respects except that it is addressed to the county auditor instead of the county, sufficiently complies with the provision as to notice to counties in such cases, especially when the auditor and the board of supervisors treated it as a notice to the county. *Klingman v. Madison Co.*, 161-422, 143 N. W. 426.

The statute commences to run, under paragraph 5 of this section, in bar of an action against a justice of the peace for fees unlawfully retained from the time when he should have made a report thereof under section 1301. *Polk County v. Roe*, 164-302, 145 N. W. 868.

The provisions of Sec. 4094 relating to a petition for a new trial after the term at which the judgment was rendered, and not the provisions of this section, govern in an action brought by a minor to set aside an order denying probate to a will brought more than five years after the order was entered. *In re Zachary's Estate*, 145 N. W. 883.

The notice provided by paragraph 1 becomes wholly immaterial if action is commenced within 60 days from date of accident. In instant case the introduction of such notice, action having been brought within the 60 days, was highly prejudicial to defendant. *Hall v. City of Shenandoah*, 149 N. W. 831.

Par. 1. It is not error to allow an amendment to a petition alleging a ground of negligence which was not stated in the notice, as this section does not require the grounds of negligence to be set out in the notice only in so far as they might appear from the facts and circumstances therein contained. *Magee v. Jones County*, 161-296.

Where plaintiff brought an action to recover for loss of the services of his minor child, and for costs and expenses incurred in furnishing it medical attention, more than a year after said child had been injured on a defective sidewalk, no notice as herein provided having been given the city, held that such claims were "founded on injury to the person" and that the limitation provided for herein constituted a good defense. *Palmer v. City of Cedar Rapids*, 146 N. W. 827.

The purpose of this statute is to inform the city authorities of the location of

the defect and the circumstances attending the accident, so as to enable them to investigate the city's liability while the facts are fresh, and ascertain the character of the defect and injuries while witnesses are obtainable. *Ibid.*

Par. 4. An action to enforce a mechanic's lien by a principal contractor is barred in two years and ninety days from the date on which the last of the materials was furnished, whether the lien was filed within ninety days after the last material was furnished or not. *Stewart v. Whicher*, 150 N. W. 64.

Par. 6. Where a cause of action against a decedent based on fraud was not barred by limitations at the time of his death, but the period of limitation had fully passed before the claim was filed against the estate more than six months after the death, it was barred by limitations. *Malone v. Averill*, 147 N. W. 135.

Par. 7. A note maturing "only when the homestead where I now reside shall be sold or converted into money" is not matured by sale of a portion of the homestead unoccupied by buildings, the note reciting that the money was for improvements "on the (homestead) buildings". *In re Squires Estate*, 150 N. W. 706.

The right of action of a remainderman accrues on the death of the life tenant. *Woodford v. Glass*, 150 N. W. 69.

An action to set aside a deed executed July 19, 1899, conveying contingent dower on the ground of mental incapacity and undue influence, was not barred by statute of limitation when commenced December 2, 1910, the spouse seized of title having died December 12, 1905. *Baker v. Baker*, 151 N. W. 459.

The statute of limitation will run against a co-tenant who knows that his co-tenant has gone into possession under a deed, is paying the taxes, improving the land, erecting buildings, mortgaging the premises and paying off the same, and continues for more than ten years to openly claim sole ownership of the property. *Erickson v. Johnson*, 152 N. W. 575.

Par. 8. After ten years a judgment ceases to be a lien on real estate and becomes such after that period only after the levy of an execution. *James v. Weisman*, 161-488, 143 N. W. 428.

SEC. 3447-d. Action to set aside, etc., guardians' deed, etc., recorded prior to Jan. 1, 1905—limitation. That no action shall be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from any tax deed, guardians deed, executors deed, administrators deed, receivers deed, referees deed, assignees deed, sheriffs' deed which shall have been recorded in the office of the recorder of the county or counties in this state in which the land described in such deed is situated prior to the first day of January, A. D. 1905, unless such action shall be commenced prior to the first day of January, A. D. 1917, and if no action to

set aside, cancel, annul, declare void or invalid, or to redeem from any such deed shall be commenced prior to the first day of January, A. D. 1917, then such deed and all the proceedings upon which the same is based shall be conclusively presumed to have been in all things valid and unimpeachable and effective to convey title according to the purport thereof, without exception for infancy, insanity, absence from the state or other disability or cause; provided that this act shall not apply to any real property described in any such deed which is not on the date this act becomes effective in the possession of those claiming title under such deed. [36 G. A. (H. F. 145, § 1.)]

SEC. 3447-e. How "possession", referred to in preceding section, may be established. The possession of the persons claiming title as provided for in section one hereof may be established by affidavit recorded in the office of the recorder of the county or counties in this state in which the deed to the land referred to in said affidavit is recorded. [36 G. A. (H. F. 145, § 2.)]

SEC. 3447-f. Two preceding sections not applicable to pending litigation. Nothing in this act shall affect any pending litigation. [36 G. A. (H. F. 145, § 3.)]

SEC. 3448. Fraud—mistake—trespass.

In an action to set aside a certain conveyance of real estate, and for accounting as to rents and profits, held that the statute of limitations did not commence to run until fraud was discovered and that

the evidence showed the fraud not to have been discovered until within less than the statutory period of limitation. *Mullen v. Callanan*, 149 N. W. 516.

SEC. 3449. Open account.

When services are rendered for a long continuous period of time, under an agreement for compensation but indefinite as to the period of employment, or the time or rate of compensation, the statute begins to run when the employment is terminated. *Sullenbarger v. Ahrens*, 150 N. W. 71.

An action on a claim for the expense of keeping an insane person where the charges made by the asylum were paid by the plaintiff, quarterly, from the time of the commitment to the time of the death of such person, is based upon a continuous, open, current account. *Buena Vista County v. Woodbury Co.*, 145 N. W. 282.

SEC. 3450. Commencement of action.

The actual service of the original notice of suit is the commencement of the action, and tolls the statute of limitation, and even though petition subsequently filed states the accrual of the action materially different from that stated in such notice,

said petition stating a date such that had no notice been served, the action would have been barred prior to the filing of the petition. *Parkhill v. Storage Co.*, 151 N. W. 506.

SEC. 3456. Admission in writing—new promise.

The giving of a promissory note is a revival of a cause of action founded on

contract barred by the statute of limitations. *In re Remmerde*, 206 Fed. 826.

CHAPTER 3.

OF PARTIES TO AN ACTION.

SECTION 3459. Plaintiff—party in interest—exception.

An executor is a representative of the estate, and when proper notice is given of a hearing of his final report, and the parties notified fail to appear or appearing do not appeal from ruling on the objec-

tions, and the executor does not appeal therefrom, then such rulings become final and certiorari will not lie to review the proceedings. *Ryan v. Hutchinson*, 161-575, 143 N. W. 433.

An executor or administrator is a representative of the estate and need not join the heirs or next of kin with him in an action to protect the interests of the estate. And the same rule obtains where an administrator or executor is made a party defendant. *Ibid.*

A plaintiff, an assignee of claims held by his assignors under an agreement by which the plaintiff was to run the risk

and bear the burden of litigation on such claims for 50 per cent of the recovery, is in legal effect a trustee for his assignors and may maintain an action even though the contract with his assignors is conceded to be champertous, as the defense of champerty is not available to the defendant in the main action. *Cress v. Ivens*, 145 N. W. 325.

SEC. 3462. Defendants.

A creditor in an action against his debtor may join one who, by contract, has assumed and agreed to pay the debt of the said debtor, even though the action against the debtor sounds in tort. *Woodworth v. Ry. Co.*, 149 N. W. 522.

A widow is a necessary party to partition proceedings. Being such necessary

party no misjoinder of parties results from joining her with legitimate and illegitimate children of deceased, even though the widow has no concern with the question whether the illegitimate child has a right to inherit. *Granger v. Granger*, 152 N. W. 503.

SEC. 3465. Joint and several obligations.

An action on a note against the makers thereof may be joined with one against him who has in a deed assumed the pay-

ment of the note. *Bennett Bank v. Smith*, 152 N. W. 717.

SEC. 3466. Other parties brought in.

A mortgagee of a corporation's property, including a dam claimed to have been rebuilt without authority to a greater height than it previously existed, is not a

necessary party to a suit in which an injunction is sought against the maintenance of the dam at a much increased height. *Iowa Power Co. v. Hoover*, 147 N. W. 858.

SEC. 3470. Action for seduction.

The rule hereunder is not in all respects the same as in a criminal prosecution, for if the facts show that a female

has been ravished, she would have a cause of action for that. *Verwers v. Carpenter*, 147 N. W. 742.

SEC. 3471. Injury or death of minor child.

The word "expenses" as used in this section includes moneys expended to secure suitable burial for the minor. *Car-*

nego v. Crescent Coal Co., 164-552, 146 N. W. 38.

SEC. 3477-a. Recovery by woman or her estate for personal injury—maximum. When any woman receives an injury caused by the negligence or wrongful act of any person, firm or corporation, including a municipal corporation, she may recover for loss of time, medical attendance and other expenses incurred as a result thereof in addition to any elements of damages recoverable by common law; and if such injury result in causing death, her administrator may sue and recover for her estate, the value of her services as a wife or mother or both in such sum as the jury may deem proportionate to the injury resulting in her death, in addition to such damages as are recoverable by common law; also loss of services and expenses incurred before death, if not previously recovered, and in such case of injury arising from wilful, gross, or wanton negligence, punitive damages may be allowed by the jury in addition to other damages herein provided, but in no event shall the amount exceed the sum of fifteen thousand dollars. [36 G. A. (S. F. 34, § 1.)] [34 G. A., ch. 163, § 1.]

SEC. 3480. Actions by minors.

A father suing in his own behalf as a tenant for life and in behalf of his minor children, remaindermen in fee, may main-

tain an action though he does not designate himself as next friend of the children. *Robertson v. Campbell*, 147 N. W. 301.

CHAPTER 4.

OF PLACE OF BRINGING ACTION.

SECTION 3493. To foreclose mortgage or mechanic's lien.

Action to foreclose a real estate mortgage should be brought in the county where the property is situated, even though one, who has assumed the payment of the

note and is made a party defendant, is a resident of another county. *Bennett Bank v. Smith*, 152 N. W. 717.

SEC. 3499. Against insurance companies.

An assignee of the assured may sue the insurance company in the county of the residence of the assured at the time the loss occurred. Whether the assignee

can sue in the county of his residence, *quaere*. *Cochburn v. Hawkeye Commercial Men's Ass'n*, 143 N. W. 1006.

SEC. 3500. Office or agency.

An action may be brought in that part of Pottawattamie county known as the Avoca district against a defendant residing in the Council Bluffs district but main-

taining an agency in the Avoca district, out of which agency the said action arose. *Pleak v. Marks*, 152 N. W. 63.

SEC. 3504. Change when brought in wrong county.

One who has, in a deed, assumed the payment of a real estate mortgage and is made a defendant in foreclosure proceeding, is not entitled to a change of venue

to the county of his residence which is different from that in which the property is situated. *Bennett Bank v. Smith*, 152 N. W. 717.

CHAPTER 5.

OF CHANGE OF PLACE OF TRIAL.

SECTION 3505. Grounds for.

Subd. 3. Where an affidavit showed that the inhabitants of a county were so prejudiced against the provisions of the prohibitory law and its enforcement that plaintiff could not obtain a fair trial, held that the word "prejudice" as used in this section is not limited to personal dislike or ill will, but includes as well the prejudgment of the merits of plaintiff's case caused by a general prejudice against a

law under which he bases his claim. *Hamill v. Schlitz Brewing Co.*, 143 N. W. 99.

The word "prejudice" within the meaning of sub-division three of the section is not limited to personal hatred, dislike, or ill-will, but includes as well the idea of prejudgment of the merits of the claim of the moving party. *Ibid*.

SEC. 3506. Application for.

A failure to redocket a case in the district court the first term after a decision remanding the case for new trial, is not a continuance within the meaning of this statute. *Hamill v. Schlitz Brewing Co.*, 143 N. W. 99.

A motion for a change of venue after a continuance unless the grounds therefor have come to the knowledge of the moving party subsequent to the continuance will be denied. *Ibid*.

SEC. 3511. Costs of change.

The trial court in granting a change of venue having failed to designate the costs which were to be paid, or to make the change conditional upon their payment, the party to whom the change had

been granted did not waive it, particularly when he paid the costs required by the clerk as soon as the clerk stated the amount. *Hamill v. Schlitz Brewing Co.*, 143 N. W. 99.

CHAPTER 6.

OF THE MANNER OF COMMENCING ACTIONS.

SECTION 3514. Original notice.

The actual service of the original notice of suit is the commencement of the action, and tolls the statute of limitation, even though petition subsequently filed states the accrual of the action materially different than as stated in such notice, said petition stating a date such that had no notice been served, the action would have been barred prior to the filing of the petition. *Parkhill v. Storage Co.*, 151 N. W. 506.

An executor desiring to procure an or-

SEC. 3516. Who may serve notice.

The provisions of section 2009 of the Code of 1897, providing that the sheriff shall be served with notice in an appeal from an award in condemnation proceed-

der of sale of real estate and an adjudication cutting off a legatee's interest in the estate had notice served which only indicated that the application was made for the sale of the property. The legatee defaulted, the sale was ordered and the interest of the legatee cut off. Held that in so far as the order of court undertook to cut off legatee's share it was void; the office of a notice is not only to give jurisdiction but also to limit it. *Blain v. Dean*, 160-708.

SEC. 3524. Proof of service—patients in hospital for insane.

A sheriff may serve papers outside the county of which he is sheriff as an individual and prove such service by affidavit as

ings, do not prevent his serving notice of such appeal on the adverse parties to the action. *Buckmiller v. Creston Ry. Co.*, 146 N. W. 447.

provided for any individual under the provisions of this section. *Buckmiller v. Creston Ry. Co.*, 146 N. W. 447.

SEC. 3525. Superintendent may acknowledge service.

A service attempted under the provisions of this act is not void when there is an acceptance by one signing himself

"acting superintendent", in the absence of evidence other than the return. *State Bank v. Gish*, 149 N. W. 600.

SEC. 3529. On agent of corporation.

This section authorizes service on a railroad company by serving notice on one who is the agent of an unincorporated concern engaged in securing business for the railroad company in the county where suit is brought. *Bell Jones Co. v. Erie Ry. Co.*, 150 N. W. 7.

Evidence held to sustain a finding that the person upon whom service was attempted to be made was a "general agent"

of defendant. *Little v. Minneapolis Threshing Mach. Co.*, 147 N. W. 872.

Jurisdiction of a foreign corporation may be obtained by service (a) upon any agent of such corporation, or (b) upon any other agent or person transacting the business thereof in the county where the action is brought. *Murphy v. Albany Pecan Development Co.*, 151 N. W. 500.

SEC. 3532. On agent, as to business of office or agency.

Jurisdiction of a foreign corporation may be obtained by service (a) upon any agent of such corporation, or (b) upon any other agent or person transacting the

business thereof in the county where the action is brought. *Murphy v. Albany Pecan Development Co.*, 151 N. W. 500.

SEC. 3533. On minor.

The service required by this section is essential to jurisdiction, and without jurisdiction over a minor, any order made as to him is void. *Hodlick, Adm'x v. Evans*, 145 N. W. 84.

Notice, even though properly served on

the father, mother or guardian of a minor, does not give the court jurisdiction of such minor, unless the notice is expressly directed to the minor. *Sleeper v. Killion*, 147 N. W. 314.

SEC. 3534. By publication.

The court has no power to create or order a service by publication in an application to modify a decree of divorce. A

service by publication unless in strict accord with the statutes is a nullity. *Blachly v. Blachly*, 151 N. W. 447.

SEC. 3538. Unknown defendants. That section thirty-five hundred thirty-eight of the code be and the same is hereby repealed and the following enacted in lieu thereof:

Where it is necessary to make an unknown person defendant, the petition shall be sworn to and state the claim of plaintiff with reference to the property involved in the action, that the name and residence of such person is unknown to the plaintiff, and that he has sought diligently to learn the same. The notice thereof shall contain the name of the plaintiff, a description of the property, the claim of the plaintiff thereto, the relief demanded, the name of the court, and the term in which appearance must be made. Such notice must be entitled in the name of the plaintiff against the unknown claimants of the property and shall be signed by the plaintiff or his attorney. [36 G. A. (H. F. 346, § 1.)] [35 G. A., ch. 287, § 1.] [24 G. A., ch. 34.] [C. '73, §§ 2622-3.] [R. §§ 2836-7.]

SEC. 3539. Clerk to designate paper. That section three thousand five hundred thirty-nine of the code, be and the same is hereby repealed, and the following enacted in lieu thereof:

The clerk of the court where action is brought against unknown defendants shall designate the paper in which original notice shall be published. [36 G. A. (H. F. 315, § 1.)] [24 G. A., ch. 34.] [C. '73, § 2624.] [R., § 2838.]

SEC. 3540-a. Decrees against unknown claimants legalized. That all decrees of court obtained in cases prior to January fifteenth, 1915, in which the notice was entitled in the initial or initials of the plaintiff instead of his full Christian name are hereby legalized and said decrees shall have the same force and effect as if such notice had been entitled in the full name of the plaintiff as was provided for in section thirty-five hundred thirty-eight of the code and as is provided for in section thirty-five hundred thirty-eight of the supplement to the code, 1913. [36 G. A. (H. F. 55, § 1.)]

SEC. 3540-b. Last preceding section limited in effect. Nothing in this act contained shall be considered as affecting pending litigation. [36 G. A. (H. F. 55, § 2.)]

SEC. 3541. Mode of appearance—when required.

Evidence reviewed and held insufficient to show that defendant's presence was secured within the state by fraud of plaintiff, and that service so obtained was invalid. *Crandall v. Trowbridge*, 150 N.

W. 669.

A special appearance to object to the jurisdiction of the court is not a general appearance. *Bedford v. Board of Supervisors*, 162-588, 144 N. W. 301.

CHAPTER 7.

OF JOINDER OF ACTIONS.

SECTION 3545. When permitted—issues tried separately.

Statutory partition (sec. 3545), clearly contemplates the joining of issue as to title between certain parties to partition proceedings, even though the other parties to the same proceeding have no concern in such issue. So held where the issue was whether an illegitimate child had a right to inherit along with the legitimate children, the widow having no financial concern in such issue. *Granger v. Granger*, 152 N. W. 503.

A creditor in an action against his debtor may join one who, by contract, has assumed and agreed to pay the debt of the said debtor, even though the action against the debtor sounds in tort. *Woodworth v. Ry. Co.*, 149 N. W. 522.

An action in equity to enjoin the raising of a dam in which damages are demanded for injury which may be occasioned if the dam is raised, amounts simply to an equitable action for an injunction and the demand for damages is to be disregarded as there were no facts alleged or shown which had yet caused injury. *Watt v. Robbins*, 160-587.

A cause of action for seduction and one for breach of promise may be prosecuted in the same action. *Nolan v. Glynn*, 163-146.

A plaintiff may join different causes of action in one petition alleging each in a separate count. *Tullar v. Illinois Cent. R. Co.*, 213 Fed. 280.

SEC. 3548. Misjoinder waived.

Improper joinder of (a) parties or (b) causes of action must be raised before answer or the objection will be waived. *Woodworth v. Ry. Co.*, 149 N. W. 522.

Where an alleged misjoinder was apparent upon the face of the petition but was not raised in the manner of section 3547, it will be deemed waived. *Ibid.*

CHAPTER 8.**OF PLEADING.****SECTION 3551. Motions and demurrers.**

A general equitable demurrer (that the facts stated do not entitle the plaintiff to the relief demanded) does not raise the

question of the statute of limitation. *Havener Land Co. v. McGregor*, 149 N. W. 617.

SEC. 3552. Subsequent pleadings.

The refusal of a U. S. District Court to permit the filing of a reply after trial has commenced, or the striking out of a reply then filed without leave, is within the sound

discretion of the court, and its action will be interfered with only when abuse of discretion is shown. *Hartley v. Lapidus & Holub Co.*, 216 Fed. 92.

SEC. 3557. Pleadings defined—filing—forms abolished.

An ambiguous pleading will be construed against the pleader. *Woodworth v. Ry. Co.*, 149 N. W. 522.

SEC. 3558. Copy filed—delivery by clerk to party—fee—taking files from office. Every party, at the time of filing any petition, answer, reply, demurrer or motion, except a motion for continuance or change of venue, shall file with the same one plain copy thereof for the use of the adverse party, and, on failure to do so, the cause may be continued at the option of the adverse party, or the paper so filed stricken from the files. A fee of ten cents per hundred words shall be allowed for all copies and taxed with the costs. The original files shall be taken from the clerk's office only on order of the judge by leaving with the clerk a receipt for the same. The clerk of the court wherein the copy herein provided for is filed, shall, as soon as may be, either deliver or mail such copy to the attorney for the adverse party. [36 G. A. (H. F. 503, § 1.)] [Rules of Practice, § 1.]

SEC. 3559. Petition—what to contain—counts—divisions—paragraphs.

Statements of evidence have no proper place in a pleading and may be stricken on motion. *Main v. Rittenmeyer*, 151 N. W. 499.

A plaintiff may join different causes of action in one petition alleging each in a separate count. *Tullar v. Illinois Cent. R. Co.*, 213 Fed. 280.

SEC. 3561. Demurrer—causes of.

A general equitable demurrer (that the facts stated do not entitle the plaintiff to the relief demanded) does not raise the question of the statute of limitation. *Havener Land Co. v. McGregor*, 149 N. W. 617.

A motion may be treated as a demurrer when the pleading attacked is bad. *Cain v. Oster*, 150 N. W. 17.

SEC. 3562. How specific.

A general equitable demurrer (that the facts stated did not entitle the plaintiff to the relief demanded) does not raise the question of the statute of limitation. *Havener Land Co. v. McGregor*, 149 N. W. 617.

A demurrer alleging that the petition shows, upon its face, that the cause of action set out therein, is barred by the statute of limitations, is sufficiently specific to raise such objection. *Cooley v. Maine*, 143 N. W. 431.

SEC. 3565. Joinder in demurrer—answering, amending or pleading over.

Where new parties defendant are substituted and stand upon a demurrer filed by their predecessors, they do not thus admit any fact not properly pleaded against them, do not assume the faults of their

predecessors, and no decree should be rendered against them save as it has support in the allegations of the petition. *Pierce v. Executive Council*, 146 N. W. 85-88.

SEC. 3566. Answer—what to contain—distinct defenses.

It is not allowable to qualify the denial or affirmation of an issuable fact by an

"if". *Simons v. Petersberger*, 151 N. W. 392.

SEC. 3574. Cross-petition.

In an action upon a promissory note by the holder, the makers of the note may, on proper grounds, make the original payee

a party to the action by cross-petition. *Fulton Bank v. Mathers*, 161-634, 143 N. W. 400.

SEC. 3576. Reply—when necessary.

A reply alleging certain facts defensive to and in avoidance of matters alleged in the answer does not release defendant of the obligation to prove the allegations of his answer. *Schworm v. Frat. Bkrs. Res. Soc.*, 150 N. W. 714.

A plaintiff cannot recover on a distinct cause of action which is pleaded only in his reply. *Johnson v. Trump*, 161-512, 143 N. W. 510.

SEC. 3577. Statements of.

A reply alleging certain facts defensive to and in avoidance of matters alleged in the answer does not release defendant of

the obligation to prove the allegations of his answer. *Schworm v. Frat. Bkrs. Res. Soc.*, 150 N. W. 714.

SEC. 3584. By person knowing facts.

This section applies to pleadings only and not to the verification of an affidavit of merits in support of a motion to set

aside a default. *Hueston v. Preferred Accident Ins. Co.*, 161-521, 143 N. W. 566.

SEC. 3586. When verification not required.

An administratrix seeking to recover as beneficiary need not deny under oath the validity of the signature to an agreement surrendering a policy of life insurance, in-

suring the life of her intestate husband. *Hicks v. Northwestern Life Ins. Co.*, 147 N. W. 883.

SEC. 3588. Failure to verify.

An insufficient or defective verification of a pleading is waived unless a motion to strike it from the files for that reason is

interposed. *Hueston v. Preferred Accident Co.*, 161-521, 143 N. W. 566.

SEC. 3592-a. Damages recoverable for libel—retraction—candidate for office. In any action for damages for the publication of a libel in a newspaper, if the defendant can show that such libelous matter was published through mis-information or mistake, the plaintiff shall recover no more than actual damages, unless a retraction be demanded and refused as hereinafter provided. Plaintiff shall serve upon the publisher at the principal place of publication a notice specifying the statements claimed to be libelous, and requesting that the same be withdrawn. And if a retraction or correction thereof be not published in as conspicuous a place and type in said newspaper as were the statements complained of, in a regular issue thereof published within two weeks after such service, plaintiff may allege such notice, demand and failure to retract in his complaint and may recover both actual, special and exemplary damages if his cause of action be maintained. And, if such retraction be so published, he may still recover such actual, special and exemplary damages, unless the defendant shall show that the libelous publication was made in good faith, without malice and under a mistake as to the facts. If the plaintiff was a

candidate for office at the time of the libelous publication, no retraction shall be available unless published in a conspicuous place on the editorial page, nor if the libel was published within two weeks next before the election: Provided, that this act shall not apply to any libel imputing unchastity to a woman. [36 G. A. (S. F. 139, § 1.)]

SEC. 3593. Matter in mitigation—justification.

A good plea in mitigation of damages to a charge of slander must, from its nature, be a confession of the charge and a pleading of facts tending to lessen defendant's culpability. *Cain v. Osler*, 150 N. W. 17.

Under this section as it appeared in the Code of 1897, a retraction could only be shown in mitigation of damages and in order to be admissible must be specially pleaded. *Snyder v. Tribune Co.*, 161-671, 143 N. W. 519.

No mitigating circumstances can be proved unless pleaded except such as are shown by or grow out of the testimony introduced by the adverse party. *Brandt v. Story*, 161-451, 143 N. W. 545.

Under this section in Code of '97 in an action for libel proof of the publication of a retraction or correction was a mere matter of mitigation to be pleaded by the defendant as such. *Roddy v. Gazette Co.*, 144 N. W. 1009.

SEC. 3593-a. Contributory negligence—burden of proof on defendant—mitigation of damages. That in all actions brought in the courts of this state to recover damages caused by the negligence of the defendant, the burden of proving contributory negligence shall rest upon the defendant. Provided that this act shall only apply to actions brought by an employe against his or her employer, or by a passenger against a common carrier, and in such cases contributory negligence may be pleaded in mitigation of damages. [36 G. A. (S. F. 413, § 1.)]

SEC. 3594. Intervention.

The right of interveners to file their petition of intervention upheld under a particular state of facts. *Brown & Co. v. Cash*, 145 N. W. 80.

Under a particular state of facts, held that there was no right to file a petition of intervention. *Steltzer v. Compton*, 164-465, 145 N. W. 896.

SEC. 3597. Variance—amendments.

No variance between allegation and proof is material unless the adverse party has been actually misled. *Mudge v. Ry. Mail Equip. Co.*, 149 N. W. 867.

The proofs must correspond with the allegations of the petition and the relief granted must be predicated thereon and

not upon any other theory. *Heim v. Ressel*, 162-75, 143 N. W. 823.

An immaterial variance between pleading and proof such as a variance with respect to the date of an agreement will be disregarded. *Barger v. Brown*, 161-656, 143 N. W. 496.

SEC. 3600. Amendments allowed.

An amendment to a petition expanding or elaborating the allegations of the petition already filed sets up no new cause of action rendering the claim subject to a plea of the statute of limitation. *Blake v. City*, 151 N. W. 74.

An amendment pleading facts more explicitly than in the original petition and demanding additional relief may be allowed after the submission of the cause to the court, leave being granted to either party to introduce further testimony. *Roberdee v. Bierkamp*, 160-687.

It is not error to allow an amendment

to a petition alleging a ground of negligence which was not stated in the notice as this section does not require the grounds of negligence to be set out in the notice only in so far as they might appear from the facts and circumstances therein contained. *Magee v. Jones County*, 161-296.

The striking of an amendment at the close of the trial pleading a written contract instead of the oral one formerly pleaded, because filed too late, is held in instant case to have been within the discretion of the court. *Brown v. Pearson Co.*, 150 N. W. 1057.

SEC. 3613. Allegations as to time.

One who files a claim in an estate asserting that the intestate is indebted to her need not prove that the indebtedness

arose on the date alleged in the complaint. *Craig v. Craig Estate*, 149 N. W. 454.

SEC. 3615. Evidence under denial.

Where the failure to ring the gong on its interurban car was pleaded as a ground of negligence against an interurban railway and it had answered by a general

denial, it was not entitled to introduce testimony in excuse of its failure to ring. *Landis v. Interurban Ry. Co.*, 147 N. W. 318.

SEC. 3622. What deemed admitted.

Allegations of (a) an answer (not relating to counterclaim), and (b) amount of damages, are denied in law without pleading; therefore, he who makes them must prove them. *Brown v. Mostoller*, 150 N. W. 908; *Schworm v. Reserve Society*, 150 N. W. 714.

The refusal of a U. S. District Court to

SEC. 3627. Action in representative capacity.

Where the original notice was served on defendants as a corporation when in fact they were a partnership, any error in so bringing the action is waived by defen-

permit the filing of a reply after trial has commenced, or the striking out of a reply then filed without leave, is within the sound discretion of the court, and its action will be interfered with only when abuse of discretion is shown. *Hartley v. Lapidus & Holub Co.*, 216 Fed. 92.

dants by their appearing, filing a general denial and proceeding to trial. *Stokes v. Gollmar Bros.*, 145 N. W. 59.

SEC. 3629. Matters specifically pleaded.

A former adjudication must be specially pleaded. *In re Estate of Heaver*, 150 N. W. 698.

Where the failure to ring the gong on its interurban car was pleaded as a ground of negligence against an interurban railway and it had answered by a general denial, it was not entitled to introduce testimony in excuse of its failure to ring. *Landis v. Interurban Ry. Co.*, 147 N. W. 318.

Matters showing discharge or release are not available as a defense unless specially pleaded. *Valley Nat'l Bank v. Cowrie*, 164-421, 145 N. W. 904.

Evidence of a waiver without any allegation of the waiver is inadmissible, and if admitted such evidence proves nothing. *Schworm v. Frat. Bkrs. Res. Soc.*, 150 N. W. 714.

SEC. 3639. Amount of proof.

One who pleads a negligent act on the part of the city, and also that such act constituted a nuisance, may recover by proof of the negligent act without proof that it was a nuisance. *Raine v. City*, 151 N. W. 518.

A plaintiff, in order to recover, no matter how much he has alleged, is bound to

A general equitable demurrer (that the facts stated did not entitle the plaintiff to the relief demanded) does not raise the question of the statute of limitation. *Havener Land Co. v. McGregor*, 149 N. W. 617.

Payment is an affirmative defense with the burden of proof on him who alleges it. *Youtsey v. Lemley*, 151 N. W. 491.

Any defense which admits the facts of the adverse pleading, but by some other matter seeks to avoid their legal effect, must be specially pleaded. So held where plaintiff claimed that the defendant had abandoned an alley and was estopped to longer claim that the same was an alley. *Schultz v. Stringer*, 150 N. W. 1063.

A plea of "assumption of risk incident to the master's negligence" is an affirmative defense and must be specially pleaded. *Cashman v. Powder Co.*, 151 N. W. 394.

prove only such allegations as will entitle him to the recovery or the relief asked for. *Lee v. Coon Rapids Bank*, 144 N. W. 630.

One who properly pleads and establishes fraud and false representation may recover even though he pleads a conspiracy as to which there is no evidence. *Shelberg v. Jones*, 151 N. W. 1066.

SEC. 3640. Denial of genuineness of signature.

Where suit was brought on a promissory note purporting to have been executed by a corporation, an unverified answer, denying authority of the manager of such corporation to execute such note as the note of the company, does not raise an issue as to the genuineness of the signature. *First National Bank v. Acme Co-operative Co.*, 149 N. W. 607.

Because of the provisions of section 3586, an administratrix is not required to deny under oath the validity of her signature to an agreement surrendering a policy upon the life of her intestate hus-

band, upon which she seeks to recover. *Hicks v. Northwestern Life Ins. Co.*, 147 N. W. 883.

Where a note purporting to have been executed by a person since deceased is filed as claim against his estate, this statute does not apply, and the execution of the note and the genuineness of the maker's signature are put in issue by a general denial; whereupon the burden is on the claimant to establish the genuineness and due execution of the instrument. *In re Chrismore's Estate*, 147 N. W. 297. ▶

SEC. 3642. Matter in abatement.

An action is premature and abatable when brought within forty days after service of the notice of loss and proof thereunder under a mutual policy of insurance

issued under Ch. 5, Title 9, Sup. Code, 1913, even though the company during said forty days denies all liability under the policy. *Salmon v. Assoc.*, 150 N. W. 680.

CHAPTER 9.
OF TRIAL AND JUDGMENT.**SECTION 3652. In equitable actions—certificate of evidence—trial anew on appeal.**

That the evidence has not been properly preserved cannot be predicated on a mere clerical error of the official shorthand reporter which misleads no one. *Daniels v. Butler*, 149 N. W. 265.

A transcript of the evidence made by a reporter in an action in equity for partition of land, within the proper time, and certified by him, need not be certified by the trial judge. *Ibid.*

The reporter alone need certify to the

transcript of the evidence in an equitable action. *Ibid.*

A general equitable demurrer on the ground set forth in paragraph 5 of section 3561 does not dispense with the necessity of specifying, nor cover, other statutory grounds of demurrer, if such other grounds be relied on. *American Baptist Home Mission Society v. First Baptist Church*, 145 N. W. 288.

SEC. 3658. Trial notice.

Where defendant's attorneys were not present when a case was set down for trial at a term for which no notice of trial had been filed, after it had been continued for several terms with an answer on

file, the assignment of the case for trial on the call of the calendar did not obviate the necessity of a trial notice. *Rock Island Plow Co. v. Bisby*, 147 N. W. 880.

SEC. 3663. Causes for.

A continuance was properly denied under the following facts: Plaintiff was seeking to recover damages for injuries to his horse. Three days before trial plaintiff amended by making another party joint plaintiff, alleging he was part owner of the horse. No issue was tendered on the ownership of the horse. The new joint plaintiff was not present when the collision occurred which injured the horse. *Menefee v. Whistler*, 150 N. W. 1034.

Where plaintiff, represented by three

attorneys, applied for a continuance on the ground that his chief attorney had no knowledge that the case had been assigned for trial until two days prior to trial day, and at that time was engaged in a trial in another county, held no abuse of discretion to overrule such application. *Evans v. Church*, 146 N. W. 822.

Rulings on motions for a continuance are largely within the discretion of the trial court. *Baker v. Langan*, 145 N. W. 513.

SEC. 3664. Affidavits—what must show.

Where there is no showing of diligence in procuring the attendance of a witness, there is no abuse of discretion of the trial

court in overruling a motion for a continuance on that ground. *State v. Ockij*, 145 N. W. 486.

SEC. 3666. Filing motion.

Not only should proper diligence be exercised to secure the testimony of absent witnesses, but the motion for continuance

should be filed by the second day of the term. *Brossard v. Ry. Co.*, 149 N. W. 915.

SEC. 3675. Report of trial—certificate.

No bill of exceptions is necessary on an appeal from an order striking certain matter from the petition, no evidence having been taken. *Daus v. Short*, 150 N. W. 1047.

The certificate of the reporter and the trial judge need not be made at once or in court, so that it is made and filed with the shorthand notes within thirty days, and when the shorthand notes are filed, a

temporary withdrawal of them from the clerk's office for the purpose of making a transcript does not make them any the less a court record, so that they need be refiled. *Hamill v. Schlitz Brewing Co.*, 143 N. W. 99.

That the evidence has not been properly preserved cannot be predicated on a

mere clerical error of the official shorthand reporter which misleads no one. *Daniels v. Butler*, 149 N. W. 265.

The certificate of the shorthand reporter to the transcript of his "notes" need not be attached to each and every part of such transcript into which it may be divided for convenience in handling. *Ibid.*

SEC. 3700. Procedure after jury is sworn—order of evidence.

The admission of evidence "out of order" under cross-examination is not necessarily erroneous. Cross-examination should generally be confined to matters brought out on the examination in chief, or properly inhering therein, yet the trial court has a wide discretion in relation thereto. *Waltham Piano Co. v. Lindholm*, 150 N. W. 1041.

The Supreme Court will rarely interfere because testimony is introduced out

of its regular order, the order of its introduction resting in the discretion of the trial court; and particularly is this true when the complaining party did not ask permission to meet such testimony. *Adamson v. Harper*, 162-56, 143 N. W. 844.

Whether depositions may be read by counsel during argument to the jury is discretionary with the court. *Van Vliet v. Crowell*, 149 N. W. 861.

SEC. 3705-a. Requests for—presentation to counsel—objections before reading to jury—motion for new trial.

The objections or exceptions to instructions are waived if not made before the instructions are read to the jury. *State v. Nott*, 149 N. W. 79.

Where no objections were made or exceptions taken to the court's instructions before reading, and none were made in motion for new trial, such instructions cannot be reviewed on appeal. *Ibid.*

Where defendant did not object to the trial court's instructions because not explaining the different degrees of assault and did not rely on such proposition in his motion for new trial, such a complaint could not be successfully urged upon an appeal. *State v. Piernot*, 149 N. W. 446.

Error cannot be predicated on failure

to specifically instruct on the issue of assumption of risk when (a) defendant requested no such instruction, and (b) in its objections to the instructions as given did not object to such failure. *Parkhill v. Storage Co.*, 151 N. W. 506.

The court is under no obligation to review instructions as to which no objections were entered prior to the reading thereof to the jury. *State v. Cooper*, 151 N. W. 835.

An objection to an erroneous instruction not submitted to counsel before being read, as required by this section, is timely if made for the first time on motion for new trial. *Thomas v. Ry. Co.*, 151 N. W. 387.

SEC. 3710. View of premises by jury.

Error cannot be predicated on the fact that in the trial of an equity cause the court, by consent of both parties, viewed the premises, it not appearing that the

court in such view of the premises did more than apply the evidence. *Melson v. Ormsby*, 151 N. W. 817.

SEC. 3722. Verdict—how signed and rendered.

When the court is met by motion to direct a verdict it should carry to the aid of the evidence every permissible infer-

ence in support of the issues. *First Nat'l Bk. v. Hall*, 151 N. W. 120.

SEC. 3727. Findings.

When the fate of defendant's defense rests on one simple question of fact which was clearly submitted to the jury, and the verdict was adverse to defendant, the refusal to submit a special interrogatory covering this ultimate question was non-prejudicial. *Main v. Rittenmeyer*, 151 N. W. 499.

Special interrogatories which do not call for a finding on the ultimate fact are properly denied. *Korab v. Chicago, R. I. & P. Ry. Co.* 146 N. W. 765.

Special interrogatories requested after the court has directed counsel to proceed with the argument, but before the argument has begun, are presented in time. *Harmon v. Loomis*, 147 N. W. 203.

In an action to recover a strip of land between a partition fence built by defendant and the true line, the court may properly submit to the jury an interrogatory, inquiring as to the distance, if any, that the new fence was from the old line. *Behrend v. Hartwig*, 147 N. W. 330.

SEC. 3728. Findings inconsistent with general verdict.

A special finding which negatives the existence of the ultimate question upon which plaintiff seeks recovery overthrows the verdict for plaintiff. *Jolly v. Doolittle*, 149 N. W. 890.

A verdict exculpating one defendant who was the real actor in an alleged tort and a verdict against another defendant for the same alleged tort are inconsistent

when the latter defendant was liable, if at all, only by operation of law by virtue of his relation to his co-defendant and the injured person. In such case the verdict in favor of the real actor prevails and has the effect of nullifying the verdict against the one chargeable alone by such operation of law. *Hobbs v. Ry. Co.*, 152 N. W. 40.

SEC. 3733. Waiver of jury trial.

A right to a jury trial may be waived by implication but to justify such holding the case must be clear. Doubts will be resolved against a waiver. *Timonds v.*

Hunter, 151 N. W. 961.

Section applied. *Fox v. Nolan*, 145 N. W. 491.

SEC. 3749. Exceptions—how taken.

An appeal from an order sustaining demurrer need only show exception to such order. No exception need be entered to the formal judgment entry following failure to amend. *Western Securities Co. v. Atlee*, 151 N. W. 56.

The certificate of the official reporter and the trial judge made to constitute the shorthand notes a bill of exceptions need not be made at once or in court provided it is made and filed with the shorthand

notes within thirty days and when the shorthand notes are filed, a temporary withdrawal of them from the clerk's office for the purpose of making a transcript does not make them any the less a court record, so that they need be refiled. *Hamill v. Schlitz Brewing Co.*, 143 N. W. 99.

No bill of exceptions is necessary on an appeal from an order striking certain matter from the petition, no evidence having been taken. *Daus v. Short*, 150 N. W. 1047.

SEC. 3751. Exception noted.

Where the only record of misconduct of counsel complained of appears in an allegation in a motion for a new trial the record is insufficient. It must be pre-

served by a bill of exceptions. *Hessig-Ellis Drug Co. v. Todd-Baker Drug Co.*, 161-535, 143 N. W. 569.

SEC. 3755. New trial—grounds for.

The general rule is to sustain the trial court in granting a new trial, but if the undisputed evidence shows that the party granted a new trial cannot recover, or has no defense, then the order granting a new trial will be reversed. *Rice v. Friend Bros. Co.*, 146 N. W. 748.

Verdict of \$2500 in slander case, largely as exemplary damages, condemned as excessive. *Cain v. Osler*, 150 N. W. 17.

Misconduct of a juror is not ground for a new trial when, with full knowledge of the misconduct, the cause proceeded without objection, and the misconduct was not of a nature to prejudice complaining party. *Crull v. Louisa County*, 150 N. W. 89.

Misconduct of jurors considered and held to be such as to justify the presumption of prejudice, and to demand a new trial. *Jolly v. Doolittle*, 149 N. W. 890.

If the verdict returned is excessive and largely composed of exemplary damages, new trial must be granted. *Ibid.*

Prejudice must be made to appear as result of misconduct of balliff, in order to furnish basis for new trial. *Brossard v. Chicago, M. & St. P. Ry. Co.*, 149 N. W. 915.

The opinion of the lower court that a new trial ought to be granted is entitled to the greatest consideration. *Rische v.*

Axle Co., 150 N. W. 663.

Arguments aside the record are of course improper, but the action of the court promptly rebuking such argument with direct caution to the jury to disregard the same, has large curative power. *Parkhill v. Storage Co.*, 151 N. W. 506.

A new trial may be ordered by a trial judge by virtue of his inherent power, even though this section provides a procedure for the granting of new trials on the application of the party aggrieved. *Thomas v. Ry. Co.*, 151 N. W. 387.

Granting a new trial, generally, under a motion assigning several grounds therefor, will not be disturbed if any of the grounds are tenable. *Ibid.*

"Due diligence" in the discovery of new matters of evidence is not shown when such matters might have been readily brought out from the same witness when he testified at the trial. *Youtsey v. Lemley*, 151 N. W. 491.

A motion for new trial is necessary to preserve error in overruling motion for directed verdict at close of plaintiff's evidence, the defendant thereafter introducing evidence. *Person v. Ames*, 150 N. W. 450.

SEC. 3756. Application—affidavits.

An affidavit to impeach a verdict held properly stricken. *Brown v. Drainage District*, 143 N. W. 1077.

SEC. 3764. Dismissal of action.

Par. 2 of this section is justification for the rule that a party to an action has no right to take the deposition of his adversary, because the adversary resides in a county different from that of the place

of trial, when the attendance and testimony of the adversary may be secured upon the trial by compulsion. *Meikle v. Hobson*, 149 N. W. 865.

SEC. 3777. Judgment on verdict.

This section is mandatory and the clerk must enter judgment upon the verdict as

returned before a judgment exists. *Sievertsen v. Chemical Co.*, 160-662.

SEC. 3778. When verdict is special.

A special finding which negatives the existence of the ultimate question upon which plaintiff seeks recovery, overthrows

the verdict for plaintiff. *Jolly v. Doolittle*, 149 N. W. 890.

SEC. 3790. Setting aside default—terms.

A large discretion is vested in the trial court in setting aside a default and unless there is a manifest abuse of such discretion its action in allowing a trial on the merits will not be disturbed. So held

where an attorney was misled by the fact that a case did not appear on the printed copy of the bar calendar furnished by the clerk. *Hueston v. Preferred Accident Ins. Co.*, 161-521, 143 N. W. 566.

SEC. 3798. Serving copy of judgment.

This section refers only to what are designated as civil actions or special actions and does not refer to probate pro-

ceedings upon reports of executors or administrators. *In re Feldner's Estate*, 149 N. W. 38.

SEC. 3801. Liens of judgments.

A judgment which is a lien upon the homestead, having been obtained on a debt contracted before the acquisition of the homestead, is a lien for the same

period as any other judgment, viz., ten years. *James v. Weisman*, 161-488, 143 N. W. 428.

CHAPTER 10.
OF JUDGMENT BY CONFESSION.**SECTION 3818. After action brought.**

An offer contained in defendant's answer to allow plaintiff to take judgment for a stated sum with costs to the time of such offer treated as in the nature of

an admission or as a tender rather than as a statutory offer. *Pictorial Review Co. v. Gerald Fitzgerald & Son*, 145 N. W. 315.

CHAPTER 13.
OF SUMMARY PROCEEDINGS.**SECTION 3826. Judgments on motion.**

A "judgment on motion" against an attorney in favor of the client is triable on appeal on errors only, not *de novo*. *Phoenix Fire Ext. Co. v. Sinclair*, 151 N. W. 462.

As code section 3944 authorizes only the exoneration of a garnishee by paying over to the sheriff the amount owing by him to the defendant, a party whose money

was paid by the garnishee, without an order of court, in an action against a third party, to the clerk of court, could not recover such money from the clerk by summary proceedings as the clerk was not the official custodian of the money and did not receive it by virtue of his office. *Western Fruit & Candy Co. v. Petersberger*, 161-436, 143 N. W. 399.

CHAPTER 16.

OF COSTS.

SECTION 3853. Recoverable by successful party.

There must be statutory authority for the taxation of costs. Therefore, one who signs and verifies a complaint in bastardy entitled, "State of Iowa v.," as required by section 5629, the county attorney prosecuting as commanded by law, and the prosecution failing, is not liable for costs. Such a person is not a party to such a proceeding within the meaning

of the above section. *State v. Hess*, 150 N. W. 609.

This section does not apply to costs incurred in quasi-judicial proceedings before an officer or tribunal not necessarily exercising judicial powers. *State Line Democrat v. Keosauqua Independent*, 161-566, 143 N. W. 409.

SEC. 3862. Clerk to tax.

This section does not apply to proceedings before a board of supervisors or county auditor. *State Line Democrat v.*

Keosauqua Independent, 161-566, 143 N. W. 409.

SEC. 3870. Not to be divided—affidavit.

Where an affidavit for attorney fees is filed a year after the filing of the original petition, and three months after the

filing of an amendment to the petition, an allowance of attorney fees is improper. *State Bank v. Gish*, 149 N. W. 600.

TITLE XIX.

OF ATTACHMENTS, GARNISHMENT, EXECUTIONS, AND SUPPLEMENTARY PROCEEDINGS.

CHAPTER 1.

OF ATTACHMENTS.

SECTION 3891. Property attached.

The sheriff of Pottawattamie county may serve the writ within the Council Bluffs district even though issued from the Avoca district, especially when the attached property, at the time the writ issued, was in the Avoca district and was

later removed into the Council Bluffs district. *Pleak v. Marks*, 152 N. W. 63.

Property of a deceased in the possession of his duly qualified administrator is not subject to attachment. *McCoy v. Flynn*, 151 N. W. 465.

SEC. 3909. Delivery bond.

An attachment lien is wholly destroyed by the filing of a petition in bankruptcy within four months, followed by an adjudication of bankruptcy. (Fed. Act, July 1, 1898, c. 541, sec. 67F). The attachment lien being carried down, the delivery bond given by the defendant in attachment un-

der section 3909, conditioned for the delivery of the property, etc., to satisfy any judgment rendered against such defendant, is likewise carried down and the surety is under no other liability thereon. *Cassady v. Hartzell*, 151 N. W. 97.

CHAPTER 2.

OF GARNISHMENT.

SECTION 3943. Failure to appear or answer—cause shown.

Where a garnishee appears in answer to a garnishment citation no additional notice is necessary before judgment is ren-

dered against the garnishee by default for failing to file a sufficient answer. *Bump v. Augustine*, 163-307, 143 N. W. 1104.

SEC. 3944. Paying or delivering.

Where a garnishee paid to the clerk of court, neither by virtue of an order of court nor in pursuance of any statute, money not belonging to the defendant, the owner of the money who had intervened but had withdrawn its petition of intervention before judgment and was not bound thereby could exact payment of the

amount paid to the clerk from the bank or those into whose hands it might trace the fund, as the garnishee could only be exonerated by paying over to the sheriff the amount "owing to the defendant". *Western Fruit & Candy Co. v. Petersberger*, 161-436, 143 N. W. 399.

SEC. 3953. Appeal.

An appeal by a garnishee from a judgment against him is not perfected unless notice of appeal is served on the judgment

defendant. *State Svgs. Bk. v. Guaranty Abstract Co.*, 151 N. W. 512.

CHAPTER 3.

OF EXECUTIONS.

SECTION 3955. Within what time—to other counties—but one.

The right to issue an execution and levy upon real estate exists as long as the judgment remains unpaid and unbarred by the statute of limitations. But after the statutory lien has been lost by the

expiration of ten years, no lien exists until a levy is made under an execution and then only from the date of the levy. *James v. Weisman*, 161-488, 143 N. W. 428.

SEC. 4008. Other exemptions.

In order to establish his claim of exemption the claimant must show that at the time the levy was made he was the head of a family and that the property taken under process falls within the class or classes defined by the statute. *Blair v.*

Fritz, 162-716, 144 N. W. 611.

An insurance agent required to travel about the country is a "laborer" within the meaning of this act, and an automobile is likewise a "vehicle". *Lames v. Armstrong*, 162-327, 144 N. W. 1.

SEC. 4012. "Family" defined.

A family is a collection of persons living under one roof, having one head or management; and the head of a family is one who controls, manages, and supervises the affairs of the household. The relation existing among the group must be of a permanent and domestic character and a mere abiding together tempo-

rarily as strangers, or for convenience, there being no legal or moral obligation on the part of one to support the others, and there being no supervisory power on the part of any one, does not make the group a family. *Blair v. Fritz*, 162-716, 144 N. W. 611.

SEC. 4019. Debts owing for labor preferred.

A labor claimant is not entitled to enforce a claim or lien against property levied on under an attachment but which, after the labor claimant had filed his claim, was, on notice of ownership by a

third party, released by the sheriff to the party claiming ownership. (Sec. 4019-4020, Sup. Code, 1913). *Majestic Co. v. Davis*, 151 N. W. 1069.

SEC. 4036. Subjecting real estate of deceased judgment debtor.

Property of a deceased judgment debtor cannot be subjected to the payment of a judgment which had ceased to be a lien

on such property before the death of the debtor. *James v. Weisman*, 161-488, 143 N. W. 428.

CHAPTER 4.

OF PROCEEDINGS AUXILIARY TO EXECUTION.

SECTION 4084. Compensation of officers and witnesses.

The amount of compensation to be allowed a receiver is largely a matter of dis-

cretion of the trial court. *Herrick v. Davidson*, 164-462, 145 N. W. 907.

TITLE XX.

OF PROCEDURE TO REVERSE, VACATE OR MODIFY JUDGMENTS.

CHAPTER 1.

OF PROCEEDINGS TO REVERSE, VACATE OR MODIFY JUDGMENTS IN THE TRIAL COURTS.

SECTION 4091. Judgment vacated or modified—grounds.

Where it is shown that an assignment for the benefit of creditors is void for non-compliance with the law of assignor's residence and that all the property owned by the debtor and subject to transfer has

not been included in the conveyance, such is a meritorious defense sufficient to sustain the setting aside of the judgment after term time. *Rock Island Plow Co. v. Birby*, 147 N. W. 880.

SEC. 4092. New trial after term.

A petition for new trial may be filed as late as one year after the entry of judgment under exceptional circumstances, but conceding that such petition is amendable it must be perfected within said one year.

New and independent grounds for a new trial cannot be injected into the petition under cover of amendment filed after said one year. *Hall v. Feagins*, 151 N. W. 481.

SEC. 4094. Petition.

The provisions of this section govern in an action by a minor by next friend to set aside an order denying probate to a will brought more than five years after the order was entered, instead of the pro-

visions of Sec. 3447, limiting the time for bringing an action to set aside a will to five years from the time it was filed for probate. *In re Zachary's Estate*, 145 N. W. 883.

CHAPTER 2.

OF PROCEDURE IN THE SUPREME COURT.

SECTION 4101. Appeals from orders.

A decree restraining the collection of taxes is appealable though the amount of taxes for the particular year in question is less than one hundred dollars. *La Grange v. Skiff*, 152 N. W. 486.

An appeal lies from an order striking from the petition allegations wherein recovery is sought on certain items. *Daus v. Short*, 150 N. W. 1047.

All that is necessary to support an appeal from a ruling on a demurrer is to show that the ruling is final, such as where a final judgment is entered or there is an election to stand on the ruling. *Roddy v. Gazette Co.*, 163-416, 144 N. W. 1009.

Orders overruling a motion to vacate an order permitting a third party to become a defendant and overruling a motion to strike a counterclaim of such new defendant where the matters set out in such motions could be set up in a reply to the answer containing the counterclaim held not appealable. *Peter Schoenhoefen Brewing Co. v. Giffey*, 162-204, 143 N. W. 1017.

An appeal lies from the judgment of the district court holding insufficient a petition of consent for the sale of intoxicating liquors. *Hatz v. Hutchinson*, 150 N. W. 14.

SEC. 4105. Motion to correct error.

The Supreme Court will not consider as allegations of error matters upon which the trial court had not first had the opportunity to rule. *Vogt v. Chicago, R. I. & P. Ry. Co.*, 164-158, 145 N. W. 463.

In an action in tort against a corporation and its agents, the error, if any, in entering judgment on a verdict against the corporation, in view of the jury's fail-

ure to return a verdict against the agents, was not reviewable in the supreme court, where no instruction was requested as to the right to recover against the corporation if the jury failed to find its agents liable, and no motion was made for judgment not withstanding the verdict, or for a new trial, on such ground. *Dunshee v. Standard Oil Co.*, 146 N. W. 830.

SEC. 4108. Title of cause.

This section, being remedial, is directory, and there is a sufficient compliance therewith where the identity of the action is preserved and the relation of the parties

is disclosed in the abstract. *Des Moines Savings Bank v. Arthur*, 163-205, 143 N. W. 556.

SEC. 4110. Time for appealing—amount in controversy—certificate.

No certificate is necessary in order to authorize an appeal from a decree restraining the collection of taxes, even though the amount of taxes for the particular year in question is less than one hundred dollars. *La Grange v. Skiff*, 152-486.

The time for appeal is computed from the time of the entry of judgment by the clerk in the proper records and Ch. 205, 33 G. A. [Sec. 4114, Sup. Code, 1913], does not modify this section. *Sievertsen v.*

Chemical Co., 160-662.

An appellant may voluntarily dismiss an appeal once perfected and thereafter and within six months from the date of the judgment take a second appeal and the fact that notice of the second appeal is served before the first is dismissed is not material where the two appeals are treated as entirely separate and no prejudice results. *Pilkington v. Potwin*, 163-86, 144 N. W. 39.

SEC. 4111. Appeal by coparties.

An appeal by a garnishee from a judgment against him is not perfected unless notice of appeal is served on the judgment defendant. *State Svgs. Bk. v. Guaranty Abstract Co.*, 151 N. W. 512.

Questions raised on appeal by part of

the defendants which will be prejudicial to the interests of another defendant who was not served with notice of appeal, will not be considered. *First State Bank of Greene v. Weston*, 145 N. W. 900.

SEC. 4113. Part of judgment or order.

Under the provisions of this and the succeeding section, a reversal upon defendant's appeal, of a judgment in favor of plaintiff on one count of his petition, will not, where the petition contained sev-

eral counts stating different causes of action, work a reversal of a judgment for defendant on other counts. *Seever v. Cleveland Coal Co.*, 147 N. W. 761.

SEC. 4114. Notice.

Notice of appeal need not be necessarily served on every person who, on the face of the record, is a party to the action. *Daniels v. Butler*, 149 N. W. 265.

Where the first name of the person to whom the notice of appeal is addressed is used, the middle name or initial is not a material part of the name, but where his initials are used in place of the Christian or given name they are a material part of the name, and a mistake in one of them renders the notice insufficient to give the Supreme Court jurisdiction even though the notice refers to the book and page where the judgment appealed from is recorded. *Pilkington v. Potwin*, 163-86, 144 N. W. 39.

An appeal apparently taken in good faith and in substantial conformity with the statute will not be dismissed on mere possibilities and conjectures. *Chicago & N. W. Ry. Co. v. Sioux City Stock Yards Co.*,

143 N. W. 560.

An appeal by a garnishee from a judgment against him is not perfected unless notice of appeal is served on the judgment defendant. *State Svgs. Bk. v. Guaranty Abstract Co.*, 151 N. W. 512.

A mere error in stating the date of the judgment appealed from is immaterial when the judgment was otherwise sufficiently described. *Fudge v. Kelly*, 152 N. W. 39.

This amendment [33 G. A., ch. 205] was enacted to relieve against hardship and expense caused by a failure of the clerk to enter judgment as required by Sec. 3777 of the Code, and operates to validate appeals taken before such entry by the clerk, but does not modify the provisions of Sec. 4110 of the Code requiring an appeal to be taken within six months from the rendition of the judgment. *Sievertsen v. Chemical Co.*, 160-662.

SEC. 4118. Abstracts.

Abstracts should show date of trial. *Dake v. Ward*, 150 N. W. 50.

It will be conclusively presumed on the final statement of an appeal that an undenied abstract contains all the evidence, the decree appealed from not reciting the offer or reception of any evidence. *Schlarb v. Schlarb*, 150 N. W. 593.

Facts, applicable to errors relied on, must be specifically pointed out under Rule 53, par. 4, by reference to page and

lines of abstract. *Sullenbarger v. Ahrens*, 150 N. W. 71.

Each assignment of error should be sufficient in itself to disclose the proposition which appellant desires to present. *Chadima v. Kovar*, 150 N. W. 691.

Failure in instant case to comply with rules governing appeals, sufficiently met by taxation of costs. *Graham v. Crissman*, 146 N. W. 756.

SEC. 4120. Dismissal or affirmance.

Failure to serve either defendant or his attorney with abstract or argument entitles defendant to an affirmance on motion. *In re Moynihan's Est.*, 151 N. W. 504.

A party asserting his rights under this statute should ask for the relief provided in the alternative. *Pilkington v. Potwin*, 163-86, 144 N. W. 39.

SEC. 4122. Transcript—when required.

The certificate of the shorthand reporter to the transcript of his "notes" need not be attached to each and every part of such transcript into which it may be divided for convenience in handling. *Daniels v. Butler*, 149 N. W. 265.

That the evidence has not been properly preserved cannot be predicated on a mere clerical error of the official shorthand reporter which misleads no one. *Ibid.*

An action at law is not thrown to the equity side of the calendar by a certification of the record referring to it as a proceeding in equity. *Phoenix Fire Est. Co. v. Sinclair*, 151 N. W. 462.

The office of a transcript is to settle disputes over matters contained in abstracts, not to supply omitted evidence. *City v. McCarthy*, 150 N. W. 586.

SEC. 4128. Stay of proceedings—supersedeas bond.

A final judgment of ouster proceedings against a public officer should not be suspended pending appeal, when the issue of law is apparently conclusive against the right to hold the office. *State ex rel Jeb-*

ens v. Noth, 151 N. W. 822.

Proceedings under a decree are not stayed by appeal, unless a supersedeas bond is filed. *Dolan v. Bartruff*, 145 N. W. 273.

SEC. 4136. No assignment of errors.

An omnibus assignment of error is not sufficient. *Bettinger v. Loring*, 150 N. W. 31.

SEC. 4139. Arguments—submission—decision—objections to jurisdiction.

On appeal from an order of the trial court amending the record, if the hearing in the trial court was full and complete, no offered evidence was excluded, and there is nothing to indicate that any other or different showing could be made upon a re-trial, and the Supreme Court finds that the evidence will not support the order, the Supreme Court may treat the application to amend the record as denied

and make such order as the trial court should have entered. *Hamill v. Schlitz Brewing Co.*, 145 N. W. 511.

A ruling of the trial court sustaining generally a motion for a new trial will not be disturbed unless it is shown that the ruling cannot be sustained on any of the grounds set forth in the motion. *Davis v. Central Land Co.*, 162-269, 143 N. W. 1073.

SEC. 4141. Damages for delay.

Section applied by an award of five per cent on the judgment by way of penalty for taking appeal solely to postpone pay-

ment. *Johnson v. Hawkeye Comm. Men's Assoc.*, 152 N. W. 561.

SEC. 4142. Costs taxed.

Failure in instant case to comply with rules governing appeals sufficiently met

by taxation of costs. *Graham v. Crissman*, 146 N. W. 756.

SEC. 4151. Dismissal of appeal.

The defendant who takes an appeal after the plaintiff has perfected his appeal, and argues on appeal solely for an

affirmance of the judgment of the lower court, in effect abandons his appeal. *Scott v. Brenton*, 150 N. W. 56.

CHAPTER 3.

OF CERTIORARI.

SECTION 4154. When writ may issue.

Certiorari will not lie from the judgment of the district court holding insufficient a petition for consent for the sale of intoxicating liquors. *Hatz v. Hutchinson*, 150 N. W. 14.

A writ of certiorari will not issue because of the refusal of a trial court to give precedence to an appeal from an order of the board of supervisors finding a statement of consent to a sale of liquors to be sufficient, the regulation of cases pending before it being within the court's discretion. *Jewett v. Ayres*, 149 N. W. 529.

Certiorari will not lie to review errors and illegalities in the establishment of a drainage district under chapter 2-A, Title X, which might be reviewed on appeal. *Goepfinger v. Board*, 152 N. W. 58.

Certiorari will not lie to annul an order of a trial court for the production of books and papers, since the court has power to order their production, and if the order were wrongly entered, it would be error only, and not an illegal act. *Dalton v. Calhoun County Dist. Ct.*, 164-187, 145 N. W. 498.

Certiorari will lie to correct the action of the lower court in denying to defendant a right to a jury trial in a proceeding wherein appointment of a guardian for defendant is sought on the ground of defendant's mental incapacity. To deny the defendant the jury in such a proceeding

is an "illegality" for which appeal affords no adequate relief. *Timonds v. Hunter*, 151 N. W. 961.

A writ of certiorari to review contempt proceedings for violation of the intoxicating liquor statute should be directed to the presiding judge by name, who heard and decided the proceedings. *Tuttle v. Hutchinson*, 151 N. W. 845.

If a writ of certiorari is defective it should be reached by motion to quash the writ, not by objection to the jurisdiction of the court to which return is made. *Ibid.*

Certiorari will not lie where a lower court acted erroneously but not in excess of its jurisdiction. Such errors must be cured by appeal. *Ryan v. Hutchinson*, 161-575, 143 N. W. 433.

An executor is a representative of the estate, and when proper notice is given of a hearing of his final report, and the parties notified fail to appear or appearing do not appeal from ruling on the objections, and the executor does not appeal therefrom, then such rulings become final and certiorari will not lie to review the proceedings. *Ibid.*

"Illegally" means something different from "erroneously", and is generally interpreted as in excess of jurisdiction. Errors not illegal or void because of lack of jurisdiction must be cured by appeal. *Ibid.*

SEC. 4157. Petition.

No notice as to the time, place, and court or judge before whom the application will be made is necessary where no

stay of proceedings is sought. *Dalton v. Calhoun County District Court*, 164-187, 145 N. W. 498.

SEC. 4160. Trial—judgment.

On certiorari, evidence is wholly inadmissible unless it bears on the question whether the inferior tribunal acted in ex-

cess of jurisdiction, or illegally. *Hatch v. Board*, 152 N. W. 28.

TITLE XXI,

OF PROCEDURE IN PARTICULAR CASES.

CHAPTER 2.

OF ACTIONS FOR THE RECOVERY OF REAL PROPERTY.

SECTION 4195. Verdict—special.

In an action to recover a strip of land between a partition fence built by defendant and the true line, the court may properly submit to the jury an interroga-

tory, inquiring as to the distance, if any, that the new fence was from the old line. *Behrend v. Hartwig*, 147 N. W. 330.

CHAPTER 3.

OF ACTION FOR FORCIBLE ENTRY OR DETENTION OF REAL PROPERTY.

SECTION 4217. Possession—bar.

An action of forcible entry and detainer is barred by delaying the commencement of the action for more than 30

days after the three-day notice was given. *McRobert v. Bridget*, 149 N. W. 906.

SEC. 4218. No joinder or counter-claim.

Where the plaintiff in an action of forcible entry and detainer, after appeal to the district court, amended his petition by leave of court and asked for \$385 dam-

ages, the court did not err in sustaining a motion to strike such amendment. *Woods v. Wenger*, 163-445, 144 N. W. 996.

CHAPTER 4.

OF ACTION TO QUIET TITLE.

SECTION 4223. Who may bring action.

Suit will lie to remove an apparent cloud upon the title to plaintiff's homestead occasioned by a valid judgment

against her, though the judgment is not a lien against the homestead. *French v. Bartel & Miller*, 146 N. W. 754.

SEC. 4225. Disclaimer—costs.

A disclaimer of all interest in lands, the subject of partition proceedings, and the entry of a decree excluding the one filing the disclaimer from all interest in the lands, will not be set aside on the ap-

plication of a subsequently appointed guardian except upon very clear proof of mental incapacity. *Roberts v. Bissell*, 151 N. W. 45.

SEC. 4226. Demand for quit claim—attorneys' fees.

Defendants in a partition proceeding, brought in good faith, who file a cross-bill cannot, upon making the request and tender provided by this section, in the time provided, before filing their cross-bill, claim the statutory attorney's fee on

having their title established and quieted on the cross-bill, as it is not intended that such fee be taxed against a party asserting what he in good faith believes to be a valid title. Furthermore, the allowance of such fee is discretionary with the

trial court. *Collier v. Wetmore*, 145 N. W. 944.

Where a valid judgment was rendered against plaintiff before her acquisition of her homestead, and after having made demand for a quit claim deed and having been refused, she prosecutes an action to quiet title against said judgment, held that

the fact that the judgment was enforceable against plaintiff's non-exempt property, and was not sought to be enforced against the homestead, would not prevent the allowance of an attorney's fee to plaintiff. *French v. Bartel & Miller*, 146 N. W. 754.

CHAPTER 4-A.

OF THE RESTORATION OF LOST OR DESTROYED RECORDS.

SECTION 4227-e. Costs of restoration—how paid. Whenever any public record is restored, as provided in this section, all court costs and necessary expenses of restoring the same shall be paid by the county to which said records belong, whether said action is commenced or prosecuted by a county official or by the owner of any real estate authorized to maintain such action. [36 G. A. (S. F. 438, § 1.)]

CHAPTER 5.

OF ACTIONS TO ESTABLISH DISPUTED CORNERS AND BOUNDARIES.

SECTION 4228. When allowed.

The term "land" in this section includes city lots. And this section contemplates the bringing in, as parties to the action, of all the owners of other tracts that will

be affected by the determination of the corners and boundaries. *Lawrence v. Weiss*, 163-584, 145 N. W. 308.

SEC. 4230. Pleadings—trial of issue.

An issue of which of two claimed boundary lines is the true one may be tried by the court before a commissioner is appointed. *Schoen v. Harris*, 162-321, 143 N. W. 1108.

Where a purchaser of land described in a certain way supposed that he had purchased about fourteen acres less than the land really measured and he and his heirs remained in possession claiming all

the tract for 40 years, they thus acquired title by acquiescence. *Griffith v. Murray*, 147 N. W. 855.

In a particular case, the petition, in the absence of a motion for more specific statement, held sufficiently definite as to the corners and boundaries claimed to have been lost or in dispute. *Lawrence v. Weiss*, 163-584, 145 N. W. 308.

SEC. 4233. Hearing.

Everything yields to established monuments, even though these monuments be

obliterated. *Martin v. Frazier*, 152 N. W. 14.

SEC. 4235. Exceptions—hearing in court.

Evidence in support of exceptions to the report of a commissioner cannot be by affidavit but must be by witnesses called

and examined. *Schoen v. Harris*, 162-321, 143 N. W. 1108.

SEC. 4236. Corners and boundaries established.

Boundary lines "by acquiescence" take precedence over surveys and descriptions in deeds. Acquiescence is simply mutual agreement implied. May become conclusive after ten years.

(a). Doctrine discussed and applied as to farm lands: *Miller v. Mills Co.*, 111-654; *Palmer v. Osborne*, 115-714; *Law-*

rence v. Washburn, 119-109; *Buch v. Flanders*, 119-164; *Handorf v. Hoes*, 121-79; *Künkefus v. Vanmeter*, 122-412; *Hardon v. Stultz*, 124-734; *Watson v. Hogan*, 130-350; *Andrews v. Meredith*, 131-716; *Uker v. Wagner*, 132-79; *McBride v. Bair*, 134-661; *Boltz v. Colsch*, 134-480; *Quade v. Pillard*, 135-359; *Leathers v. Ober-*

lander, 139-179; *Keller v. Harrison*, 139-383; *Gordon v. Matthes*, 149-401; *Shelby v. Ramsey*, 149-503; *Weikamp v. Jungers*, 150-292; *Matson v. Poncain*, 152-569; *Fredericksen v. Bierent*, 154-34; *Burdick v. Heivly*, 23-511; *Brown v. Bridges*, 31-138; *Foulke v. Stockdale*, 40-99; *Meyer v. Weighman*, 45-579; *Hiatt v. Kirkpatrick*, 48-78; *Tracy v. Newton*, 57-210; *Davis v. Curtis*, 68-66; *Griffith v. Murray*, 147 N. W. 855; *Dake v. Ward*, 150 N. W. 50; *Fallers v. Hummel*, 151 N. W. 1081.

(b). As to town lots: *Kulas v. McHugh*, 114-188; *Klinker v. Schmidt*, 114-695; *Corey v. City*, 118-742; *O'Callaghan v. Whisenand*, 119-566; *Bevering v. Smith*, 121-607; *Rattray v. Talcott*, 124-398; *Lougee v. Shuhart*, 127-173; *Laughlin v. Francis*, 129-62; *Erikson v. Slate*, 130-187; *Kitchen v. Chautland*, 130-618; *Liddle v. Blake*, 131-165; *Younker v. White*, 136-23; *Atkins v. Pfaffe*, 136-728; *Leifheit v. Neylon*, 139-32; *Bradley v. Burkhart*, 139-323; *Anderson v. Buchanan*, 139-676; *Webster v. Shrine Temple Co.*, 141-325;

Johnson v. City, 153-493; *Investment Co. v. Burnham*, 143-134; *Crapo v. Cameron*, 61-447; *Kennedy v. Niles*, 96 N. W. 772; *Griffin v. Brown*, 149 N. W. 833.

(c). As to highway boundaries: *Buch v. Flanders*, 119-164; *Axmear v. Richards*, 112-657; *Markham v. City*, 122-689; *Quinn v. Baage*, 138-426; *Johnson v. City*, 153-493; *Sutton v. Mentzer*, 154-1; *Corey v. Ft. Dodge*, 118-742; *City v. Edgington*, 130-151.

(d). As to railway depot boundary lines: *Chicago, etc., v. Hanken*, 140-372; *Iowa, etc., v. Homan*, 151-404.

The presumption of acquiescence arising from long use of a fence as a boundary line is not overthrown, in instant case, by the testimony of plaintiff who delayed action for 17 years and until the other owner was dead. *Dake v. Ward*, 150 N. W. 50.

The absolute right to maintain a boundary line in a certain place may be acquired by adverse possession. *Ibid.*

CHAPTER 6.

OF PARTITION.

SECTION 4240. By equitable proceedings—no joinder or counterclaim.

This and following sections clearly contemplate the joining of issue as to title between certain parties to partition proceedings, even though the other parties to the same proceeding have no concern in such issue. So held where the issue was whether an illegitimate child had a right to inherit along with the legitimate children, the widow having no financial concern in such issue. *Granger v. Granger*, 152 N. W. 503.

A widow is a necessary party to parti-

tion proceedings. Being such necessary party no misjoinder of parties results from joining her with legitimate and illegitimate children of deceased, even though the widow has no concern with the question whether the illegitimate child has a right to inherit. *Ibid.*

The trial *de novo* of partition proceedings involves the determination of the respective shares without remand to the lower court. *Price v. Ewell*, 151 N. W. 79.

SEC. 4244. Lien creditors.

Owners on partition are entitled to reimbursement out of the property as a whole for the amount necessarily paid to

effect redemption from tax sale. *Price v. Ewell*, 151 N. W. 79.

SEC. 4247. Reference to ascertain incumbrances.

Where a widow took her distributive share but did not have the same partitioned, and allowed different heirs to erect valuable improvements on the land, such

heirs are entitled to credit for their expenditures in an action to partition after the death of the widow. *Berry v. Donald*, 150 N. W. 1048.

SEC. 4261. Attorneys' fees.

Attorneys' fees cannot be allowed at the expense of the common property when the title to the property is in issue, each liti-

gant being represented by an attorney of his own choosing. *Berry v. Donald*, 150 N. W. 1048.

CHAPTER 7.

OF THE FORECLOSURE OF MORTGAGES.

SECTION 4288. Separate suits on note and mortgage.

A plaintiff bringing separate actions on a note and on a mortgage in the same county and at the same time will be re-

quired to elect which he will maintain. *Des Moines Savings Bank v. Arthur*, 163-205, 143 N. W. 556.

SEC. 4299. Forfeiture—notice.

The failure to exercise a naked "option" to purchase land terminates all right there-
to. *Stone v. Powell*, 150 N. W. 15.

Under a contract of purchase of real estate containing a provision that if either party to it made default or refused to

comply with its conditions such party should forfeit \$150, the vendor could not claim a forfeiture without serving the statutory notice even though the vendee had served a notice on him of rescission. *Pardoe v. Jones*, 161-426, 143 N. W. 405.

SEC. 4301. Terms of contract.

A forfeiture of a vendee's rights under a contract for the sale of real estate containing no forfeiture provisions, or a forfeiture of advance payments made there-
under, cannot be had unless thirty days'

written notice of intention to forfeit is served on the vendee before a declaration of forfeiture is made. *Waters v. Pearson*, 163-391, 144 N. W. 1026.

CHAPTER 8.

OF ACTIONS FOR NUISANCE, WASTE AND TRESPASS.

SECTION 4302. Nuisance—what constitutes—action to abate.

An action in equity to enjoin the raising of a dam, coupled with one for damages sustained on account of the dam, cannot be joined in the same action, because

one is in equity and the other law and they cannot be tried by the same proceedings. *Watt v. Robbins*, 160-587.

CHAPTER 9.

OF ACTIONS TO TEST OFFICIAL AND CORPORATE RIGHTS.

SECTION 4324. Judgment of ouster.

A final judgment of ouster proceedings against a public officer should not be suspended pending appeal, when the issue of

law is apparently conclusive against the right to hold the office. *State ex rel Jebens v. Noth*, 151 N. W. 822.

CHAPTER 11.

OF ACTIONS OF MANDAMUS.

SECTION 4341. Definition.

Mandamus will lie to compel the return of taxes illegally exacted. *Comm'l Bank v. Board*, 150 N. W. 704.

CHAPTER 14.

OF ARBITRATION.

SECTION 4385. What controversies.

An arbitration under this section, or at common law, presupposes the existence, at the time, of a claim or right which is in dispute and affords a means whereby the question may be determined without litigation but a consummated agreement

to have disinterested persons fix the apportionment of the cost of drainage, made as a part of the agreement therefor, is not an arbitration as so defined. *Irwin v. Hoyt*, 162-679, 144 N. W. 584.

CHAPTER 16.

OF HABEAS CORPUS.

SECTION 4453. Plaintiff held.

Defendant is not entitled to discharge from custody because of the failure to enter a judgment against him on his plea of guilty. The limit of his right is to be remanded to the custody of the sheriff of the county to await proper procedure under the information. *Jones v. McClaughry*, 151 N. W. 210.

CHAPTER 17.

OF CONTEMPTS.

SECTION 4465. Notice to show cause.

In contempt proceedings to punish a violation of an injunction against the unlawful sale of liquors, the only papers permitted or authorized to be filed are (a) an information under oath setting forth the violation, and (b) at the option of the accused a written explanation under oath of his conduct. On these and these alone the court must proceed to find the very truth of the charge, unfettered by the ordinary rules of pleading. *Tuttle v. Hutchison*, 151 N. W. 845.

SEC. 4468. Review by certiorari.

While the findings of fact made by the trial judge are not conclusive, yet they are entitled to great weight, especially when the testimony is conflicting. *Keenhold v. Dudley*, 151 N. W. 1076.

TITLE XXII.

OF JUSTICES OF THE PEACE AND THEIR COURTS.

CHAPTER 1.

OF JUSTICES OF THE PEACE AND THEIR COURTS.

SECTION 4477. Amount in controversy.

Where consent to the jurisdiction of a justice of the peace, the amount in controversy exceeding \$100.00, is in fact given, the justice's judgment in favor of plaintiff for more than \$100.00 is valid though no record of the consent is made in the justice's docket. *Christensen v. Esbeck*, 149 N. W. 76.

SEC. 4547. Amount in controversy.

An appeal will not lie in an action wherein plaintiff's claim is \$20 and defendant's counterclaim is \$6.50. *Morrow v. Bell*, 151 N. W. 1084.

SEC. 4552. Form of bond.

The failure of the justice to mark the bond "filed" is not a jurisdictional defect. *Brown v. Melloon*, 152 N. W. 75.

The bond here provided for need not be signed by the appellant. A signing by the sureties alone is sufficient. *Ibid.*

SEC. 4559. Affirmance—trial.

Appellee has no right to an affirmance unless appellant has failed to do two things, to wit: (1) Failed to docket the case, (2) failed to pay the docket fee. Therefore an affirmance should be set aside when the attorney for appellant had an

arrangement with the clerk to docket without fee in advance all appeal cases in which said attorney was interested and the clerk inadvertently failed to do so. *Miller v. Bryson*, 152 N. W. 568.

SEC. 4563. New demand.

Where the plaintiff in an action of forcible entry and detainer, after appeal from the justice to the district court, amended his petition by leave of court and

asked for \$385 damages, held that the court did not err in sustaining a motion to strike such amendment. *Woods v. Wenger*, 144 N. W. 996.

SEC. 4566. Judgment on appeal bond.

Judgment against surety necessarily follows judgment against appellant. An entry on the calendar "judgment against defendant on note and costs, clerk assess"

clearly includes a direction to enter judgment against the surety as well. *Locher v. Livingston*, 150 N. W. 614.

TITLE XXIII.

OF EVIDENCE.

CHAPTER 1.

OF GENERAL PRINCIPLES OF EVIDENCE.

SECTION 4601. Witnesses—who competent.

The sole object of this section is to enable parties to avail themselves of all material evidence. *Meikle v. Hobson*, 149 N. W. 865.

SEC. 4604. Transaction with person since deceased.

Prejudicial error cannot be predicated on the reception of evidence of personal transactions with a deceased person when the matter in issue was fully established by other competent evidence. (Equity cases.) *Scott v. Brenton*, 150 N. W. 56; *Stewart v. Whicher*, 150 N. W. 64.

The dismissal of a will contest as to a son of testatrix, who it was claimed had received advancements equalling his interest, does not render him a competent witness as to a conversation with testatrix, where there was no showing that the advancements did in fact equal his interest. *James v. Fairall*, 148 N. W. 1029.

The wife of one of the heirs is not a competent witness as to a conversation with testatrix. *Ibid.*

In a proceeding on a claim against the estate of a deceased person, the claimant is not incompetent to testify as to how much of his property deceased received, where it appears that deceased received possession thereof during the claimant's absence. *Beatty v. Snouffer*, 164-746, 146 N. W. 844.

A person falling within the prohibitions of this section may testify to the genuineness of a signature to an assignment made by a decedent upon showing familiarity therewith; also that the instrument was in his or her possession before the death of the decedent. *In re Baker's Estate*, 164-305, 145 N. W. 898.

One incompetent to testify to a personal transaction with deceased may be perfectly competent to give his opinion as to the handwriting of deceased. *Daniels v. Butler*, 149 N. W. 265.

One claiming part of intestate's land under a contract binding intestate to bequeath same to him is incompetent to testify that he saw intestate sign such contract. *Ibid.*

The mother of an illegitimate child is not an incompetent witness under this section to testify that a certain person is the

father of such illegitimate child. *Robertson v. Campbell*, 147 N. W. 301.

In a suit by an illegitimate child to quiet title to real estate of her deceased father, the testimony of her mother that decedent was plaintiff's father was not incompetent, neither was plaintiff's own testimony that she had learned from an aunt since dead that decedent was her father, nor that she had suffered slights because of her parentage nor that she had met decedent in a hotel with her brother and sister who had introduced him to a third person as her father. *Ibid.*

A witness is not excluded from merely stating what he "observed". *Nomack v. Horsley*, 152 N. W. 65.

The exception relating to the examination of the persons specified in this section on their own behalf only opens the way for proving an entire conversation or transaction when a part of it has been proved by the opposite party or when the proof of such party is such as to disclose the conversation or transaction in whole or in part and thereby subject it to investigation and proof in its entirety. So that testimony of a woman as to conversations with a deceased tending to show an agreement of marriage is incompetent, except as bearing upon her intent and the circumstances under which their relations were begun and continued. *In re Wittick's Estate*, 164-485, 145 N. W. 913.

The court will not presume that certain testimony constitutes or is part of a personal transaction with a deceased person. Such fact must appear from the circumstances or the objecting party must show it. *Scott v. Brenton*, 150 N. W. 56.

A party to an action may testify fully to a personal transaction with a person deceased when the testimony of such deceased person as to such personal transactions is introduced into the record by his adversary. *Steen v. Steen*, 150 N. W. 115.

Whether, in order to defeat a boundary

line by acquiescence, plaintiff, the present owner of one tract of land, may establish his non-acquiescence in the line in question by showing his conversations with a former owner, now deceased, of the adjoining tract, the defendant being the successor in interest of such deceased former owner, *quaere*. *Dake v. Ward*, 150 N. W. 50.

The party objecting to testimony and a witness, because incompetent under this section as calling for personal communication on a certain point in issue with a party insane, waives such objection by adopting such testimony "as his own testimony", even though in such adoption he attempts to preserve his former objection. In other words, such party after making such a record will not be permitted to in-

sist on the probative force of such part of the "communication" as is favorable to him, and to deny the probative force of that which militates against him. *Cooper v. Olson*, 150 N. W. 1028.

The testimony of a beneficiary under the will of a decedent as to personal transactions with decedent is inadmissible even though the witness would testify adversely to her own interest and defeat the bequest to herself if her testimony should prevail. *In re Martin's Will*, 142 N. W. 74.

A witness, though interested, is competent to testify to the transaction with a deceased person in which the witness took part. *Hughes v. Silvers*, 151 N. W. 514; *Steen v. Steen*, 150 N. W. 115.

SEC. 4608. Communications in professional confidence.

The element of malice will destroy the privileged character which ordinarily attaches to communications between attorney and client. So held in an action by plaintiff against an attorney for writing

false and defamatory matters to his client of and concerning plaintiff. *Simons v. Petersberger*, 151 N. W. 392.

Section applied. *Shuttlefield v. Niel*, 163-470, 145 N. W. 1.

SEC. 4613. Previous conviction.

One testifying in his own behalf may be impeached by introduction of the rec-

ord of his conviction of a felony in a sister state. *State v. Foxton*, 147 N. W. 347.

SEC. 4615. Whole of a writing or conversation.

Where plaintiff introduced in evidence certain allegations in some of the affirmative defenses pleaded by defendant, the defendant, while entitled to introduce all that part of his answer referring to the same subject as the part introduced by the plain-

tiff, could not introduce the entire answer where the offer was unrestricted and part of the answer was inadmissible. *Allen v. Travelers' Protective Ass'n*, 163-217, 143 N. W. 574.

SEC. 4617. Understanding of parties to agreement.

This section has no application where the language of a contract is plain and unambiguous, and does not warrant the introduction of oral testimony to vary the

clearly expressed intent of the contract. *Hartley v. Lapidus & Holub Co.*, 216 Fed. 92.

SEC. 4620. Handwriting.

The signature to a written instrument, by a party since deceased, may be proven by the testimony of one who saw it placed there, or by the testimony of those who are familiar with the handwriting of the de-

ceased, or know his signature, or it may be proven by the testimony of experts by comparison, or by the jury comparing it with writing proved to be genuine. *In re Chismore's Estate*, 147 N. W. 297.

SEC. 4623. Books of account—when admissible—photographic copy as part of deposition.

In an action for a partnership accounting where it appeared that the entries covering sales and expenditures in partnership books which had been kept by plaintiff were not always in chronological order, and the evidence showed that plaintiff

made such entries as of their correct date at about the times he obtained knowledge of the various transactions had by his partner when absent, such books were properly admitted in evidence. *Trainor v. Robyn*, 164-508, 146 N. W. 450.

SEC. 4625. Statute of frauds—contract in writing.

Par. 1. Where a team was bought and sold under an oral contract and delivery was made by the seller to a third person, pursuant to the direction of the purchaser, such delivery takes the transaction from under the rule of this statute, and the sale contract may be proved by parol testi-

mony. *Munroe v. Mundy & Scott*, 146 N. W. 819.

Par. 4. An oral agreement between two adjoining landowners to enlarge the outlet to a joint system of drainage already existing on their land is not a contract for the transfer of interest in lands within the

meaning of the statute of frauds. If conceded to be within the statute the performance by one party in the instant case renders the agreement enforceable. *Dugers v. Kelly*, 150 N. W. 27.

Par. 4. This section is no impediment to an action by a principal against his agent to compel the assignment of a contract for the purchase of land, which the agent had

fraudulently taken in his own name, instead of the name of his principal. *Havener Land Co. v. McGregor*, 149 N. W. 617.

Par. 5. Contracts not to be performed within one year from the making thereof, within the statute of frauds, apply only to those contracts not to be performed by either party within one year. *Witthauer v. Wheeler*, 150 N. W. 46.

SEC. 4626. Exceptions.

Performance of services under an oral contract to transfer real and personal property is a payment of the consideration or purchase money. *Hurst v. Jenkins*, 161-414, 143 N. W. 401.

The act of one in making a deposit in a bank can avail nothing by way of part performance when he was authorized to make the deposit only in case of an acceptance of an offer to buy land, and the

evidence showed there was no acceptance. *Hinz v. Middlekauff*, 150 N. W. 607.

A parol contract within the statute of frauds is not void but unprovable. In so far as it has been performed it has been taken out of the statute. *Hahnel v. Highland Park College*, 152 N. W. 571.

The term "purchase money" is synonymous with consideration. *Rohrbach v. Hammill*, 162-131, 143 N. W. 872.

SEC. 4648. Presumption of regularity.

Where a justice's record shows a good return and service of notice by a constable, there is a presumption in favor of

the validity of service which can be overcome only by positive proof. *Christensen v. Esbeck*, 149 N. W. 76.

SEC. 4651. Printed copies of the statutes.

Printed copies of statutes of a sister state which do not purport to show that they have been published under the authority of such state, or which have been proved to have been so published, or proved

to be commonly admitted as evidence in the courts of such state, are not admissible in evidence. *Rudolph Hardware Co. v. Price*, 145 N. W. 910.

SEC. 4654. Books and papers—how procured.

Petition held sufficient under this section in showing that books and papers sought were material to an issue in the case. Also that it was within the discretion of the trial court to grant an order for the production of books and papers

where the admissions in the answer were as broad as the allegations of the petition on the issue to which the books and papers were material. *Dalton v. Calhoun County Dist. Ct.*, 164-187, 145 N. W. 498.

SEC. 4667. When party fails to obey subpoena.

This section is justification for the rule that a party to an action has no right to take the deposition of his adversary, because the adversary resides in a county different from that of the place of the trial,

when the attendance and testimony of the adversary may be secured upon the trial by compulsion. *Meikle v. Hobson*, 149 N. W. 865.

SEC. 4684. Depositions—when taken and by whom.

A party to an action has no right to take the deposition of his adversary, because the adversary resides in a county different from that of the place of the trial, when the attendance and testimony of the adversary may be secured upon the

trial by compulsion. *Meikle v. Hobson*, 149 N. W. 865.

Whether depositions may be read by counsel during argument to the jury is discretionary with the court. *Van Vliet v. Crowell*, 149 N. W. 861.

SEC. 4712. Exceptions.

Refusal to answer proper cross-interrogatories in a deposition is sufficient ground for suppressing the deposition.

Carpenter v. Modern Woodmen of America, 160-602.

SEC. 4713. Hearing.

Refusal to answer proper cross-interrogatories in a deposition is sufficient ground for suppressing the deposition.

Carpenter v. Modern Woodmen of America, 160-602.

PART FOURTH.

CODE OF CRIMINAL PROCEDURE.

TITLE XXIV.

OF CRIMES AND PUNISHMENTS.

CHAPTER 2.

OF OFFENSES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS.

SECTION 4751. Manslaughter.

That element of intent necessary to support manslaughter inheres in conduct showing a reckless disregard and indifference to the lives and safety of others resulting in death. Therefore, where the court instructed that such recklessness must be found before conviction could be returned, its farther statement that the law presumed an intent to kill from such reckless conduct resulting in death, was without any prejudice to defendant. *State v. Biewen*, 150 N. W. 102.

Evidence is not admissible, in order to reduce a homicide to manslaughter, that a husband killed his wife's paramour while

he, the husband, was in a fury of high passion excited and instigated by the illicit relations, unless such offer of evidence is preceded by evidence that the provocation was *present*, that it was so recent that reason had had no reasonable time to take the place of high passion. If such reasonable time had elapsed beyond all reasonable doubt, then the court should exclude the evidence as a matter of law. If the court is in doubt, the safer course is to admit the evidence, under proper instructions to the jury. *State v. Thomas*, 151 N. W. 842.

SEC. 4756. Rape.

Acts and transactions, other than the one charged in the indictment, and constituting crimes in themselves, are admissible when so closely related in point of time and place and so intimately associated with each other that they form one

continuous transaction. *State v. Robinson*, 152 N. W. 590.

Delay in making complaint of a charge of rape goes to its probative force and not to its admissibility. *State v. Vochoski*, 150 N. W. 53.

SEC. 4758. Carnal knowledge of imbecile or insensible female.

A person convicted under this section has no constitutional right to be sentenced for a definite term but may under section 5718-a13 of the 1913 Supplement to the

Code be sentenced to imprisonment until lawfully released. *McKinnon v. Sanders*, 161-555, 143 N. W. 407.

SEC. 4759. Attempt to produce miscarriage. If any person, with intent to produce the miscarriage of any woman, wilfully administer to her any drug or substance whatever, or, with such intent, use any instrument or other means whatever, unless such miscarriage shall be necessary to save her life, he shall be imprisoned in the penitentiary for a term not exceeding five years, and be fined in a sum not exceeding one thousand dollars. [36 G. A. (S. F. 30, § 1.)] [19 G. A., ch. 19.] [C. '73, § 3864.] [R., § 4221.]

It must be charged in the indictment, and proved beyond a reasonable doubt, that the act was not necessary to save the

woman's life. *State v. Moon*, 148 N. W. 1001.

SEC. 4762. Seduction.

A woman impure in mind and conduct is unchaste, even though she has never

had carnal knowledge of man. *State v. Valvoda*, 152 N. W. 21.

SEC. 4775-a. Desertion defined—penalty.

A husband charged with wife desertion may not show that she was unchaste at the time of his first marriage to her or at the time of his second marriage to

her after divorce, unless he shows that such unchastity caused her pregnancy which existed at the time of the second marriage. *State v. Hill*, 161-279.

SEC. 4775-e. Prima-facie evidence of wilful desertion or neglect.

A husband who wilfully and without good cause abandons his wife and neglects or refuses to provide for her, she being

in destitute circumstances, has the burden of proving that he was unable to provide for her. *State v. Hill*, 161-279.

CHAPTER 3.

OF OFFENSES AGAINST PROPERTY.

SECTION 4787. Burglary.

An indictment hereunder "with intent to commit adultery" need not allege the name of the person with whom defendant

intended to commit adultery. *State v. Hall*, 150 N. W. 97.

SEC. 4791. Other breakings and enterings.

Pushing open a door which is closed, but not locked, or pushing open an inner door in a house, which is closed and an entry thereby, is a breaking and entering within the meaning of this section. *State v. Perry*, 145 N. W. 56.

tent to commit adultery. *State v. Hall*, 150 N. W. 97.

Adultery is a "public offense" within the meaning of this section. *Ibid.*

Evidence reviewed and held sufficient to sustain conviction for "entering" a dwelling house in the nighttime with in-

This section, with section 5652, Sup. Code, 1913, authorizes a sentence of imprisonment at hard labor for burglary. *Ibid.*

CHAPTER 4.

OF MALICIOUS MISCHIEF AND TRESPASS.

SECTION 4807. To highways, bridges, railways, telegraph lines, water or gas plants, etc.

An indictment for maliciously injuring or destroying an electrical apparatus under Sec. 4807, Sup. Code, 1913, should, among other essential allegations, allege (a) the particular apparatus injured, (b) that it

was an electrical apparatus, (c) the ownership of said apparatus, and (d) if the ownership is in a corporation, the fact of incorporation should be alleged. Proof must meet and sustain the allegations. Proof

showing the existence of a corporation *de facto* is sufficient. *State v. Bosworth*, 152 N. W. 581.

It is not necessary for the court to define the word "remove". So held under a charge

of maliciously removing a street car. *Ibid.*

Under a charge of maliciously "removing and destroying" a street car, a conviction cannot be supported on evidence of a mere "injury". *Ibid.*

CHAPTER 5.

OF LARCENY AND RECEIVING STOLEN GOODS.

SECTION 4842. Other embezzlement.

Evidence of other transactions shown to be fraudulent is admissible to show fraudulent intent, in a prosecution under this section. *State v. Boggs*, 147 N. W. 934.

CHAPTER 7.

OF OFFENSES AGAINST PUBLIC JUSTICE.

SECTION 4905. Misdemeanors in general.

The hiring of a school teacher at less than the minimum wage as provided by law is a misdemeanor under the provisions of this section, even though the statute does not in express words make such violation a crime. *Bopp v. Clark*, 147 N. W. 172.

CHAPTER 8.

OF OFFENSES AGAINST THE RIGHTS OF SUFFRAGE.

SECTION 4931-a. Political advertisements, etc., to be signed—penalty. Whoever writes, prints, posts or distributes, or causes to be written, printed, posted or distributed, a circular, poster or advertisement which is designed to promote the nomination or election of a candidate for public office or to injure and defeat the nomination or election of any candidate for public office, or to influence the voters on any constitutional amendment, or to influence the vote of any member of the legislature, unless there appears upon such circular or poster or advertisement, in a conspicuous place, either the name of the chairman or secretary or of two officers of the organization issuing the same, or of the person who is responsible therefor, with his name and address, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding one hundred dollars, or imprisoned in the county jail not to exceed thirty days, or by both such fine and imprisonment.

Provided, that nothing in this act shall apply to the editorial or news advertisements of any magazine or newspaper where the same is not a political advertisement, nor to cards, posters, lithographs or circulars, issued by a candidate advertising his own candidacy. [36 G. A. (H. F. 479, § 1.)]

CHAPTER 9.

OF OFFENSES AGAINST CHASTITY, MORALITY AND DECENCY.

SECTION 4932. Adultery.

Statute construed and evidence held to make jury question as to whether accused's wife knowingly signed the information. *State v. Conklin*, 146 N. W. 821.

SEC. 4936. Incest.

Intercourse between a man and the daughter of his wife's brother, his niece by affinity, is not within the prohibition of this section. *State v. Andrews*, 149 N. W. 245.

SEC. 4939. Keeping house of ill fame.

A hack used for the purpose of prostitution and lewdness is a house of ill fame within the meaning of this section. *State v. Render*, 163-339, 144 N. W. 208.

SEC. 4944-a. Houses of lewdness, assignation and prostitution.

The act, of which this section is a part, never became a law by reason of the failure of the Speaker of the House of Representatives to sign the enrolled bill. *State v. Lynch*, 151 N. W. 81.

NOTE: Sections 4944-a to 4944-h, inclusive, supplement to the code, 1913, were, under the ruling in *State vs. Lynch*, 151 N. W. 81, never constitutionally enacted. The following eleven sections constitute a re-enactment of said old sections, with additions. REPORTER.

SEC. 4944-h1. Houses of prostitution and equipment thereof declared a nuisance—injunction. Whoever shall erect, establish, continue, maintain, use, own or lease any building, erection or place used for the purpose of lewdness, assignation or prostitution is guilty of a nuisance, and the building, erection or place, or the ground itself, in or upon which such lewdness, assignation or prostitution is conducted, permitted or carried on, continued or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such public nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided. [36 G. A. (S. F. 329, § 1.)] [33 G. A., ch. 214, § 1.]

SEC. 4944-h2. Injunction—procedure. Whenever a nuisance is kept, maintained or exists, as defined in this act, the county attorney or any citizen of the county or any society, association or body, incorporated under the laws of this state, may maintain an action in equity in the name of the state of Iowa, upon the relation of such county attorney, citizen, or corporation to perpetually enjoin said nuisance, the person or persons conducting or maintaining the same from further conducting or maintaining the same and the owner or agent of the building or ground upon which said nuisance exists from further permitting such building or ground or both to be so used. The defendants shall be served therein as in other actions and in such action the court, or judge in vacation, shall upon the presentation of a petition therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if the existence of such nuisance shall be made to appear to the satisfaction of the court or judge by evidence in the form of affidavits, depositions, oral testimony or otherwise as the complainant may elect, unless the court or judge by previous order, shall have directed the form and manner in which such evidence shall be presented. Where a temporary injunction is prayed for, the court or judge in vacation, on the application of plaintiff, may issue an *ex parte* restraining order, restraining the defendants and all other persons from removing or in any manner interfering with the furniture, fixtures, musical instruments and movable property used in conducting the alleged

nuisance, until the decision of the court or judge granting or refusing such temporary injunction and until the further order of the court thereon. The restraining order may be served by handing to and leaving a copy of said order with any person in charge of said property or residing in the premises or apartment wherein the same is situated, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such premises or apartment where such nuisance is alleged to be maintained, or by both such delivery and posting. The officer serving such restraining order shall forthwith make a return into court and inventory of the personal property situated in and used in conducting or maintaining such nuisance. Any violation of such restraining order shall be a contempt of court, and where such order is so posted, mutilation or removal thereof, while the same remains in force, shall be a contempt of court, provided, such posted order contains thereon or therein a notice to that effect. Three days' notice in writing shall be given the defendants of the hearing of the application for temporary injunction, and if then continued at the instance of defendant, the temporary writ, as prayed, shall be granted as a matter of course. Each defendant so notified shall serve upon the complainant or his attorney a verified answer on or before the date fixed in said notice for said hearing, and such answer shall be filed with the clerk of the district court of the county wherein such cause is triable, but the court may allow additional time for so answering, providing such extension of time shall not prevent the issuing of said temporary writ as prayed for. The allegations of the answer shall be deemed to be traversed without further pleading. When an injunction has been granted, it shall be binding on the defendants throughout the judicial district in which it was issued, and any violation of the provisions of the injunction herein provided shall be a contempt as hereinafter provided. [36 G. A. (S. F. 329, § 2.)] [33 G. A., ch. 214, § 2.]

SEC. 4944-h3. Action—when tried—reputation—dismissal—delay in trial. The action when brought shall be noticed for and triable at the first term of the court the same as other actions triable in the district court of such county, and in such action evidence of the general reputation of the place shall be competent for the purpose of proving the existence of said nuisance and shall be prima-facie evidence of such nuisance and of knowledge thereof and of acquiescence and participation therein on the part of the owners, lessors, lessees, users and all those in possession of or having charge of, as agent or otherwise, or having any interest in any form of property used in conducting or maintaining said nuisance. If the complaint is filed by a citizen or a corporation, it shall not be dismissed except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal approved by the county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, he may direct the county attorney to prosecute said action to judgment at the expense of the county, and if the action is continued more than one term of court, any citizen of the county or the county attorney may be substituted for the complaining party and prosecute said action to judgment. If the action is brought by a citizen or a corporation and the court finds there was [were] no reasonable grounds or cause for said action, the costs may be taxed to such citizen or corporation. [36 G. A. (S. F. 329, § 3.)] [33 G. A., ch. 214, § 3.]

SEC. 4944-h4. Violation of injunction—procedure to establish—penalty. In case of the violation of any injunction granted under the provisions of this act, or of a restraining order or the commission of any contempt of court in proceedings under this act, the court, or in vacation, a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court a complaint under oath, setting out and alleging facts constituting such violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of this act shall be punished by a fine of not less than two hundred nor more than one thousand dollars or by imprisonment in the county jail not less than three nor more than six months or by both fine and imprisonment. [36 G. A. (S. F. 329, § 4.)] [33 G. A., ch. 214, § 4.]

SEC. 4944-h5. Order of abatement—sale of property—building closed—contempt. If the existence of the nuisance be admitted or established in an action as provided in this act, or in a criminal proceeding in the district court, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, furniture, musical instruments or movable property used in conducting the nuisance, and shall direct the sale of such in the manner provided for the sale of chattels under execution, and shall direct the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released as hereinafter provided. If any person shall break and enter or use a building, erection or place so directed to be closed, he shall be punished as for contempt as provided in the preceding section. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property, on execution, and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court. [36 G. A. (S. F. 329, § 5.)] [33 G. A., ch. 214, § 5.]

SEC. 4944-h6. Duty of county attorney—proceeds of sale. In case the existence of such nuisance is established in a criminal proceeding in a court not having equitable jurisdiction, it shall be the duty of the county attorney to proceed promptly under this act to enforce the provisions and penalties thereof, and the finding of the defendant guilty in such criminal proceedings, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance. All moneys collected under this act shall be paid to the county treasurer. The proceeds of the sale of the personal property as provided in the preceding section, shall be applied in payment of the costs of the action and abatement or so much of such proceeds as may be necessary, except as hereinafter provided. [36 G. A. (S. F. 329, § 6.)] [33 G. A., ch. 214, § 6.]

SEC. 4944-h7. Release of property on filing bond. If the owner of the premises in which said nuisance has been maintained appears and pays all costs of the proceeding, and files a bond with sureties to be approved by the court in the full value of the property, to be ascertained by the court, or in vacation, by the judge thereof, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court, or in vacation the judge, if satisfied of his good faith, may order the premises closed or

sought to be closed under the order of abatement, to be delivered to said owner, and said order of abatement cancelled so far as the same may relate to said real property. The release of the property under the provisions of this section shall not release it from the injunction herein provided against the property nor any of the defendants nor from any judgment, lien, penalty or liability to which it may be subject by law. [36 G. A. (S. F. 329, § 7.)] [33 G. A., ch. 214, § 7.]

SEC. 4944-h8. Assessment and distribution of tax. Whenever a permanent injunction issues against any person for maintaining a nuisance as herein defined, or against any owner or agent of the building kept or used for the purpose prohibited by this act, there shall be imposed upon said building and the ground upon which the same is located and against the person or persons maintaining said nuisance, and the owner or agent of said premises, a tax of three hundred dollars. The imposing of said tax shall be made by the court as a part of the proceeding, and the clerk of said court shall make and certify a return of the imposition of said tax forthwith to the county auditor, who shall enter the same as a tax upon the property and against the persons upon which or whom the lien was imposed as and when other taxes are entered, and the same shall be and remain a lien on the land upon which lien was imposed until fully paid; provided that any such lien imposed while the tax books are in the hands of the auditor shall be immediately entered therein. The payment of said tax shall not relieve the persons or property from any other penalties provided by law. The provisions of the law relating to the collection of taxes in this state, the delinquency thereof and sale of property for taxes shall govern in the collection of the tax herein prescribed in so far as the same are applicable, and the said tax collected shall be applied in payment of any deficiency in the costs of the action and abatement on behalf of the state to the extent of such deficiency after the application thereto of the proceeds of the sale of personal property as hereinbefore provided, and the remainder of said tax together with the unexpended portion of the proceeds of the sale of personal property shall be distributed in the same manner as fines collected for the keeping of houses of ill fame, excepting that twenty per cent of the amount of the whole tax collected and of the whole proceeds of the sale of said personal property as provided in this act shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment. [36 G. A. (S. F. 329, § 8.)] [33 G. A., ch. 214, § 8.]

SEC. 4944-h9. Tax assessed against person served or appearing—service—unknown claimants—modification of order. When such nuisance has been found to exist under any proceeding in the district court or as in this act provided, and the owner or agent of such building or ground whereon the same has been found to exist, was not a party to such proceeding, nor appeared therein, the said tax of three hundred dollars shall, nevertheless, be imposed against the persons served or appearing and against the property as in this act set forth. The person in whose name the real estate affected by the action stands on the books of the county auditor for purposes of taxation shall be presumed to be the owner thereof, and in case of unknown persons having or claiming any ownership, right, title, or interest in property affected by the action, such may be made parties to the action by designating them in the summons and complaint as "all other persons unknown claiming any ownership, right, title, or interest in the property affected by the action" and service thereon

may be had by publishing such summons in the manner prescribed in section thirty-five hundred forty, supplement to the code, 1913. Any person having or claiming such ownership, right, title or interest, and any owner or agent in behalf of himself and such owner may make, serve and file his answer therein within twenty days after such services and have trial of his rights in the premises by the court; and if said cause has already proceeded to trial or to findings and judgment, the court shall by order fix the time and place of such trial and shall modify, add to or confirm such findings and judgment as the case may require. Other parties to said action shall not be affected thereby. [36 G. A. (S. F. 329, § 9.)]

SEC. 4944-h10. Construction of statute. Should any provision or item of this act be held to be unconstitutional, such fact shall not be held to invalidate the other provisions and items thereof. [36 G. A. (S. F. 329, § 10.)]

SEC. 4944-h11. Conflicting acts repealed. All acts and parts of acts inconsistent herewith are repealed. [36 G. A. (S. F. 329, § 11.)]

SEC. 4945. Violating sepulchre and exposure of dead bodies.

An intentional wrong or indignity to the body is an essential element of this statute. *Hawthorn v. Delano*, 152 N. W. 17.

CHAPTER 10.

OF OFFENSES AGAINST PUBLIC HEALTH.

SECTION 4999-a2. Safety appliances—duties of persons in charge—operation of dangerous machinery by minors.

If a master so sets up his machinery that it requires no guard, and if without the master's knowledge or consent or fault the machinery is changed, the master is not responsible for such change. (Effect of "failure to discover" change is not in the case.) *Winn v. Town of Anthon*, 150 N. W. 1036.

Assumption of risk constitutes no defense to a claim for injury occasioned by the failure of an employer to comply with this statute. *Ibid.*

An instruction that the master was not bound to install the best and latest improved guards or appliances, and that he performed his whole duty if he furnished such a guard and such appliances as were reasonably safe and proper, held improper in view of the facts and circumstances developed, in a particular case. *Murray v. Daley*, 146 N. W. 451-455.

In proving that a machine was not properly guarded, it is competent for plaintiff to show by properly qualified witnesses that there are guards in use which will protect men working about such a machine, and not substantially interfere with the efficiency of the machine, and such witnesses may cite particular contrivances. *Ibid.*

It is the duty of the employer to know what are proper and efficient guards, in-

stall them and keep them in repair, this statute increasing his common law obligation, but this duty does not require him to try out every new contrivance placed on the market. *Ibid.*

It is generally incumbent on the master to show that there was no practical guard that would have prevented the injury but where the servant alleges that it was not guarded as required by law, or guarded in any manner, he assumes such burden. *Ibid.*

This section requires the guarding of all machines of a character dangerous to employes operating them or working in their vicinity. *U. S. Gypsum Co. v. Karnaca*, 216 Fed. 857.

This section is mandatory. A showing of no guard or an insufficient guard makes a prima-facie case, and burden is on defendant to show that no guard is practical which is reasonably calculated to prevent accidents. *Reddington v. Blue*, 149 N. W. 933; *Winn v. Town*, 150 N. W. 1036; *Corell v. Williams*, 148 N. W. 633.

Failure to guard a set screw on a revolving shaft is negligence. *Wheeler v. Sioux Paving Brick Co.*, 162-414.

The "assumption of risk" abolished by this section is that risk which is incident to the negligence of the master. The latter clause to the effect that this statute shall not be construed so as to include

such risks as are incident to the employment is precautionary only. No instruction need be given on the effect of this last clause in the absence of a request therefor. *Woodworth v. Ry. Co.*, 149 N. W. 522.

A miner, having requested the mine operator to furnish him props with which to prop the room in which he was working, does not by continuing at his work assume the risk arising from the operator's failure to furnish them. *Edgren v. Scandia Coal Co.*, 151 N. W. 519.

Where an employe was injured by rea-

son of his clothes catching on an unguarded set screw on a revolving shaft, and it appeared that it was not the duty of the employe to see that the machinery was properly guarded, the risk was not incident to the employment, nor was it imminent so that the employe was rendered guilty of negligence by continuing in the employment, but it was a danger created by the failure of the employer to properly guard machinery and the employe did not assume the risk of injury from such danger. *Wheeler v. Sioux Paving Brick Co.*, 162-414.

SEC. 4999-a5. Enforcement—penalty—removal of safety appliances. It shall be the duty of the commissioner of the bureau of labor of the state, and the mayor and chief of police of every city or town, to enforce the provisions of the foregoing sections. Any person, whether acting for himself or for another or for a copartnership, joint stock company or corporation, having charge or management of any manufacturing establishment, workshop or hotel, who shall fail to comply with the provisions of said sections within thirty days after being notified in writing to do so, by any one of said officers whose duty it may be to enforce the provisions of said sections, shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days.

Whenever any person, in any manufacturing or other establishment wherein machinery is used and wherein or whereon guards or safety appliances have been provided, shall remove such guards or safety appliances from any machine or other equipment or shall so adjust such guards or safety appliances as to destroy their purpose of preventing bodily injuries, or safeguarding health excepting whenever it becomes necessary to remove some or all of the guards, including springs or pressure bars that may properly come under this act, to enable the employe operating said machine to perform certain special work that cannot be performed with guard, it shall be the duty of said employe or employer to immediately replace them after said work has been completed. Any person who may neglect or refuse to comply with the provisions of this act shall be punished by a fine of not less than five dollars or more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days. [36 G. A. (S. F. 392, § 1.)] [34 G. A., ch. 172, § 1.] [29 G. A., ch. 149, § 4.]

SEC. 4999-a6. Protection against fire—means of escape—when basement counted as a story. That section four thousand nine hundred ninety-nine-a six of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

All buildings, structures or enclosures of three or more stories and such other buildings of a less number of stories as are included by law and which buildings are not equipped with fire escapes or which buildings may hereafter be erected or the fire escapes of which are renewed or in need of renewal, shall be equipped with such protection against fire and means of escape as is by law provided. The word "building" used in the law relating to fire escapes and protection against fire and means of escape from buildings shall be held to include all of the structures or enclosures embraced in this section or referred to more specifically in the law relating to fire escapes, protection against fire and means of escape from buildings. When a basement is five feet or over above ground it shall be counted as a

story. [36 G. A. (S. F. 576, § 1.)] [30 G. A., ch. 136, § 1.] [29 G. A., ch. 150, § 1.]

SEC. 4999-a7. Number of fire escapes required—where placed. That section four thousand nine hundred ninety-nine-a seven of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Every building, structure or enclosure of three or more stories and every school house of two stories and not provided with two inside stairways located approximately at each end of the hallway in the second story and every structure having a stage, and every theatre or opera house of more than one story, or having balconies or galleries, shall have the number of fire escapes of the kind prescribed by law, which minimum number shall be based upon the following formula:

Number of fire escapes— $C \times P^1$

P equals the average maximum number of persons on any story above the first story having the largest number; such number to be fixed and determined according to the purpose for which the building is used.

C is a coefficient and is fixed and shall be taken for the various classes of buildings as follows:

Buildings having wooden or combustible walls, C equals .020.

Buildings having brick or noncombustible walls with combustible interior, C equals .014;

Buildings having brick or noncombustible walls and noncombustible roof and slow burning construction, C equals .012;

Buildings of fire-proof construction throughout, C equals .007;

Buildings of wooden or combustible walls equipped with efficient water sprinkler system, C equals .014;

Buildings having brick or noncombustible walls with combustible interior equipped with efficient water sprinkler system, C equals .008;

Buildings having brick or noncombustible walls and noncombustible roof and slow burning construction equipped with efficient water sprinkler system, C equals .006.

Fire-proof buildings equipped with efficient water sprinkler system, C equals .003.

When the result of the said formula is one or any fraction thereof the number of escapes shall be equal to one. The number of escapes above one shall be a number sufficient to cover the number indicated by the formula, including any fraction as unity, except when such fraction shall be thirty-three hundredths or less, in which case the fraction may be dropped if permitted by the inspector.

The first fire escape required by law shall be placed as far as possible from the existing inside stairway or exits to the lower floors of the building, taking into account the hazard and the path or route of access to the escape from such stairway.

The distance from any inside stairway or exit to the lower floor to the nearest fire escape shall not exceed two hundred feet by way of the path or route of access to such fire escape from such stairway or exit.

Additional fire escapes to those otherwise provided by law shall be provided wherever it is necessary to pass within twenty feet of any stairway or elevator shaft from any portion of the building more than twenty feet from such stairway or shaft to reach the fire escape required by the other provisions of law and where there are peculiar, unusual or extreme hazards additional fire escapes may be required by those authorized by law to regulate and fix the number and requirements of fire escapes.

Provided also that if by reason of the height of buildings or by reason of many or all stories above the second story of such buildings having near the average maximum of persons of any one floor above the first, such buildings shall be equipped with a sufficient number of fire escapes to permit the exit of such average maximum number of persons occupying such buildings above the first story, permanently, or temporarily in the course of business within the following periods of time:

Buildings with wooden or combustible walls, two minutes; buildings having brick or noncombustible walls with combustible interior, three minutes; buildings having brick or noncombustible walls and noncombustible roof and slow burning interior construction, four minutes; buildings of fire-proof construction throughout, fifteen minutes; or a less period of time if hazard of merchantable contents of such building may so require; and in estimating the period of time required the rate of descent on the fire escapes shall not be taken in excess of one and five-tenths feet of vertical distance, or height per second, when said fire escapes are fully loaded, which rate of descent shall be estimated to permit the exit of not to exceed one person per second. Provided that the time of complete exit as herein provided may be increased where efficient sprinkler systems are installed, such increase of time to be determined by the character and efficiency of the sprinkling system installed unless peculiar or unusual hazards shall exist. [36 G. A. (S. F. 576, § 2.)] [35 G. A., ch. 305, § 1.] [30 G. A., ch. 136, § 2.] [29 G. A., ch. 150, § 2.]

NOTE: 1. Evidently the equation in this section was intended to appear as: "Number of fire escapes= $C \times P$ ". REPORTER.

SEC. 4999-a8. Fire escapes—how constructed—location of escapes to be shown—interior arrangement. That section four thousand nine hundred ninety-nine-a eight of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

All fire escapes shall be constructed as described in the following classifications:

Class A; Fire escapes of this class shall consist of those more safe and efficient than outside ladders and stairways and which shall have been approved as such by the commissioner of the bureau of labor statistics, and may include inside stairways and means of escape in fire-proof buildings when approved by said commissioner.

Class B; Fire escapes of this class shall consist of a suitable outside stairway of not less than twenty-two inches clear width of steel or wrought iron constructed with platforms and with stationary stairway carried down to within six and one-half feet from the ground or with a drop or counter-balanced stairway from the second story platform or balcony to the ground.

Class C; Fire escapes of this class shall consist of at least one ladder not less than eighteen inches in width of steel or wrought iron construction of sufficient size and strength for safety attached to the outside walls of the building and provided with platforms of steel or wrought iron enclosed by suitable railings and of such dimensions and in such proximity to the windows of each story above the first so as to render access to the ladder from each story easy and safe, the said ladder to extend to within six and one-half feet from the ground or be provided with a drop ladder hung at the second story in such a manner that it can be easily lowered for use. All fire escapes reaching the top floor shall have suitable extensions reaching from the upper platform to safe landing on the roof of building.

All of the above classes of fire escapes shall be of suitable material, construction, arrangement and location to make the same safe and efficient

and no fire escape of a higher class shall be less safe and efficient than of a lower class and the provisions of each lower class with respect to platforms, access to windows and openings and sufficiency of strength shall apply to the upper class except where allowed to be modified by those having authority.

All fire escapes of any of the foregoing classes shall have such necessary windows or openings leading to the platforms or balconies of the same as shall be necessary to make the same safe and efficient and all routes or paths of access to said fire escapes shall be safe and sufficient, with all doors of rooms leading to fire escapes one half glass and equipped with mortise latches or equivalent that the same may be easily and quickly opened by breaking the glass and turning the latches from the inside of the doors, all so as to render access to the fire escape from each floor above the first easy and safe. All windows or doors leading to the platforms of fire escapes shall not be fastened against exit.

The attachment of all fire escapes shall be made in a thorough and substantial manner and sufficient to carry the full load that may be placed on said fire escapes when the same are crowded, with a factor of safety of not less than four.

Suitable signs indicating the location of fire escapes shall be posted at all entrances to elevators, stairways, landings and in all rooms. In all buildings which are used for lodging or sleeping purposes and in opera houses, theatres and public assembly halls red lights shall be maintained at night or when the buildings are darkened to indicate the place or opening through which access to the fire escape is obtained. [36 G. A. (S. F. 576, § 3.)] [30 G. A., ch. 136, § 3.] [29 G. A., ch. 150, § 3.]

SEC. 4999-a9. Class of escapes to be supplied—certain classes forbidden—discretionary power of commissioner—stairways. That section four thousand nine hundred ninety-nine-a nine of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Hotels, lodging houses, tenements, apartment buildings, schools, retail or department stores, seminaries, and college buildings, office buildings, hospitals, asylums, opera houses, theatres, assembly halls and factories required to be equipped by law shall be equipped with escapes of class "A" or class "B". All other buildings and structures required to be equipped with fire escapes shall be equipped with some one or more of said classes of fire escapes.

Class "C" shall not be used on any building over three stories in height in which more than five persons are at any one time allowed upon any one of the floors above said third story nor where any of the persons allowed upon any floor above the third story are females or minors; provided, however, the commissioner of the bureau of labor statistics may under peculiar conditions and where the hazards are not great permit fire escapes of class "C" to be used on buildings of more than three stories but when ladder fire escapes are permitted on buildings more than three stories in height the ladders thereof must offset at the platforms and not be continuous from one story to the next.

Where stairways not less than forty-four inches in clear width are provided they shall be taken as the equivalent of two or more single stairways in proportion to their width, provided the means of escape and efficiency and safety of said escapes are not thereby diminished. [36 G. A. (S. F. 576, § 4.)] [33 G. A., ch. 220, § 1.] [30 G. A., ch. 136, § 4.]

SEC. 4999-a9a. Doors to open outward and be unfastened. The entrance and exit doors of all hotels, churches, lodge halls court houses, assembly halls, theatres, opera houses, colleges and public school houses and other structures where the hazard is deemed sufficient by the inspector and the entrance doors to all class and assembly rooms in all public school buildings shall open outward and shall not be fastened against exit or so the same cannot be easily opened from within. [36 G. A. (S. F. 576, § 5.)] [33 G. A., ch. 220, § 1.] [30 G. A., ch. 136, § 4.]

SEC. 4999-a10. Chief of fire department, mayor, or chairman board of supervisors as building inspector—duty—labor commissioner—duty—specifications to be adopted—appeal to commissioner—rules and regulations adopted and published. That section four thousand nine hundred ninety-nine-a ten of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

It shall be the duty of the building inspector in cities having such officer and if there be no such officer, then the chief of the fire department, and if there be no chief of a paid fire department, the mayor of each city or town or if the building is not within the corporate limits of any city or town, then the chairman of the board of supervisors shall inspect and they shall be the inspectors of all fire escapes within their respective jurisdictions, except such buildings as hotels and factories as are required otherwise to be inspected by law, and they shall as often as necessary and whenever complaint is made carefully inspect and examine such fire escapes and such inspection shall include all paths or routes of access between any interior exit to a lower floor and said fire escapes and shall include the openings and means of access to the said fire escapes and shall include signs, lights, exits and means of escape of all buildings required to be equipped with fire escapes and required to have certain exits and means of escape and upon the complaint or request of any person that any fire escape, exit or means of escape from fire or any rule or regulation relative thereto or relative to protection against fire is being violated, such inspector shall examine into the complaint or request and determine what, if any, requirements should be made in relation thereto, and shall have power to make all reasonable requirements and regulations in conformity with law and to determine all matters with respect to fire escapes, protection from fire and means of escape from buildings. Said inspectors, however, shall be subject to and their duties shall not conflict with the duties of inspection of the commissioner of the bureau of labor statistics, the engineer of the state board of health and their assistants or deputies.

The commissioner of the bureau of labor statistics shall have general charge and supervision of the inspection and regulation of fire escapes and means of escape and of the enforcement of the law relating thereto and for this purpose the inspectors named herein shall be subject to his direction and to the rules and regulations adopted by such commissioner. The said commissioner shall adopt standard uniform specifications for the various classes of fire escapes provided by law and shall keep such specifications on file in his office and shall furnish copies of such specifications to all persons made by law inspectors of fire escapes and means of escape from fire and such persons shall keep the same on file in their respective offices.

It shall be the duty of any inspector required by law to inspect fire escapes or means of escape from fire to serve or cause to be served a written notice in behalf of the state of Iowa upon the owner if he be a resident

of the county in which the buildings are situated, or if he be a non-resident of such county, then upon his agent or lessee, that the buildings within this state are not provided with fire escapes in accordance with the provisions of this act, or that the fire escapes or means of escape from fire are defective, unsafe or dangerous, notifying such owner of such want of fire escapes, condition of the building, defective, dangerous or unsafe means of escape from fire or any matter relating thereto and notifying him to comply with the law and requirements of the inspector or commissioner within sixty days after the service of such notice, provided the time of such notice may be extended by the commissioner of the bureau of labor statistics if necessary.

The owner, by himself, his agent or lessee, may appeal from the action or requirement of any inspector at any time within the said sixty days after the service of such notice by a written communication addressed to said commissioner, setting forth such objections as may be taken to the complaint, requirement or regulation of such inspector and it shall be the duty of the commissioner to pass upon and determine all matters of disagreement relating to fire escapes and the means of escape from fire from buildings and all rules, regulations, findings and orders of the commissioner shall be reasonable and not unduly burdensome wherever it is within the discretion of the commissioner.

The commissioner of the bureau of labor statistics shall make all necessary rules and regulations to carry out the purpose of this law and for all buildings wherever constructed and have the same printed in pamphlet form for distribution and he shall have the power to approve any and all plans relating to fire escapes of the various classes, and it shall be his duty to see that the same conform to the law and to make rulings and orders relative thereto, and where any dispute or disagreement arises with respect to the plans and specifications for any fire escapes or means of escape from fire the commissioner shall have the power and authority to determine and pass upon the same and make orders relative thereto. Said inspector shall, subject to the final decision of the commissioner, have power to determine the number of exits from all theatres, opera houses and assembly halls and those having one or more balconies and the relation of such exits to the fire escapes, and shall require and enforce the requirement that all exits shall not be fastened against exit. [36 G. A. (S. F. 576, § 6.)] [34 G. A., ch. 173, § 1.] [30 G. A., ch. 136, §§ 5, 6.] [29 G. A. ch. 150, §§ 4, 5.]

SEC. 4999-a11. Violations—penalty. That section four thousand nine hundred ninety-nine-a eleven of the supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

Any person who shall violate any of the provisions of law relating to fire escapes or means of escape from fire or any owner, agent or trustee having the full care and control of any building and who has been served with notice as provided herein and who shall within sixty days of the service of the notice or within the time as extended by the commissioner fail and neglect to comply with the requirements of law or of the inspector or the commissioner, unless he appeal therefrom or who shall fail, refuse or neglect to perform any order or requirement fixed by law or by the labor commissioner, if the same be reasonable, shall be subject to a fine of not less than twenty-five dollars and not more than one hundred dollars and shall be subject to a further fine of twenty-five dollars for each additional week of neglect to comply with such notice, order or requirement. [36 G. A. (S. F. 576, § 10.)] [30 G. A., ch. 136, § 6.] [29 G. A., ch. 150, § 5.]

CHAPTER 10-A.

OF PURE FOODS.

SECTION 4999-a31. **Food standards.** For the purposes of this act, the following standards are hereby established:

Flavoring Extracts.

1. *Flavoring extract.* A flavoring extract is a solution in ethyl alcohol of proper strength of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation.

2. *Almond extract.* Almond extract is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid, and contains not less than one per cent. by volume of oil of bitter almonds.

3. *Anise extract.* Anise extract is the flavoring extract prepared from oil of anise, and contains not less than three per cent. by volume of oil of anise.

4. *Celery seed extract.* Celery seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than three-tenths per cent. by volume of oil of celery seed.

5. *Cassia extract.* Cassia extract is the flavoring extract prepared from oil of cassia and contains not less than two per cent. by volume of oil of cassia.

6. *Cinnamon extract.* Cinnamon extract is the flavoring extract prepared from oil of cinnamon, and contains not less than two per cent. by volume of oil of cinnamon.

7. *Clove extract.* Clove extract is the flavoring extract prepared from oil of cloves, and contains not less than two per cent. by volume of oil of cloves.

8. *Ginger extract.* Ginger extract is the flavoring extract prepared from ginger and contains in each one hundred cubic centimeters, the alcohol-soluble matters from not less than twenty grams of ginger.

9. *Lemon extract.* Lemon extract is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five per cent. by volume of oil of lemon.

10. *Terpeneless extract of lemon.* Terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or by dissolving terpeneless oil of lemon in dilute alcohol, and contains not less than two-tenths per cent. by weight of citral derived from oil of lemon.

11. *Nutmeg extract.* Nutmeg extract is the flavoring extract prepared from oil of nutmeg, and contains not less than two per cent. by volume of oil of nutmeg.

12. *Orange extract.* Orange extract is the flavoring extract prepared from oil of orange, or from orange peel, or both, and contains not less than five per cent. by volume of oil of orange.

13. *Terpeneless extract of orange.* Terpeneless extract of orange is the flavoring extract prepared by shaking oil of orange with dilute alcohol, or by dissolving terpeneless oil of orange in dilute alcohol, and corresponds in flavoring strength to orange extract.

14. *Peppermint extract.* Peppermint extract is the flavoring extract prepared from oil of peppermint, or from peppermint, or both, and contains not less than three per cent. by volume of oil of peppermint.

15. *Rose extract.* Rose extract is the flavoring extract prepared from attar of roses, with or without red rose petals, and contains not less than four-tenths per cent. by volume of attar of roses.

16. *Savory extract.* Savory extract is the flavoring extract prepared from oil of savory, or from savory, or both, and contains not less than thirty-five hundredths per cent. by volume of oil of savory.

17. *Spearmint extract.* Spearmint extract is the flavoring extract prepared from oil of spearmint, or from spearmint, or both, and contains not less than three per cent. by volume of oil of spearmint.

18. *Star anise extract.* Star anise extract is the flavoring extract prepared from oil of star anise, and contains not less than three per cent. by volume of oil of star anise.

19. *Sweet basil extract.* Sweet basil extract is the flavoring extract prepared from oil of sweet basil, or from sweet basil, or both, and contains not less than one-tenth per cent. by volume of oil of sweet basil.

20. *Sweet marjoram extract.* Sweet marjoram extract, marjoram extract, is the flavoring extract prepared from the oil of marjoram, or from marjoram, or both, and contains not less than one per cent. by volume of oil of marjoram.

21. *Thyme extract.* Thyme extract is the flavoring extract prepared from oil of thyme, or from thyme, or both, and contains not less than two-tenths per cent. by volume of oil of thyme.

22. *Tonka extract.* Tonka extract is the flavoring extract prepared from tonka bean, with or without sugar or glycerin, and contains not less than one-tenth per cent. by weight of coumarin extracted from the tonka bean, together with a corresponding proportion of the other soluble matters thereof.

23. *Vanilla extract.* Vanilla extract is the flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and contains in one hundred cubic centimeters the soluble matters from not less than ten grams of the vanilla bean, and contains not less than thirty per cent. by volume of absolute ethyl alcohol.

24. *Wintergreen extract.* Wintergreen extract is the flavoring extract prepared from oil of wintergreen, and contains not less than three per cent. by volume of oil of wintergreen.

Vinegar.

1. All vinegar shall be made by the alcoholic and subsequent acetous fermentation of fruits, grain, vegetables, sugar or syrups, and if not distilled must carry in solution the extractive matter derived solely from the substances indicated on the label as its source.

2. No vinegar shall be sold or exposed for sale as vinegar, apple vinegar or cider vinegar which is not the legitimate product of apples. The term "cider vinegar" as used herein shall be construed to mean vinegar derived by the alcoholic and subsequent acetous fermentation of the expressed juice of apples, the acidity, solids and ash of which have been derived exclusively from apples, and which contains not less than four per cent of absolute acetic acid. Cider vinegar which, during the course of manufacture, has developed in excess of four per cent acetic acid may be reduced to a strength of not less than four per cent, and cider vinegar so reduced shall not be regarded as adulterated if so branded.

3. Sugar vinegar sold or exposed for sale as such shall be strictly and distinctly fermented from sucrose.

4. No vinegar shall be sold or exposed for sale as malt vinegar which is not fermented strictly and distinctly from barley malt, or cereals whose starch has been converted by malt.

5. No vinegar shall be sold or exposed for sale in which foreign substances, drugs or acids have been introduced. No vinegar shall contain any artificial coloring matter, and all vinegar shall have an acidity of not less than four per cent by weight of absolute acetic acid. If vinegar contains any artificial matter, or less than the required amount of acidity, it shall be deemed to be adulterated.

6. All vinegar made by fermentation and oxidation without the intervention of distillation shall be branded with the name of the fruit or substance from which such vinegar has been made.

7. All vinegar made by acetous fermentation of dilute distilled alcohol shall be branded "distilled" vinegar, together with the name of the substance from which it is made, and shall not have a brown color in imitation of cider vinegar.

8. Corn sugar vinegar is the product made by the alcoholic and subsequent acetous fermentation of solutions of starch sugar.

Butter.

1. *Butter.* Butter shall contain not less than eighty per cent. by weight of butter fat.

Oysters.

1. *Oysters.* Oysters shall not contain ice, nor more than sixteen and two-thirds per cent. by weight of free liquid.

Ice Cream.

1. *Ice cream.* Ice cream is the frozen product made from pure wholesome sweet cream, and sugar, with or without flavoring, and if desired, the addition of not to exceed one per cent. by weight of a harmless thickener, and contains not less than twelve per cent. by weight of milk fat, and the acidity shall not exceed three tenths of one per cent.

2. *Fruit ice cream.* Fruit ice cream is the frozen product made from pure wholesome sweet cream, sugar, and sound, clean, mature fruits, and, if desired, the addition of not to exceed one per cent. by weight of a harmless thickener, and contains not less than ten per cent. by weight of milk fat.

3. *Nut ice cream.* Nut ice cream is the frozen product made from pure wholesome sweet cream, sugar, and sound, nonrancid nuts, and, if desired, the addition of not to exceed one per cent. by weight of harmless thickener, and contains not less than ten per cent. by weight of milk fat. [36 G. A. (S. F. 276, § 1.)] [34 G. A., ch. 175, § 1.] [33 G. A., ch. 221, § 1.] [32 G. A., ch. 178, § 3.]

This act is not unconstitutional under section 1 of the 14th amendment to the United States Constitution in that it arbitrarily interferes with personal liberties

or takes private property without due process of law. *State v. Hutchinson Ice Cream Co.*, 147 N. W. 195.

SEC. 4999-a31c. Terms defined—misbranded food. The word "commissioner," whenever used in this act, shall be taken to mean the state food and dairy commissioner. The word "food," as used herein, shall include all articles used for or entering into the composition of food, drink, confectionery or condiment, by man or domestic animals, whether simple, blended, mixed or compound. The term "misbranded," as used herein,

shall apply to all articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food product which is falsely branded as to the state, territory or country in which it is manufactured or produced.

For the purpose of this act an article of food shall be deemed to be "misbranded":

First. If it be offered for sale under the specific name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or if it bears any design or device which might prove deceptive as to the true character of the product or purport to be a foreign product when not so.

Third. Baking powders, if each can or package is not plainly labeled so as to show the name of each and every ingredient contained therein.

Fourth. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are mixtures, compounds, combinations, imitations or blends, and the word "mixture," "compound," "combination," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale, unless the name of each ingredient shall appear on the main label, in continuous list with no intervening matter of any kind, immediately following the phrase, "mixture of," "compound of," "combination of," "blend of," as the case may be, such names of ingredients to appear in the order in which they are present in quantity in said article of food, beginning with the ingredient present in the greatest proportion. All letters used in naming the ingredients shall be of the same size, style and color as the letters used in the phrase "mixture of," "compound of," "combination of," or "blend of," and shall appear on a background of one color. Labels required by this act shall be distinctly printed in the English language in legible type no smaller than eight-point heavy gothic caps. Such label shall be placed upon the outside of the package and shall contain the name and place of business of the manufacturer, packer or dealer. The term "blend" as used herein shall be construed to mean a mixture of like substances. Provided that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome ingredients to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding.

Fifth. If any person shall sell, offer or expose for sale any food in package form if the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count; provided, however, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made by the state dairy and food commissioner. [36 G. A. (S. F. 276, § 2.)] [35 G. A., ch. 307, §§ 1, 2.] [34 G. A., ch. 174, § 3.]

SEC. 4999-a31e. Adulterated food. For the purpose of this act, an article of food shall be deemed to be adulterated:

First. If any substance or substances has or have been mixed and packed with it so as to reduce or lower or injuriously affect its quality, strength or purity.

Second. If any substance or substances has or have been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it does not conform to the standards established by law.

Fifth. If it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed.

Sixth. If it contains any poisonous ingredient, or any ingredient which may render such article injurious to health or if it contains saccharine, formaldehyde or boron compound.

Seventh. If it consists of the whole or any part of a diseased, filthy, rancid, decomposed or putrid animal or vegetable substance or any portion of an animal unfit for food, whether manufactured or not, or [if] it is the product of a diseased animal or one that has died otherwise than by slaughter, or if it be a food product which has been damaged by freezing.

Eighth. Candies and chocolates if they contain terra alba, barytes, talc, chrome yellow, or other mineral substances, or poisonous colors or flavors, or other ingredients deleterious or detrimental to health. [36 G. A. (S. F. 276, § 3.)] [34 G. A., ch. 174, § 4.]

SEC. 4999-a31f. Appropriation. For the purpose of enabling the commissioner to enforce the provisions of the various laws, the enforcement of which is vested with the state food and dairy commissioner, for the making of such analysis for other state departments as may be authorized by the executive council, for necessary traveling and miscellaneous expenses of assistants and experts and for all other expenses herein provided, the sum of thirty-four thousand dollars annually, or so much thereof as may be necessary, is hereby appropriated from [any funds in] the treasury not otherwise appropriated. [36 G. A. (S. F. 276, § 4.)] [34 G. A., ch. 174, § 5.]

CHAPTER 10-B.

OF PURE DRUGS.

SECTION 4999-a32. Manufacture or sale of adulterated drugs prohibited. No person, firm or corporation, by himself, officer, servant or agent, or as the officer, servant or agent of any other person, firm or corporation, shall manufacture or introduce into the state or solicit orders for delivery, or sell, exchange, deliver, or have in his possession with the intent to sell, exchange, deliver, or expose, or offer for sale or exchange, or delivery any drug which is adulterated or misbranded within the meaning of this act. Provided that none of the penalties set forth in this act shall be imposed upon any common carrier for introducing into the state, or having in its possession, any adulterated or misbranded drugs, where the same were received by said carrier for transportation in the ordinary course of its business and without actual knowledge of the adulteration or misbranding thereof. [36 G. A. (H. F. 64, § 1.)] [32 G. A., ch. 176, § 1.]

CHAPTER 11.

OF OFFENSES AGAINST PUBLIC POLICY.

SECTION 5020. Bringing diseased cattle into state. Any person driving any cattle into the state, or any agent, servant or employe of any railroad or other corporation who shall carry, transport or ship any cattle

into this state, or any railroad company or other corporation or person who shall carry, ship or deliver any cattle into this state, or the owner, controller, lessee or agent or employe of any stock yard, receiving into such stock yard, or in any other inclosure for the detention of cattle in transit or shipment or reshipment or sale any cattle brought or shipped in any manner into this state, which at the time they were either driven, brought, shipped or transported into this state, were in such condition as to infect with or to communicate to other cattle pleuro-pneumonia, or splenic or Texas fever, shall be fined not less than three hundred and not more than one thousand dollars, or be imprisoned in the county jail not exceeding six months, or both. This section shall not apply to shipments of cattle to points within the state of Iowa for immediate slaughter, when made in compliance with regulations of the United States department of agriculture. [36 G. A. (H. F. 478, § 1.)] [21 G. A., ch. 156, § 2.] [C. '73, § 4058.]

SEC. 5028-u. Accepting or soliciting gratuity or tip. Every employee of any hotel, restaurant, barber shop, or other public place, and every employee of any person, firm, partnership, or corporation, or of any public service corporation engaged in the transportation of passengers in this state, who shall accept or solicit any gratuity, tip, or other thing of value or of valuable consideration, from any guest or patron, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars, or more than twenty-five dollars, or be imprisoned in the county jail for a period not exceeding thirty days. [36 G. A. (S. F. 429, § 1.)]

SEC. 5028-v. Giving or offering gratuity or tip. Every person who shall give or offer any tip or gratuity to any person or employee prohibited from receiving or soliciting the same by the provisions of the preceding section shall be guilty of a misdemeanor and be punished upon conviction as provided by the preceding section. [36 G. A. (S. F. 429, § 2.)]

SEC. 5028-w. Permitting violation of anti-tipping law—failure to post sign. Any person who shall knowingly permit a violation of this act in any place under his control or who shall fail to keep conspicuously posted in every said place under his control a notice bearing the words "No tipping allowed" shall be deemed guilty of a misdemeanor and be punished as provided in section one. [36 G. A. (S. F. 429, § 3.)]

SEC. 5028-w1. False charges concerning honesty of employes. That every person who shall by any letter, mark, sign or designation whatever, or by any verbal statement, falsely and without probable cause, report to any railroad or any other company or corporation, or to any person or firm, or to any of the officers, servants, agents or employes of any such corporation, person or firm, that any conductor, brakeman, engineer, fireman, station agent or any employe of such railroad company, corporation, person or firm has received any money or thing of value for the transportation of persons or property or for other service for which he has not accounted to such corporation, person or firm, or shall falsely and without probable cause report that any conductor, brakeman, engineer, fireman, station agent or other employe of any railroad company, corporation, firm or person, neglected, failed or refused to collect any money or ticket for transportation of persons or property or other service when it was their duty so to do, shall, on conviction, be adjudged guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars or be imprisoned in the county jail for a period not exceeding thirty days. [36 G. A. (S. F. 295, § 1.)]

CHAPTER 12.

OF OFFENSES AGAINST THE PUBLIC PEACE.

SECTION 5040. Fraudulent conveyances.

A creditor of an insolvent debtor may, if he acts in good faith, that is, *solely to protect himself*, take a conveyance from such debtor even though he has full knowledge that the debtor is giving the conveyance in order to defeat some other creditor. But such good faith is the full limit of his right. If, while protecting himself by tak-

ing the conveyance, he intermingles the motive and intent to assist the debtor in his scheme to defeat the other creditor, he will find himself stripped of the protection which the law otherwise would accord to him. Not even the fullest consideration will save such a conveyance from condemnation. *Steinfort v. Langhout*, 152 N. W. 612.

CHAPTER 13.

OF CHEATING BY FALSE PRETENSES, GROSS FRAUDS AND CONSPIRACY.

SECTION 5041. False pretenses.

To charge that accused "by means of false pretenses (setting out the pretenses) did obtain, etc.", sufficiently charges that the property was parted with in reliance upon the false representations. *State v. Cooper*, 151 N. W. 835.

One who gives a check on a bank in which he has no account, without reasonable ground for believing that the check will be paid on presentation, and delivers the check to a third person and secures the money, is guilty, even though no repre-

sentation is made other than that involved in delivering the check. *State v. Foxton*, 147 N. W. 347.

To sustain an indictment for false pretenses, it is all essential that it be shown that title to property, or the possession of property, was obtained by the false pretenses. The crime is not committed if the sole fruit of the rascality is to obtain that intangible thing known in bookkeeping as a "credit". *State v. Kiefer*, 150 N. W. 440.

SEC. 5059. Conspiracy in general.

The meaning of the term "arson" has been much enlarged over its common law meaning, and is now generally used to designate the malicious or wilful destruc-

tion of buildings. The term may be so used in charging conspiracy. *State v. Madden*, 148 N. W. 995.

SEC. 5077-a24. Fees paid into state treasury. All fees collected under the provisions of this act shall be paid into the state treasury. [36 G. A. (S. F. 639, § 1.)] [32 G. A., ch. 189, § 19.]

CHAPTER 14.

OF NUISANCES, AND ABATEMENT THEREOF.

SECTION 5078. What deemed nuisances.

Smoke attending the operation of a plant which does not unreasonably inconvenience a neighborhood does not constitute a nuisance. *Mitchell v. Flynn Dairy Co.*, 151 N. W. 434.

The carrying on of a private plant in such a manner as to unreasonably disturb the sleep of the neighborhood (a resident part of the city) creates a private nuisance which may be abated. *Ibid.*

The owner of a private plant should be given ample opportunity to so change the method of operating his plant that the

nuisance features may be avoided. *Ibid.*

Under the provisions of this section, a defendant can be convicted on proof of being responsible for conditions which are annoying or disturbing to the peace and comfort of individuals, though such conditions are not injurious to health. *State v. Chicago, G. W. R. Co.*, 147 N. W. 874.

A city has the right to erect and maintain hitching posts in a convenient place in the streets if the same do not constitute a public nuisance or do not injuriously affect some individual in a different

manner than the public, thereby constituting a private nuisance. *Smith v. City of Jefferson*, 161-245.

While this section requires cities and towns to keep their streets free and open from nuisances, they may permit the use of streets close to buildings for areaways or cellar ways if such use does not inter-

fere with the rights of others. But a city does not possess the right to place telephone poles in gutters, causing damages on account of backing up water on the property of abutting owners. *Wendt v. Town of Akron*, 161-338.

See Sec. 753 for further annotations.

CHAPTER 15.

OF LIBEL.

SECTION 5086. Definition.

Libels *per se*, existing as they may without any charge of crime, carry the presumption of (a) falsity, (b) damages, and (c), if not published on a privileged occasion, malice. *Children v. Shinn*, 150 N. W. 864.

A libel leveled at a board of supervisors as a whole is a libel against each member thereof at the time referred to in the publication. In such case it may be shown by those who read the publication

that they understood it to refer to plaintiff. *Ibid.*

It is for the court to say whether the "occasion" was privileged. It is for the jury to say whether the privilege was abused. *Ibid.*

The definition of libel contained in this section applies as well to civil as to criminal libel. *Wisner v. Nichols*, 143 N. W. 1020.

TITLE XXV.

OF CRIMINAL PROCEDURE.

CHAPTER 1.

OF PUBLIC OFFENSES.

SECTION 5092. Divisions of.

The hiring of a school teacher at less than the minimum wage provided by law is a "public offense" within the meaning

of this section. *Bopp v. Clark*, 147 N. W. 172.

SEC. 5094. Misdemeanor.

The hiring of a school teacher at less than a minimum wage in violation of law is triable as a misdemeanor under the pro-

visions of this section. *Bopp v. Clark*, 147 N. W. 172.

CHAPTER 9.

OF FUGITIVES FROM JUSTICE.

SECTION 5169. Agent appointed to apprehend—expense.

A "fugitive from justice" is one who, having committed a crime in one state jurisdiction, is not present in such state when called upon to answer for his offense. The old idea that he must actually "flee",

that he must leave the state in order, or with the intent, to escape punishment, has been abandoned. *Leonard v. Zweifel*, 151 N. W. 1054.

SEC. 5171. Sworn evidence—copy of indictment.

It is no province of the court, in habeas corpus to test the legality of extradition proceeding, to scrutinize the motives actu-

ating the prosecution in the foreign state. *Leonard v. Zweifel*, 151 N. W. 1054.

CHAPTER 12.

OF PRELIMINARY EXAMINATIONS.

SECTION 5227. Minutes of examination.

The fact that the duly appointed shorthand reporter, in making his transcript, used the transcript of a private party, which he compared and found correct,

while irregular, is not such error as to demand a reversal. *State v. Rand*, 151 N. W. 1078.

CHAPTER 12-A.

PROSECUTIONS ON INFORMATION FILED BY THE COUNTY ATTORNEY.

SECTION 5239-m. Motion to set aside—grounds.

The objection that an information was filed without the approval of the judge is

waived, if not raised before plea is entered. *Jones v. McClaughry*, 151 N. W. 210.

SEC. 5239-o. Judgments on written pleas of guilt.

A sentence imposed under a plea of guilty and a minute thereof entered on the judge's calendar is wholly without effect as a judgment until actually entered on the record book. *Jones v. McClaughry*,

151 N. W. 210.

See Sec. 15, Art. 5, Constitution, for decision supporting the constitutionality of this act. **REPORTER.**

CHAPTER 16.**OF THE INDICTMENT.****SECTION 5284. Must charge but one offense.**

An indictment is not tainted with the vice of duplicity which charges (a) a conspiracy to burn property and to commit arson, and (b) with the intent to injure the insurers, even though the pleader un-

necessarily proceeds to enumerate the different buildings burned in pursuance of the conspiracy, the defendant being put on trial and tried solely for conspiracy. *State v. Madden*, 148 N. W. 995.

SEC. 5285. Time.

Time is a material ingredient of the offense when the evidence shows the defendant to be guilty at the time alleged

or not guilty at all. *State v. Gish*, 150 N. W. 37.

SEC. 5286. Name of person injured.

Charging that the accused by false pretenses obtained a note given by "D. B. Stoner", followed by proof that the note

obtained was given by "D. B. Stoner and Stella Stoner", presents a fatal variance. *State v. Kiefer*, 150 N. W. 440.

SEC. 5289. What indictment must show—amendments—objections.

An amendment to an indictment charging obtaining money by false pretenses, adding the allegation that the prosecutor endorsed accused's check, and that money thereon was procured from a bank, which was paid to defendant, is authorized hereunder. *State v. Foxton*, 147 N. W. 347.

was parted with in reliance upon the false representations, and did not sufficiently set forth the false pretenses, comes too late. *State v. Cooper*, 151 N. W. 835.

Par. 7. An indictment may be amended on motion of the county attorney so as to supply an allegation of ownership of the property described in the indictment. So held under charge of obtaining property by false pretenses. *State v. Kiefer*, 150 N. W. 440.

Defendant being prosecuted for embezzlement demurred to the indictment, on the general ground that it did not substantially conform to the requirements of the code: held that such demurrer was in effect a "plea in abatement" within the meaning of this section. *State v. Boggs*, 147 N. W. 934.

Par. 9. Objection made for the first time in a motion in arrest of judgment that an indictment for false pretenses did not sufficiently allege that the property

Failure to object to the form or substance of an indictment before going to trial waives defects in regard thereto even if timely objection would have been well taken. *State v. Gulliver*, 163-123.

SEC. 5299. Principal and accessory.

Always pertinent to instruct on the liability of each conspirator for the acts of a co-conspirator, though no formal charge of conspiracy is made in the indictment. *State v. Gorman*, 150 N. W. 9.

was consummated by others in pursuance of a conspiracy in which defendant was a party. It is reversible error for the court to refuse to amplify such instruction, when requested by the defendant, by clearly embodying the thought that defendant cannot properly be convicted from the mere fact that he witnessed the unlawful acts, even approved of them, remained silent and made no effort to stop them. *State v. Boswick*, 152 N. W. 581.

It is correct for the court to charge that defendant may be convicted though he did not actually participate in the consummation of the offense charged, provided it be shown beyond a reasonable doubt by proof, direct or circumstantial, that the offense

CHAPTER 20.

OF PLEADING BY THE DEFENDANT.

SECTION 5334. Entry—form—guilty.

Where the record recites that the defendant "appears in open court in person and by his attorney and withdraws his plea of not guilty and pleads that he is guilty," as charged, a petition for habeas

corpus setting out such record and based on a claimed violation of this section is demurrable. *Lockard v. Sanders*, 149 N. W. 597.

CHAPTER 24.

OF THE TRIAL TO A JURY.

SECTION 5370. Continuances.

Evidence reviewed and held to show no abuse of the discretion vested in the trial

court. *State v. Boggs*, 147 N. W. 934.

SEC. 5373. Evidence for state—notice.

Notice that the state will call witnesses other than those whose names are on the indictment may be served on the defen-

dant outside of the county where the indictment is pending. *State v. Kiefer*, 150 N. W. 440.

SEC. 5376. Reasonable doubt.

Alibi implies a claim on the part of the accused that at the time of the commission of the offense in question he was at some other place and so far distant that he could not have committed it. Applying the doctrine over the objection of the accused, [with the usual caution that it should be closely scanned because easily manufactured], to a state of evidence wherein the accused admitted that he was within twenty-five feet of the place where and when the act was committed, but denied all par-

ticipation therein, constitutes reversible error, because (a) without basis in the evidence; (b) misleading the jury to infer that the sole defense of the accused was that he was so far away that he could not have reached the place in question; (c) disparaging and discrediting the entire evidence bearing on his nonparticipation in the act charged; and (d) practically throwing the burden of proof of innocence on the accused. *State v. Bosworth*, 152 N. W. 580.

SEC. 5386. Instructions.

It is not error for the court in explaining the elements constituting the offense charged to quote more of the statute than

applies to the charge in question—the excess part being simply superfluous. *State v. Hall*, 150 N. W. 97.

CHAPTER 26.

OF THE VERDICT.

SECTION 5405. General and special.

"We, the jury find the defendant (naming him) guilty as charged", the instructions fully setting forth the offense as

alleged in the indictment, meets the legal requirements. *State v. Cooper*, 151 N. W. 835.

SEC. 5407. Included offenses.

Offenses below manslaughter need not be submitted when the state of the evidence shows that the defendant is either guilty of murder or manslaughter, or "not guilty". *State v. Nott*, 149 N. W. 79.

The evidence being sufficient to sustain a conviction for rape, it was, under the evidence in the instant case, proper to admit the included offenses of assault with the intent to commit rape. The submission of included offenses which might

have been omitted can seldom be prejudicial to defendant. *State v. Vochoski*, 150 N. W. 53.

The trial court must determine whether there is any substantial evidence of an included offense or one in a lower degree, and, if there is no such evidence, it is not error to fail to instruct as to such lower degree or included offense. *State v. Ockif*, 145 N. W. 486.

CHAPTER 28.

OF NEW TRIAL.

SECTION 5424. Causes for.

Argument of county attorney reviewed and held to require the granting of a new trial. *State v. Robinson*, 152 N. W. 590.

A motion for a new trial in a criminal case on a ground not appearing of record must be supported by an affidavit of facts, not hearsay. *State v. Nott*, 149 N. W. 79.

Counsel for the state will be permitted to enter upon and pursue such vigorous line of argument as may seem to him meet in the promotion of the state's cause, even though his ventures into the realm of oratory may take the form of strong denunciation, so long as he confines himself to matters of record and reasonable deductions therefrom. *State v. Biewen*, 150 N. W. 102.

The decision of the lower court that certain matters occurring during arguments do not constitute misconduct such as to demand a new trial carries great weight on appeal, especially where the trial court promptly condemned the remarks, orally cautioned the jury, and specifically instructed the jury to disregard the same. *State v. Hall*, 150 N. W. 97.

The fact that one of the jurors in the jury room related a transaction happening

to him and somewhat similar to that with which defendant was charged, and stated that defendant looked like the man connected with such transaction, was held, in instant case, not to constitute reversible error. *State v. Rand*, 151 N. W. 1078.

Improper argument, of itself, is not ground for a new trial. It is all essential that it affirmatively appear that by reason thereof the accused has been deprived of a fair trial. Ordinarily the judgment of the trial court is superior on that question to the judgment of the appellate court. *State v. Cooper*, 151 N. W. 835.

Misconduct of the prosecutor in argument must be made to appear. The court will not presume it. *State v. Vochoski*, 150 N. W. 53.

Par. 3. The taking of a code into the jury room by the jury in order to determine the punishment for the crime charged, the jury thereby securing an erroneous conception of such punishment by not knowing of the indeterminate sentence law, is such misconduct as to demand a new trial. *State v. Kirk*, 150 N. W. 91.

SEC. 5425. Application—when made.

Section applied. *State v. Nott*, 149 N. W. 79.

CHAPTER 34.

OF EVIDENCE AND WITNESSES.

SECTION 5484. Who competent—defendant as witness.

A direct reference in the course of a trial to defendant's failure to testify is fatal, and a new trial must be granted. *State v. Nicola*, 151 N. W. 70.

A reference in argument to the failure of a co-defendant, not on trial, to testify, is permissible. *State v. Madden*, 148 N. W. 995.

SEC. 5488. Corroboration in rape, seduction, etc.

Evidence reviewed and held to furnish corroboration to sustain conviction for assault with intent to rape. The court necessarily finds there is some corroboration in submitting the issues to the jury. *State v. Vochoski*, 150 N. W. 53.

It is the province of the court to determine whether the record contains corroborating evidence the province of the jury to pass thereon. *Ibid.*

In a prosecution for statutory rape, evidence considered and held to sufficiently

corroborate the prosecutrix. *State v. Christopher*, 149 N. W. 40.

Evidence reviewed and held to sufficiently corroborate the testimony of the "person insured", to sustain a conviction. *State v. Ousley*, 147 N. W. 849.

Corroboration is only necessary in so far as it is necessary to connect the defendant with the commission of the offense. The commission of the offense may be proven by the testimony of the prosecuting witness alone. *State v. Robinson*, 152 N. W. 590.

SEC. 5489. Corroboration of accomplice.

Corroboration in a prosecution for incest is not required under this section when the female is under the age of consent. *State v. Sparks*, 149 N. W. 871.

In a prosecution for adultery, the accomplice held sufficiently corroborated to make her testimony admissible. *State v. Conklin*, 164-718, 146 N. W. 821.

The defendant on a charge of incest may be convicted on the uncorroborated testimony of the prosecutrix, unless she consents to the act and thereby becomes an accomplice. Non-consent may arise from immature years. *State v. Stalker*, 151 N. W. 527.

SEC. 5491. Confession of defendant.

The *corpus delicti* being established, one criminating fact admitted by the accused

may be sufficient to sustain conviction. *State v. Gorman*, 150 N. W. 9.

CHAPTER 44.
OF THE INSANITY OF A DEFENDANT.**SECTION 5540. Proceedings suspended.**

The court was justified in instant case in refusing to suspend criminal proceedings and to impanel a jury to inquire into the sanity of the accused, when the claim

of insanity was never in any manner suggested until after the court had opened proceedings to sentence the accused. *State v. Cooper*, 151 N. W. 835.

CHAPTER 50.
OF ILLEGITIMATE CHILDREN.**SECTION 5629. Complaint.**

One who signs and verifies a complaint in bastardy, the same being prosecuted by the county attorney, is not liable for costs

in case the prosecution fails. *State v. Hess*, 150 N. W. 609.

TITLE XXVI.

OF THE DISCIPLINE AND GOVERNMENT OF JAILS AND PENITENTIARIES.

CHAPTER 1.

OF THE JAILS.

SECTION 5652. Hard labor may be required.

A sentence of imprisonment at hard labor is authorized hereunder for burglary. *State v. Hall*, 150 N. W. 97.

CHAPTER 2.

OF PENITENTIARIES.

SECTION 5709. Department of criminal insane—repeal. That section fifty-seven hundred nine of the code be and the same is hereby repealed and the following enacted as a substitute therefor: [36 G. A. (S. F. 386, § 1.)] [22 G. A., ch. 69, §§ 1-5.]

NOTE: The following five sections constitute the remaining portion of the above act.
REPORTER.

SEC. 5709-a. Department for criminally insane. The department for the criminally insane in the reformatory at Anamosa, shall be under the control and management of the warden, and as a part thereof in which all insane convicts in the state of Iowa shall be confined and treated. [36 G. A. (S. F. 386, § 2.)]

SEC. 5709-b. Insane at Fort Madison transferred. When it is by any person represented to the warden or to the board of control that any convict confined in the penitentiary at Fort Madison is insane, the matter shall be referred to the board of control, who shall cause a superintendent of one of the hospitals for the insane to make an examination of said convict and report to the board thereon, and if the report so warrant, said board shall order such convict transferred to the department for the insane at Anamosa and confined therein until he shall have served out his sentence or shall be pronounced sane, in which latter event he shall be returned to the penitentiary or held in the reformatory to serve out his unexpired sentence. [36 G. A. (S. F. 386, § 3.)]

SEC. 5709-c. Convicts at Anamosa transferred. When it is by any person represented to the warden or to the board of control that any convict confined in the reformatory at Anamosa is insane, the like course shall be pursued. [36 G. A. (S. F. 386, § 4.)]

SEC. 5709-d. Insane at Anamosa—on what conditions transferred. No convict confined in the reformatory at Anamosa found to be insane shall be removed to any other institution, except upon order of the board of control and after an examination of such convict and report to said board warranting the same, made by a superintendent of one of the hospitals for the insane. [36 G. A. (S. F. 386, § 5.)]

SEC. 5709-e. Examinations—by whom made. Said board of control is hereby authorized to require any superintendent of any of the hospitals for the insane to make the examinations and reports herein specified. [36 G. A. (S. F. 386, § 6.)]

SEC. 5716. Compensation of officers and employes. That the law as it appears in section fifty-seven hundred sixteen, of the supplement to the code, 1907, is hereby repealed, and in lieu thereof is enacted the following:

The officers and employes of the reformatory at Anamosa and the penitentiary at Fort Madison, hereinafter specified, shall be paid for their services each month, sums to be fixed by the board of control of state institutions, not exceeding, however, the sums specified as follows: The warden, two hundred ten dollars; the deputy warden, one hundred twenty-five dollars; the assistant deputy warden, one hundred dollars; the clerk, one hundred fifty dollars; the chaplain of the penitentiary at Fort Madison, one hundred dollars, and an additional chaplain, twenty dollars; matron of the women's department, seventy-five dollars; the physician and surgeon of the reformatory at Anamosa, one hundred dollars; the physician and surgeon of the penitentiary at Fort Madison, one hundred dollars; the kitchen stewards, receiving and disbursing officers, record clerks, and captains of night guards, each eighty dollars; but turnkeys, and guards of the first class shall be paid eighty dollars; turnkeys and guards of the second class, seventy-five dollars; turnkeys and guards of the third class, sixty-five dollars.

The warden of the reformatory at Anamosa may, with the approval of the board of control, employ two or more competent persons to hold religious services at such reformatory in accordance with the rites of the various denominations, and to give spiritual counsel and advice to the inmates of such institution, at a total cost not to exceed fourteen hundred forty dollars per annum. Other officers and employes in the opinion of the board of control of state institutions needed to carry on the various departments of the prisons, properly and efficiently, may be authorized, and their salaries fixed by said board, subject to the approval of the governor, as provided by the law as found in section twenty-seven hundred twenty-seven-a thirty-eight of the supplement to the code, 1907. The salaries and wages herein authorized shall be paid by the state treasurer from any money in the state treasury not otherwise appropriated, upon certified abstracts as provided by the law, as it appears in section twenty-seven hundred twenty-seven-a forty-three of the supplement to the code, 1907. [36 G. A. (S. S. F. 45, § 1.)] [35 G. A., ch. 316, § 1.] [31 G. A., ch. 172, § 1.] [30 G. A., ch. 141, §§ 1, 2.] [30 G. A., ch. 139, § 3.] [29 G. A., ch. 156, § 1.] [26 G. A., ch. 79, § 2.] [22 G. A., ch. 69, §§ 7, 10.] [20 G. A., ch. 187, § 2.] [18 G. A., ch. 200.] [17 G. A., ch. 167.] [16 G. A., ch. 156.] [C. '73, §§ 4783-4.] [R. § 5192.]

SEC. 5717. House rent of warden. The law as it appears in section fifty-seven hundred seventeen of the code, and in section fifty-six hundred sixty-nine-a and section fifty-seven hundred eighteen-a twenty-eight of the supplement to the code, 1907, is hereby repealed, and in lieu thereof, is enacted the following:

In addition to his salary, each warden shall be provided with a furnished house to be designated by the board of control, or house rent and water, heat, ice, and lights, and the labor of prisoners, not exceeding three at one time for household and domestic service and shall be furnished, without

cost, with provisions for self and family, consisting of wife and minor children, from supplies purchased for the institution; this to be in lieu of all allowances for what is known as "warden's support fund" and "warden's house fund" as now authorized by law. Each deputy warden shall be furnished with a house to be designated by the board of control, or house rent and water, heat, ice, and lights, and domestic service by not more than one prisoner at one time. The matron of the female department shall be allowed, in addition to her salary, a furnished apartment, heat, light, and domestic service within the building occupied by the women's department. The prison labor authorized by this section shall not be used except on the premises and for the benefit of the person authorized to use it, and for his family. Provided, however, that no labor of prisoners shall be used in a manner to prejudice prison discipline. [36 G. A. (S. S. F. 45, § 2.)] [35 G. A., ch. 316, § 2.] [18 G. A., ch. 200.] [17 G. A., ch. 167.] [16 G. A., ch. 156.] [C. '73, § 4783.] [R. § 5168.]

SEC. 5718-a11. Employment of inmates—establishment of industries—wages to be equal to wages of free labor—escape—punishment. That the law as it appears in section fifty-seven hundred eighteen-a eleven, supplement to the code, 1913, be and the same is hereby repealed and the following enacted in lieu thereof:

The inmates of the penitentiary and of the reformatory shall be employed only on state account and for state use and on any public works; provided, however, that none of said employment for state account or state use shall be exercised or performed within the corporate limits of the city of Fort Madison or the city of Anamosa, unless performed on state premises, and excepting such employment as pertains to existing contracts or exclusively for the benefit of the state. Said employment shall be conducive to the teaching of useful trades and callings so far as practicable, and the intellectual and moral development of such inmates; provided, however, such inmates may be employed to complete any contracts now existing for prison labor to be performed in such penitentiary or reformatory but such contracts shall not be extended nor renewals thereof entered into nor like contracts made unless by this act otherwise provided. The board of control is hereby authorized and empowered to establish such industries as it may deem advisable at said penitentiary, and at said reformatory, and at or in connection with any of the penal, reformatory or other institutions under its jurisdiction, and the inmates may render service as herein limited and defined, at or away from any of said institutions with the consent of said board of control, but no service shall be rendered by any such inmate for any person, firm or corporation at a less wage than is paid free labor for a like service or its equivalent, and when so rendering service they shall be held to be under the jurisdiction of the warden or superintendent of the institution to which they are committed, and any escape shall be punished as provided in section forty-eight hundred ninety-seven-a, supplement to the code, 1913, even though said inmate is at the time working under the honor system. [36 G. A. (H. F. 623, § 1.)] [32 G. A., ch. 192, § 7.]

SEC. 5718-a11a. Inmates allowed compensation for services—portion paid to family—board to make rules. Whenever services are rendered by any inmate at any institution under the supervision and jurisdiction of the board of control, the board of control may whenever practicable allow such inmate compensation which shall not exceed the amount paid to free labor for a like service or its equivalent, less such amount that the state is put to for maintenance as the board of control may deem equi-

table, and in addition to deducting an amount to defray the cost of maintenance, the board of control may also deduct an amount sufficient to pay all or a part of the costs taxed to any inmate by reason of his commitment. Whenever the board of control deducts an amount from the earnings of any inmate for the purpose of defraying the costs taxed to such inmate by reason of his commitment, said board shall forward the amount to the clerk of the district court, or proper official, and receive his receipt therefor; provided further, that whenever money is earned by an inmate under the provisions of this act, the board of control may, whenever deemed advisable, pay all or any part of the same direct to the husband or wife or any other member of the family of such inmate dependent upon him or her for support, or deposit the same to the account of such inmate until released, or allow said inmate a certain per cent thereof for his personal benefit, and make all rules and regulations in relation thereto, including the right to deposit funds in any bank to the credit of such inmate and require such bank to pay interest on any money so deposited by or for such inmate at rates not to exceed the current rate of interest paid for similar deposits. [36 G. A. (H. F. 628, § 2.)]

SEC. 5718-a11b. Reduction in sentence granted to trusties—board to regulate. Any inmate of the penitentiary, and any inmate of the reformatory, who may hereafter be engaged or employed in any service or labor outside the walls of the institution to which he or she is sentenced, or who may be listed as a "trusty," or "honor" inmate of such institution, may, at the discretion of the said board of control, or at the discretion of the warden of such institution acting under authority of the said board of control, be given and allowed a special reduction in term of sentence at the rate of ten days for each and every month so employed or listed; and every month of such employment shall be counted one month and ten days in point of service on the sentence to be served in addition to the "good time" allowed by law for good behavior; and the said board of control is hereby authorized and empowered to grant and allow such extra good time or special commutation of sentence, and to make all rules and regulations in relation thereto. [36 G. A. (H. F. 628, § 3.)]

SEC. 5718-a11c. Conflicting acts repealed. All acts and parts of acts in so far as they are in conflict with this act are hereby repealed. [36 G. A. (H. F. 628, § 4.)]

SEC. 5718-a13. Indeterminate sentences.

A person convicted of carnally knowing an idiot or imbecile, punishable by imprisonment for life or for a term of years, has no constitutional right to a definite sentence for life or for a term of years. *McKinnon v. Sanders*, 161-555, 143 N. W. 407.

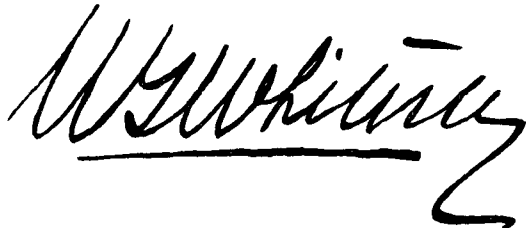
SEC. 5718-a19. Inquiry relative to pardon or parole.

The case of a person sentenced to penitentiary until lawfully released for carnally knowing an idiot or imbecile female under code § 4758 making such offense punishable by imprisonment for life or a term of years is within the jurisdiction of the board of parole. *McKinnon v. Sanders*. 161-555, 143 N. W. 407.

CERTIFICATE

STATE OF IOWA,
Office of Reporter of the Supreme Court
and Ex-officio Editor of the Code.

I, U. G. Whitney, Reporter of the Supreme Court and Ex-officio Editor of the Code, do hereby certify that the statutory and constitutional provisions contained in this volume have been prepared from the original enrolled acts on file in the office of the secretary of state and are correct.

A handwritten signature in cursive script, reading "U. G. Whitney". The signature is written in black ink and is positioned above a horizontal line that underlines the name.

Reporter of the Supreme Court
and Ex-officio Editor of the Code.

CONDITION OF THE TREASURY

DEPARTMENT OF THE AUDITOR OF STATE,
Des Moines, Iowa, April 27, 1915.

HON. U. G. WHITNEY,
Reporter of Supreme Court,
Ex-officio Editor Code.

DEAR SIR: In pursuance of section 18 of the constitution of Iowa, I have the honor to submit for publication with the laws of the thirty-sixth general assembly, the following statement of the receipts and disbursements of public moneys for the biennial fiscal period commencing July 1, 1912, and ending June 30, 1914.

Respectfully,

Frank S. Shaw
Auditor of State.

STATEMENT OF THE CONDITION OF THE TREASURY.

Showing the Balance in the Several Funds at the Close of Business June 30, 1912, Receipts, Total Amount Available, Disbursements and Balance on Hand at the Close of Business June 30, 1914.

BALANCE IN TREASURY JUNE 30 1912		
General revenue		\$1 041 486 04
State University special tax		82 229 16
State College special tax		110 474 67
State Teachers College tax		59 907 08
State College endowment—bonds		681 300 00
State College endowment—cash		5 517 97
Sale of lake beds		3 014 63
Total		\$1 983 929 55
RECEIPTS		
General revenue		\$11 524 770 80
State University special tax		318 603 71
State College special tax		318 597 57
State Teachers College tax		159 299 93
State College endowment—bonds		197 700 00
State College endowment—cash		193 450 00
State College endowment—interest		70 756 18
State College Morrell endowment		100 000 00
Temporary school fund		1 324 22
Permanent school fund		204 58
Capitol grounds extension—cash		951 599 87
State institutions, special		262 366 70
Agricultural extension, special		262 366 68
Total		\$14 361 040 24
TOTAL AMOUNT AVAILABLE		
General revenue		\$12 566 256 84
State University special tax		400 832 87
State College special tax		429 072 24
State Teachers College tax		219 207 01
State College endowment—bonds		879 000 00
State College endowment—cash		198 967 97
State College endowment—interest		70 756 18
State College Morrell endowment		100 000 00
Temporary school fund		1 324 22
Permanent school fund		204 58
Sale of lake beds		3 014 63
Capitol grounds extension—cash		951 599 87
State institutions special		262 366 70
Agricultural extension, special		262 366 68
Total		\$16 344 969 79

CONDITION OF THE TREASURY.

DISBURSEMENTS.

General revenue	\$11,828,396.02
State University special tax.....	272,793.04
State College special tax	326,038.21
State Teachers' College tax.....	140,191.18
State College endowment—bonds.....	193,450.00
State College endowment—cash.....	197,700.00
State College endowment—interest.....	70,756.18
State College Morrell endowment.....	100,000.00
Temporary school fund.....	1,324.22
Permanent school fund.....	204.58
Capitol grounds extension—cash.....	620,769.42
State institutions, special.....	150,719.69
Agricultural extension, special.....	107,700.00
Total	\$14,010,042.54

BALANCE JUNE 30, 1914.

General revenue	\$ 739,860.82
State University special tax.....	128,039.83
State College special tax.....	103,034.03
State Teachers' College tax.....	79,015.83
State College endowment—bonds.....	685,550.00
State College endowment—cash.....	1,267.97
Sale of lake beds.....	3,014.63
Capitol grounds extension—cash.....	330,830.45
State institutions, special.....	111,647.01
Agricultural extension, special.....	154,666.68
Total	\$2,334,927.25

STATEMENT NO. 1.

Showing Receipts and Disbursements in General State Revenue During Fiscal Period
Ending June 30, 1914.

RECEIPTS.

General state revenue tax.....	\$ 5,105,766.95
Interest on delinquent state tax.....	19,521.75
Sale of laws by county auditors.....	2,875.10
From counties for support of insane.....	1,403,280.33
From counties for support of inebriates.....	50,160.66
From counties for clothing for blind.....	425.37
From counties for clothing for deaf.....	933.45
From counties for clothing for feeble-minded.....	45,886.53
From counties for support of orphans at Orphans' Home.....	69,094.47
From counties for support of tubercular patients at Oakdale.....	21,504.57
Fees from auditor of state, insurance.....	157,086.50
Fees from auditor of state, building and loan.....	509.02
Fees from auditor of state, bank examiners.....	43,338.50
Fees from auditor of state, insurance examiners.....	9,789.72
Fees from auditor of state, county examiners.....	12,587.63
Fees from auditor of state, municipal examiners.....	9,845.95
Fees from governor, notary certificates.....	29,465.00
Fees from clerk of supreme court.....	8,889.97
Fees from dairy commission.....	68,231.02
Fees from state entomologist.....	2,468.00
Fees from pharmacy commission.....	76,659.15
Fees from secretary of state.....	437,865.78
Fees from superintendent of public instruction.....	41,993.50
Fees from board of medical examiners.....	6,237.00
Fees from board of health.....	17,308.00
Fees from board of dental examiners.....	3,276.00
Fees from mine inspectors, board of examiners.....	536.00
Fees from commission of animal health.....	4,080.00
Fees from itinerant physician's license.....	4,750.00
From insurance tax.....	859,706.41
From tax on freight line and transportation companies.....	22,655.63
From sale and refunds by state institutions.....	174,116.78
From contract labor and support of patients, state institutions.....	96,657.65
From banks for interest on average daily deposits.....	43,292.14
From collateral inheritance tax.....	637,131.39
From transfer from temporary school fund.....	1,324.22
From federal aid to Soldiers' Home.....	109,325.00
From hunters' license	176,896.83
From automobile tax	1,737,007.00
From miscellaneous sources	12,291.83
Total receipts from all sources.....	\$11,524,770.80
Balance on hand July 1, 1912.....	1,041,486.04
Total to be accounted for.....	\$12,566,256.84

CONDITION OF THE TREASURY.

DISBURSEMENTS.

Auditors' warrants redeemed.....	\$11,828,396.02
Balance cash in treasury July 1, 1914.....	737,860.82
Total	\$12,566,256.84
PERMANENT SCHOOL FUND.	
Amount received by treasurer of state.....	\$ 204.58
Transferred to counties.....	204.58
TEMPORARY SCHOOL FUND.	
Amount received from interest on state bonds.....	\$ 1,324.22
Amount apportioned to counties.....	\$ 1,324.22

STATEMENT NO. 2.

Showing the Amount of Warrants Issued and to What Charged During the Biennial Period Ending June 30, 1914.

Adjutant general, salary	\$ 4,400.00
Adjutant general, assistant	3,000.00
Adjutant general, record clerk.....	2,400.00
Adjutant general, temporary arsenal.....	1,999.98
Attorney general, salary	8,991.91
Attorney general, assistants and clerks.....	15,120.00
Attorney general, add. and contingent fund.....	12,038.57
Attorney general, traveling expense.....	2,821.78
Attorney general, expense of investigations.....	297.55
Attorney general, expense prior to 1910.....	1,000.00
Auditor of state, salary	6,998.37
Auditor of state, deputy salary.....	3,600.00
Auditor of state, clerks' fund.....	33,939.03
Auditor of state, actuary and insurance examiner.....	9,779.82
Auditor of state, extra clerk and contingent fund.....	1,978.56
Auditor of state, municipal examiners.....	8,784.84
Auditor of state, bank examiners.....	31,744.45
Auditor of state, assistant insurance examiners and expense.....	10,021.15
Auditor of state, county examiners and expense.....	14,233.22
Auditor of state, county examiners, chief clerk and expense.....	1,912.81
Automobile tax, county apportionment.....	1,321,897.09
Automobile tax, state expense	68,227.23
Automobile tax, highway commission.....	117,471.60
Arbitration expense.....	336.36
Agricultural societies	43,569.53
Agricultural college, support	510,000.00
Agricultural college, two years' course.....	50,000.00
Agricultural college, animal breeding.....	1,924.19
Agricultural college, contingent and repair.....	54,000.00
Agricultural college, repair and minor improvements.....	26,000.00
Agricultural college, library books.....	4,800.00
Agricultural college, library	5,000.00
Agricultural college, engineering experiment station.....	20,000.00
Agricultural college, support of experiment station.....	130,250.00
Agricultural college, good roads.....	20,000.00
Agricultural college, extension work.....	71,750.00
Agricultural college, additional equipment.....	42,800.00
Agricultural college, improvement of grounds.....	6,872.00
Agricultural college, chemistry building.....	43,000.00
Agricultural college, chemistry building equipment.....	14,544.56
Agricultural college, extension special.....	7,000.00
Agricultural college, two years' short course.....	4,000.00
Agricultural college, agricultural experiment station.....	10,000.00
Agricultural college, trade schools.....	10,000.00
Agricultural college, veterinary investigations.....	3,000.00
Agricultural college, heating plant.....	56,200.00
Bacteriological laboratory.....	11,634.58
Board of control, members and secretary's salary.....	21,834.67
Board of control, architect's salary.....	6,000.00
Board of control, architect and expense.....	3,219.21
Board of control, clerks' fund.....	19,120.32
Board of control, expense fund.....	6,343.15
Board of control, state agents.....	11,275.50
Board of control, inspection of private insane institutions.....	3,233.27
Board of control, investigation of tuberculosis.....	8,314.34
Board of control, transportation to state hospital.....	90.18
Board of control, quarterly conference expense.....	649.35
Board of educational examiners.....	38,054.33
Board of health, members' salaries.....	3,570.96
Board of health, general expense.....	8,312.59
Board of health, clerks' fund.....	6,600.00
Board of health, extra clerk.....	1,800.00

CONDITION OF THE TREASURY.

Board of health, embalmers department	2 713 31
Board of health, vital statistics	3 585 49
Board of health nurses' department	2 325 57
Board of health, antitoxin clerk	1 650 00
Board of health, antitoxin expense	363 45
Board of health, enforcement of sanitary conditions	228 12
Board of health, civil engineer and expense	2 389 53
Board of medical examiners	6 160 99
Board of dental examiners	3 273 75
Board of optometry	332 31
Board of parole secretary's salary	4 000 00
Board of parole, members' salaries and other expenses	26 066 71
Bee inspection	1 514 81
Commission of labor, salary	3 600 00
Commission of labor, deputy	3 000 00
Commission of labor, clerks	2 300 00
Commission of labor, factory inspectors	5 987 07
Commission of labor, expense	4 570 87
Custodian public property salary	3 018 52
Custodian public property, employes	63 872 56
Custodian public property, extra help	1 725 71
Custodian public property, shoveling snow	478 25
Commission of animal health	2 975 76
Collateral inheritance tax, refund	1 050 23
Collateral inheritance tax, enforcement fund	26 216 86
Clerk of supreme court, salary	4 895 96
Clerk of supreme court, deputy	3 600 00
Clerk of supreme court, clerks	5 825 40
Clerk of supreme court, extra clerk	67 50
College for blind support	72 949 94
College for blind, contingent and repair	3 500 00
College for blind, wells	4 000 00
College for blind, remodeling building	65 000 00
College for blind, oculist fund	125 00
College for blind, domestic science	250 00
Code supplement commission	24 638 97
Department of agriculture support	4 000 00
Department of agriculture women's building	65 531 81
Department of agriculture, insurance	2 000 00
Department of G A R	1 500 20
Department of G A R, veterans home coming	2 000 00
District judges, expense outside district	164 75
District judges, salaries, fifty-nine judges	404 809 29
Employers liability commission	2 858 30
Executive council, extraordinary expense	4 832 00
Executive council, clerks	15 823 50
Executive council, contingent	2 466 93
Executive council, expert accountant	4 121 15
Executive council, voucher clerk	1 789 50
Executive council, investigation of property values	3 825 67
Executive council, Teachout building expense	291 93
Executive council, costs in state cases	2 021 47
Executive council, Bancroft lake bed	3 852 53
Executive council, survey of abandoned islands	923 16
Executive council, survey of lake beds	2 948 71
Executive council, repairs to state house	24 590 60
Engraving plates and cuts	2 245 47
Food and dairy commissioner, salary	5 400 00
Food and dairy commissioner deputy and inspectors	50 075 76
Food and dairy commissioner expense	38 205 32
Food and dairy commissioner, chemist	4 800 00
Food and dairy commissioner clerks	6 142 07
Food and dairy commissioner dairy industry	7 284 67
Food and dairy commissioner, beef cattle industry	7 266 84
Food and dairy commissioner, food and feeding stuffs	5 344 99
Food and dairy commissioner, superintendent weights and measures	2 177 06
Farmers' institute	12 947 55
Fish and game, boundary waters fund	4 014 74
Fish and game, general expense	182 396 49
Freight, express and cartage	15 564 27
Gettysburg anniversary expense	10 000 00
General assembly, thirty-fifth, members' salaries	158 500 00
General assembly, thirty-fifth, employes	57 614 57
General assembly, thirty-fifth, mileage	2 162 05
General assembly, chaplains	720 00
General assembly, special appropriations	10 420 99
General assembly visiting committees	20 45
General assembly, election contest Coburn-Gillett	382 84
General assembly, election contest Kimball-Goodwin	602 97
General assembly, inauguration expense	385 67
Governor's salary and house rent	13 600 00
Governor's private secretary	3 560 00
Governor's clerks	8 650 00
Governor's contingent	567 52
Governor's return of fugitives	8 773 82
Governor's defense of patents	124 53
Governor's contingent fund to pay counsel	3 043 92
Governor's reward for arrest of murderers	550 09
Governor's return of parole prisoners	50 00
Geological survey, expense	16 308 06

CONDITION OF THE TREASURY.

Geological survey, clerk	1,800.00
Historical department, support	36,000.00
Historical department, curator's salary	3,600.00
Historical department, clerks and janitors	17,800.00
Historical department, donation expense	30.93
Historical department, building and equipment	1,083.85
Horticultural society, support	9,000.00
Horticultural society, promotion	500.00
Hotel inspection	10,835.36
Hog cholera serum	36,715.00
Iowa weather and crop report	5,183.12
Iowa library commission, salaries	11,749.16
Iowa library commission, expense	9,954.10
Iowa library commission, extra and shipping clerk	1,147.90
Iowa industrial commission	4,686.96
Insane, return of escaped	874.35
Insane, non-resident	2,946.01
Insane, commission of inquiry	80.48
Inebriate, return of escaped	853.69
Interest on school fund bonds	1,324.22
Militia	312,475.97
Mine inspectors, salaries	10,800.00
Mine inspectors, clerk	2,000.00
Mine inspectors, expense	3,894.16
Mine inspectors, board of examiners	5,521.60
Miscellaneous code, 165	132,633.76
Miscellaneous code, 165, fuel	19,735.25
Miscellaneous code, 164	26,750.14
Monument, Vicksburg national park	254.15
Monument, Keokuk	1,700.00
Oil inspection	54,402.42
Pharmacy commission	13,574.32
Pharmacy commission, legal assistance	137.50
Postmaster	2,115.81
Prison breach, escape	21.40
Providential contingent fund	12,722.29
Public archives	9,870.30
Pioneer law makers	59.25
Publishing notices of pardon	116.46
Publishing acts of general assembly	830.81
Railroad commission, members and secretary	16,800.00
Railroad commission, clerks	12,669.34
Railroad commission, expense	3,316.48
Railroad commission, investigation of rate cases	49,484.97
Railroad commission, commerce counsel, salary	10,000.00
Relief of Hull	480.00
Relief of Metz	480.00
Relief of survivors Spirit Lake expedition	2,189.33
Refund to counties, institution accounts	4,238.63
Removal of officers	39.95
Retrenchment and reform, expense	551.28
Retrenchment and reform, extra help	4,975.81
Retrenchment and reform, efficiency engineers	7,876.17
Reward for return of escaped prisoners	900.00
Statue of Kirkwood	2,259.50
State entomologist	4,644.19
State entomologist, quarantining insects	222.56
State board of education, finance committee	19,983.88
State board of education, per diem and expense	31,065.57
State board of education, telephone, express, etc.	451.38
State binder	55,765.87
State printer	116,484.25
Secretary of state, salary	6,998.37
Secretary of state, deputy	3,600.00
Secretary of state, land clerk	2,975.00
Secretary of state, clerks	19,871.53
Secretary of state, motor clerks	7,592.57
Secretary of state, extra clerks	12,806.09
Secretary of state, blue sky department	2,710.38
Secretary of state, indexing session journals	300.00
State library, librarian and assistants	14,400.00
State library, cataloguers and janitors	9,277.55
State library, extra help and contingent	210.50
State library, historical department expense	11,802.32
State library, law department expense	11,940.63
State library, miscellaneous expense	10,987.72
State university, support	840,400.00
State university, contingent and repair	50,000.00
State university, library support	35,000.00
State university, paving and walks	10,000.00
State university, purchase of land	25,000.00
State university, equipment of buildings	55,500.00
State university, equipment and support	15,000.00
State university, equipment for dentistry	4,000.00
State university, tunnels	10,000.00
State university, engineering equipment	12,500.00
State university, domestic science	8,500.00
State university, extension work	15,000.00
State university, epidemiologist and laboratory	5,000.00
State teachers' college, support	239,000.00

CONDITION OF THE TREASURY.

State teachers' college, contingent	111,000.00
State teachers' college, paving	900.00
State teachers' college, library and assistants.....	24,000.00
State teachers' college, nurses' hospital.....	2,500.00
State teachers' college, summer term.....	27,000.00
State teachers' college, furniture	2,500.00
State teachers' college, pipe organ.....	5,000.00
Superintendent of public instruction, salary	6,185.46
Superintendent of public instruction, deputy and inspectors.....	11,395.06
Superintendent of public instruction, clerks and janitor.....	5,160.00
Superintendent of public instruction, traveling expense.....	3,280.93
Superintendent of public instruction, extra clerk.....	1,638.62
Superintendent of public instruction, school journals.....	173.25
Supreme court, judges' salaries (seven).....	79,183.33
Supreme court, bailiff and stenographers.....	12,589.90
Supreme court, contingent	1,633.93
Supreme court, reporter	3,600.00
Supreme court, reporter's clerk.....	1,440.00
State fire marshal.....	23,667.58
Treasurer of state, salary	6,998.37
Treasurer of state, deputy	3,600.00
Treasurer of state, clerks	10,852.63
Treasurer of state, extra clerk and contingent.....	912.96
Treasurer of state, bond fund.....	4,000.00
Teachers' institute.....	8,650.00
Training teachers.....	145,102.95
Temporary tax commission.....	3,800.32
Veterinary surgeon, salary	3,600.00
Veterinary surgeon, clerks	4,200.00
Veterinary surgeon, assistants and expense.....	20,388.42

STATE INSTITUTIONS UNDER BOARD OF CONTROL.

Anamosa Reformatory—	
Support and current expense.....	\$ 362,045.36
Buildings and improvements.....	51,354.98
Cherokee Hospital for Insane—	
Support and current expense.....	373,014.24
Buildings and improvements.....	66,882.58
Clarinda Hospital for Insane—	
Support and current expense.....	399,997.83
Buildings and improvements.....	29,125.59
Council Bluffs School for the Deaf—	
Support and current expense.....	121,381.47
Buildings and improvements.....	8,491.33
Davenport Soldiers' Orphans' Home—	
Support and current expense.....	165,468.24
Buildings and improvements.....	43,206.62
Eldora Industrial School for Boys—	
Support and current expense.....	156,876.23
Buildings and improvements.....	28,948.45
Ft. Madison Penitentiary—	
Support and current expense.....	286,034.85
Buildings and improvements.....	97,256.02
Glenwood Institution for Feeble-minded—	
Support and current expense.....	445,592.52
Buildings and improvements.....	161,712.25
Independence Hospital for Insane—	
Support and current expense.....	412,560.92
Buildings and improvements.....	89,397.01
Knoxville Hospital for Inebriates—	
Support and current expense.....	102,748.64
Buildings and improvements.....	10,469.36
Marshalltown Soldiers' Home—	
Support and current expense.....	321,393.18
Buildings and improvements.....	8,293.71
Mitchellville Industrial School for Girls—	
Support and current expense.....	93,687.40
Buildings and improvements.....	11,038.84
Mt. Pleasant Hospital for Insane—	
Support and current expense.....	384,971.92
Buildings and improvements.....	42,789.09
Oakdale Sanatorium for Tuberculosis—	
Support and current expense.....	106,050.22
Buildings and improvements.....	10,712.48
Purchase of land for state institutions.....	2,780.65
Total warrants issued from July 1, 1912, to July 1, 1914.....	\$11,996,532.00
Warrants outstanding July 1, 1912.....	65,968.81
Total	\$12,062,500.81
Warrants redeemed from July 1, 1912, to July 1, 1914.....	\$11,828,396.02
Warrants outstanding July 1, 1914.....	234,104.79
Total	\$12,062,500.81

CONDITION OF THE TREASURY

STATEMENT NO. 3.

Miscellaneous Items

WARRANTS—SPECIAL UNIVERSITY

Warrants issued from July 1 1912 to July 1 1914	\$ 272 793 04
Warrants redeemed from July 1, 1912 to July 1, 1914	272 793 04

WARRANTS—SPECIAL AGRICULTURAL COLLEGE

Warrants issued from July 1 1912 to July 1, 1914	\$ 326 038 21
Warrants redeemed from July 1, 1912, to July 1, 1914	326 038 21

WARRANTS—SPECIAL STATE TEACHERS COLLEGE

Warrants issued from July 1 1912 to July 1, 1914	\$ 140 191 18
Warrants redeemed from July 1, 1912, to July 1, 1914	140 191 18

WARRANTS—SPECIAL STATE INSTITUTIONS

Warrants issued from Jan 1, 1914 to July 1, 1914	\$ 150 719 69
Warrants redeemed from Jan 1 1914, to July 1 1914	150 719 69

WARRANTS—SPECIAL AGRICULTURAL EXTENSION

Warrants issued from Jan 1, 1914, to July 1 1914	\$ 161 210 66
Total	\$ 161 210 66
Warrants redeemed from Jan 1 1914, to July 1, 1914	\$ 107 700 00
Warrants outstanding July 1, 1914	53 510 66
Total . . .	\$ 161 210 66

WARRANTS—SPECIAL CAPITOL EXTENSION

Warrants issued from July 1 1913 to July 1 1914	\$ 612 067 84
Total . . .	\$ 612 067 84
Warrants redeemed from July 1 1913 to July 1 1914	\$ 612 038 18
Warrants outstanding July 1 1914	1 029 66
Total	\$ 612 067 84