

**THE**  
**CONSOLIDATED LAWS**  
**OF THE**  
**STATE OF NEW YORK**  
**1909**

PREPARED UNDER THE DIRECTION AND CONTROL OF THE  
BOARD OF STATUTORY CONSOLIDATION, COMPOSED OF  
ADOLPH J. RODENBECK, WILLIAM B. HORNBLOWER,  
JOHN G. MILBURN AND ADELBERT MOOT

COMPRISED IN FIFTY-NINE CHAPTERS

AND

The Public Service Commissions Law and the Railroad Law, constituting  
all the General Statutory Law of the State of New York,  
except that contained in the Code of Civil Pro-  
cedure and Code of Criminal Procedure

Certified by the Secretary of State as correct transcripts of the original laws

CONTAINING ALSO

The Consolidated Schedule of Repeals; the Historical Record of General  
Statutes; chapters amending the Code of Civil Procedure and Code of  
Criminal Procedure generally; and the Consolidators' and Revisers' Notes:  
embracing all the work of the Board of Statutory Consolidation

Edited by

**FREDERICK E. WADHAMS**

of the Albany Bar

Secretary of the Board of Statutory Consolidation

With a Complete Analytical Index, and the Constitution of the State of New York

In Seven Volumes

**VOLUME I**

NEW YORK CITY  
THE AMERICAN LAW BOOK COMPANY  
60 WALL STREET  
1909

W  
A  
D  
H  
A  
M  
S

L20472

JUN 12 1942

Copyright, 1909  
BY FREDERICK E. WADHAMS

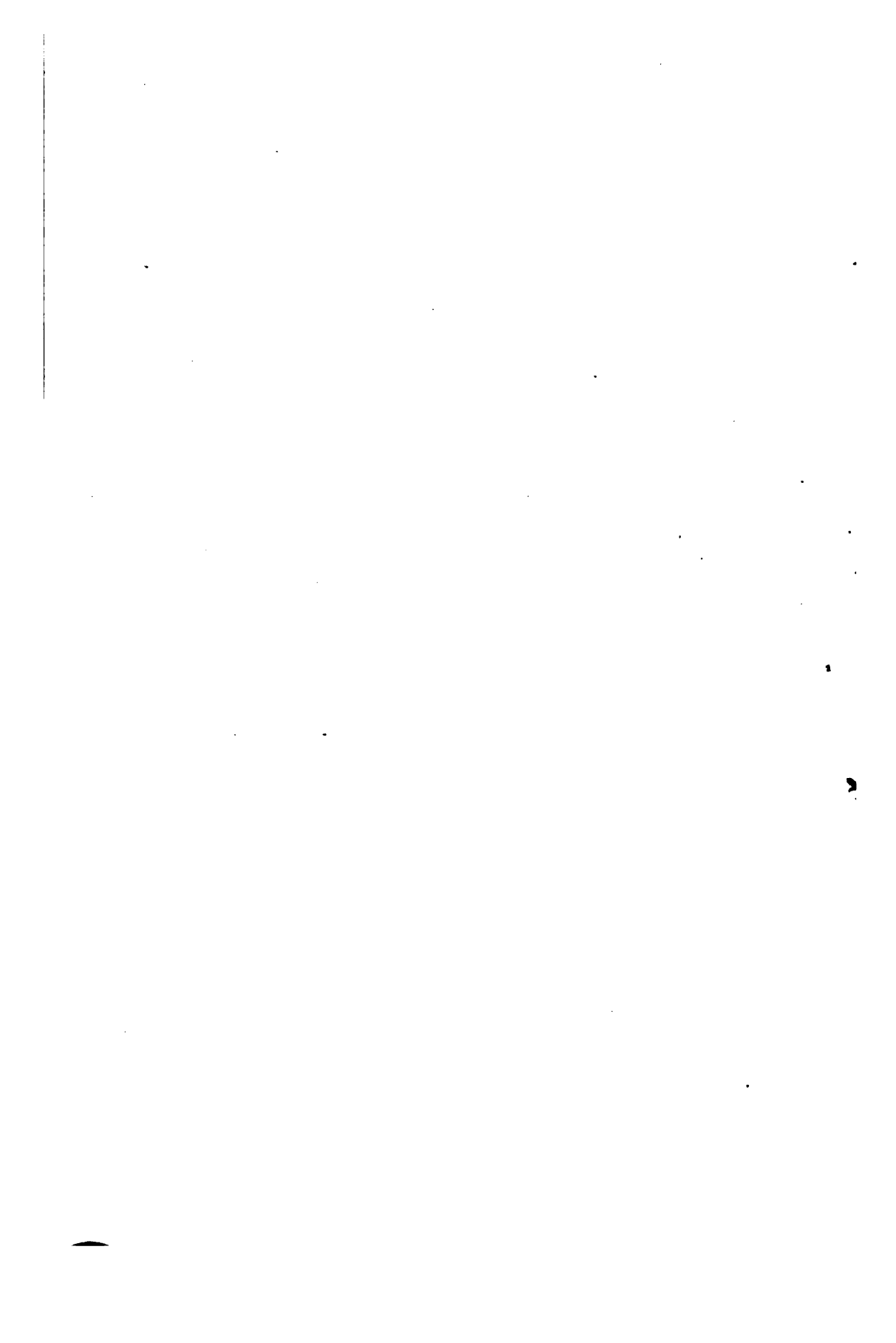
J. B. LYON COMPANY  
PRINTERS AND BINDERS  
ALBANY, N. Y.

STATE OF NEW YORK, }  
Office of the Secretary of State, } ss.:

In pursuance of the authority vested in me by section 932 of the Code of Civil Procedure as amended by Laws of 1895, chapter 594, I, Samuel S. Koenig, Secretary of State, hereby certify that the copies of the Consolidated Laws and other statutes contained in this volume are correct transcripts of the text of the original laws and in accordance with such section are entitled to be read in evidence.

[L. s.] Given under my hand and the seal of office of the Secretary of State, at the Capitol in the city of Albany, this 10th day of June, 1909.

SAMUEL S. KOENIG,  
*Secretary of State*  
*of the State of New York.*



## CONTENTS OF VOLUME I

---

<b>CONSOLIDATED LAWS</b>	<b>PAGE</b>
Agricultural Law.....	1
Banking Law .....	73
Benevolent Orders Law .....	231
Business Corporations Law .....	243
Canal Law .....	255
Civil Rights Law .....	311
Civil Service Law .....	319
County Law .....	343
Debtor and Creditor Law .....	451
Decedent Estate Law .....	507
Domestic Relations Law .....	535
Drainage Law .....	567
Education Law .....	603



## CONTENTS

	Page
Preface . . . . .	VII
Act Creating the Board of Statutory Consolidation . . . . .	XX
List of "Consolidated Laws" . . . . .	XXII
Act prescribing rules for the construction of the "Consolidated Laws" . . . . .	XXIV
List of "General Laws" prepared by the Statutory Revision Commission. . . . .	XXVI
Constitution of the State of New York . . . . .	XXIX
<b>Consolidated Laws</b>	
Agricultural to Education . . . . .	Vol. 1
Election to Insanity . . . . .	Vol. 2
Insurance to Partnership . . . . .	Vol. 3
Penal to Real Property . . . . .	Vol. 4
Religious Corporations to Village . . . . .	Vol. 5
<i>Following Public Officers Law in Vol. 4</i>	
Public Service Commissions Law . . . . .	Vol. 4
Railroad Law and independent statutes . . . . .	Vol. 4
<i>Following Village Law in Vol. 5</i>	
<b>Code of Civil Procedure</b>	
General amendments to . . . . .	Vol. 5
Table No. 1, Statutes consolidated in . . . . .	Vol. 5
Tables Nos. 2 and 3, Distribution of sections of, in the "Consolidated Laws" . . . . .	Vol. 5
<b>Code of Criminal Procedure</b>	
General amendments to . . . . .	Vol. 5
Tables showing statutes consolidated in . . . . .	Vol. 5
<b>Penal Law</b>	
Table showing statutes consolidated in . . . . .	Vol. 5
Index . . . . .	Vol. 6
Notes of Consolidators . . . . .	Vol. 6
Consolidated Schedule of Repeals . . . . .	Vol. 7
Historical Record of General Statutes . . . . .	Vol. 7

.....



## PREFACE

The Consolidated Laws constitute the sixth compilation of the general statute law of the State prepared under legislative authority and were authorized by Laws 1904, chapter 664, whereby a Board of Statutory Consolidation was constituted, charged with the duty "to direct and control the revision, simplification, arrangement and consolidation of the statutes of the state" without change in substance, following the plan adopted in the General Laws. That duty having been performed, the Consolidated Laws contained in this edition are presented as they were prepared by the Board of Statutory Consolidation and, as so prepared, passed by the Legislature of 1909 without material change. The Public Service Commissions Law and the Railroad Law (chapter 39 of the General Laws) were included among the Consolidated Laws presented to the Legislature in the report of the board and both were passed by the Legislature, but failed to receive executive approval. Both of these laws, therefore, as amended to date and all existing independent general statutes relating to railroads are included in this edition. The amendments made to the Consolidated Laws at the same session, save those contained in Laws 1909, chapter 240, which was enacted to correct certain typographical errors discovered in the legislative printing of the laws and which have been incorporated in the various sections so amended, are furnished in a cumulative volume with complete and convenient references to the sections amended, in which the changes made in the law by the amendment are printed in italic. A similar volume will be published annually immediately after the adjournment of the Legislature and each succeeding volume will supplant that of the previous year.

All the general statutes of the State, except as above noted, having now been consolidated, and systematically arranged, and the chaotic condition of our laws which had for so many years existed, removed, the editor believes that an edition of the Consolidated Laws without embodying the construction placed by the courts upon the various sections, which construction is now easily ascertained through the complete and perfect system of digests with which the bar is furnished, will be found essentially useful.

The exact language of the statute is desired in a vast majority of cases when the necessity arises to consult the statute and not the

construction placed upon it by the courts, and the intent of the statute is more easily grasped when read without the intervening spaces which the introduction of the case law necessitates, and with a view of supplying what seems to be necessary to enable one to determine the exact provisions of the statute law of the State with the same ease and quickness as afforded by the use of the pocket code to ascertain provisions of practice, this edition is furnished.

In this edition reference is made under each section to its former location, and a complete history of legislation affecting it is given, and thus all changes made by the consolidation in section numbers clearly appear and the introduction of independent statutes and of substantive provisions of the code is indicated, so that with this information, if desired, references in the decisions of the courts or elsewhere to the former sections of the statutes here consolidated can be easily applied to any section of the Consolidated Laws.

This edition presents not only the statute law in a convenient form but also all the Notes of Consolidators, Tables, Schedule of Laws Repealed and the Historical Record of General Statutes, comprising all of the work of the Board of Statutory Consolidation.

A revision or consolidation of the statute law of the State so seldom occurs that it seems proper to give a brief account of the preparation of the Consolidated Laws, but before doing so it is deemed expedient to refer to the several revisions and compilations of the statutes prepared under legislative authority which were made and published at the time and under the direction of the persons mentioned in the following table and are known by the names therein given:

#### AUTHORIZED REVISIONS OF THE STATUTES.

Authorized by	Under the authority of	Name of revision	When published
L. 1786, Ch. 35 . . . . .	Samuel Jones . . . . .	} Jones and Varick . . .	1789
	Richard Varick . . . . .		
L. 1800, Ch. 70 . . . . .	James Kent . . . . .	} Revised Acts . . . . .	1802
L. 1801, Ch. 190 . . . . .	Jacob Radcliff . . . . .		
L. 1811, Ch. 150 . . . . .	William P. Van Ness . . . . .	} Revised Laws . . . . .	1813
	John Woodworth . . . . .		
L. 1824, Ch. 336 . . . . .	James Kent . . . . .	} Revised Statutes . . .	1829
L. 1825, Ch. 325 . . . . .	Erastus Root . . . . .		
	Benjamin F. Butler . . . . .		
	John Duer . . . . .		
	Henry Wheaton . . . . .		
	John C. Spencer . . . . .		

AUTHORIZED REVISIONS OF THE STATUTES — *Continued.*

Authorized by	Under the authority of	Name of revision	When published
L. 1889, Ch. 289.....	Isaac H. Maynard..... Charles A. Collin..... Eli C. Beiknap..... John J. Linson..... Daniel Magone..... Charles Z. Lincoln..... William H. Johnson.....	General Laws.....	1890-1900
L. 1904, Ch. 664.....	A. Judd Northrup..... Adolph J. Rodenbeck..... Judson S. Landon..... William B. Hornblower..... Adelbert Moot.....		

The so-called revisions of "Jones and Varick," the "Revised Acts" and "Revised Laws" were in fact merely publications of existing public acts arranged chronologically as passed, while the revision known as the "Revised Statutes" was considered the most complete and perfect exposition of the law of the State ever prepared and has been followed in substance and style in many other States. The "General Laws" prepared by the Statutory Revision Commission under the authority of Laws 1889, chapter 289, were enacted from time to time during the eleven years the commission was in existence and a list of these laws, together with the date of enactment, will be found on page xxvi of this volume.

Radical changes in the Code of Civil Procedure were recommended by this commission which did not meet with favor and the commission made its last report to the Legislature under date of April 5, 1900, and was abolished by L. 1900, chapter 664.

During the same session of the Legislature a committee consisting of seven members of the Assembly and five members of the Senate was appointed to consider the subject of statutory and code revision and report thereon to the Legislature of 1901; in the report of this committee a thorough examination and revision of the general statutes was recommended. Adolph J. Rodenbeck was chairman of the joint committee.

THE CONSOLIDATED LAWS.

During nearly the entire period of the existence of the Statutory Revision Commission, the New York State Bar Association was active in promoting a thorough revision of the statutes. Reports upon the subject were made from time to time to that body, through its Committee on Law Reform, of which J. Newton Fiero,

who has long been active in the matter of code revision and statutory consolidation, was chairman, urging the necessity for the prosecution and completion of the work. The Association thereupon recommended to the Legislature that there should be a revision of the General Laws based upon a page to page examination of the session laws which would make the General Laws comprehensive and specific, repealing all obsolete, contradictory and unnecessary laws and classifying all remaining laws. As the result of this action on the part of the New York State Bar Association, Governor Odell was authorized by the Legislature of 1902 to appoint a Committee of Fifteen to report to the next Legislature "concerning the condition of the statutes and laws of this state." The Governor appointed the following members of this committee: Alton B. Parker, Charles Andrews, Robert Earl, William H. Adams, Samuel T. Maddox, Frank H. Platt, Frank Hiscock, John G. Milburn, Celora E. Martin, Judson S. Landon, William B. Hornblower, Abraham Gruber, John C. Davies, Alonzo Wheeler, J. Newton Fiero. The committee organized by the selection of Chief Judge Parker as chairman, and J. Newton Fiero as secretary.

A report was made by that body to the Legislature of 1903 recommending a consolidation of the statutes which would specifically repeal obsolete, contradictory and inconsistent statutes, gather together all cognate general statutes and bring down to date the work of collation and condensation.

Statutory revision and consolidation was also most forcibly recommended by the President of the New York State Bar Association in his annual address in 1903 and 1904.

#### THE BOARD OF STATUTORY CONSOLIDATION.

Following the recommendations of the Committee of Fifteen and the proceedings taken by the New York State Bar Association, the Board of Statutory Consolidation was created by Laws 1904, chapter 664. By the terms of this act the board is authorized, § 1: "to direct and control the revision, simplification, arrangement and consolidation of the statutes of the state; § 2. The plan and scope of the work shall follow that adopted in the general laws so far as practicable. The statutes shall not be changed in substance except that as to matters of procedure such board shall report for enactment such amendments as it may deem

proper and necessary to condense and simplify the existing practice and as shall adapt the procedure to existing conditions."

The board, as originally constituted, being composed of Adolph J. Rodenbeck, Charles Andrews, Judson S. Landon, William B. Hornblower and John G. Milburn, organized on May 25, 1904, and elected Judge Rodenbeck as chairman and appointed its secretary. Judge Andrews being unable to serve on the board resigned before the board organized and Adelbert Moot of Buffalo was appointed on June 17, 1904, to fill the vacancy so created. Judge Landon died on September 7, 1905, and this vacancy was never filled.

#### THE PREPARATION OF THE CONSOLIDATED LAWS.

Without attempting to explain in detail the manner in which the consolidation has been accomplished it may be of interest to note briefly the means employed and the plan adopted.

A plan for collating the statutes by means of a card system preparatory to the work of consolidation and revision was prepared by the chairman and presented to the board soon after it was organized and adopted as most admirably fitted to carry out the work. As originally presented this plan provided for the classification of the special laws as well as those of general application but it was soon discovered that it would be impossible in the time allowed for the work to classify the special or local acts and it was decided to confine the work of the board to the examination of "the general laws and special, private or local laws for provisions of general operation." That the work might be thorough and exhaustive it was determined to make a page to page examination of all of the session laws and previous revisions of the statutes beginning with the first session in 1778 and, as provided by the plan adopted, cut from the session laws all acts of general operation, and to more completely accomplish this to examine special acts so far as to ascertain whether any provisions of a general character were included in them, and paste these general acts, section by section, upon cards provided for that purpose. To perform this work some thirty-five members of the bar were selected as "statutory examiners" and by them the page to page examination of the statutes was made, all statutes of general application cut out, duplicate volumes of the session laws being furnished for that purpose, classified to the general law to which each related, and pasted upon cards especially designed for this use, the year, chapter and section, the title and substance

of the matter placed upon the card being noted on it together with the statute which it affected.

Seven different cards were used, on three of which was placed the substance of the statutes, while four were employed to record the data necessary for the Historical Record of Statutes.

The work of the examiners being completed the cards were arranged according to their classification and thus every law of general application enacted by the Legislature since its first session, whether repealed or not, was assigned to the subject to which it related.

The plan adopted and followed in thus assembling all of the statutory law of the State was published and is known as the "Plan for Collating the Statutes Preparatory to the Work of Consolidation and Revision prepared under the direction of the Board of Statutory Consolidation" and may be found in the State Library, and reference to it is made for the detailed manner in which that portion of the work of the board was performed. The labor involved may possibly be conceived from the fact that while the laws passed at the first session of the Legislature were contained in 47 chapters, there were 524 chapters enacted by the Legislature of 1908 and a total number of over 55,500 chapters enacted during the one hundred and thirty years from 1778 to 1908 inclusive which are contained in 110,329 pages, and upwards of 250,000 cards were employed in collating and classifying the laws and in preparing the Historical Record.

With the statutes so classified and the cards relating to the same subject assembled, the work of consolidation began. In this work some of those theretofore employed as examiners, together with other members of the bar specially qualified in the subjects assigned to them, were employed as "consolidators" to prepare the Consolidated Laws.

The consolidators were directed to make copious notes, and to insure uniformity in the work a letter of instruction was furnished to each, setting forth in general terms the manner in which the work should be performed.

The laws so prepared and the notes of the consolidators were then carefully examined, checked and verified by a separate force employed in the office of the board and submitted to each member of the board and by them carefully examined; and such changes as were by them suggested having been made, the laws were again submitted for final examination and completion.

## THE NAMES OF THE LAWS.

The board fixed upon the term "Consolidated Laws" to distinguish these statutes from the "Revised Acts," "Revised Laws," "Revised Statutes" and "General Laws," and the name thus given is defined by section eighteen of the General Construction Law as follows: "The term 'Consolidated Laws' shall mean the compilation of the statutes prepared by the Board of Statutory Consolidation and the amendments thereof."

Forty-eight of the fifty-nine Consolidated Laws retain the names under which they appeared in the General Laws, except that to the "Domestic Commerce Law" is given the name "General Business Law," the "Statutory Construction Law" is now known as the "General Construction Law," and the "Military Code" is now "Military Law."

The following three existing general statutes are incorporated as Consolidated Laws, namely: The "Penal Law," formerly known as the Penal Code, which has been arranged alphabetically without change in substance, and in which certain provisions of the Revised Statutes and Session Laws, together with several sections of the Code of Civil Procedure, have been consolidated; the "Second Class Cities Law," formerly known as Uniform Charter of Cities of the Second Class, and the "Tenement House Law."

The Public Service Commissions Law and the Railroad Law (chapter 39 of the General Laws) being general statutes, although not Consolidated Laws, are included under their respective names.

## EIGHT NEW LAWS.

In classifying the provisions of the Session Laws, and the Revised Statutes which were included in the page to page examination, there were found many general statutes which could not be assigned to any of the existing General Laws, and these with certain provisions of the Code of Civil Procedure were therefore incorporated in eight new Consolidated Laws to which were given the names "Civil Rights Law," "Debtor and Creditor Law," "Decedent Estate Law," "Drainage Law," "Education Law," "Judiciary Law," "Prison Law" and "State Boards and Commissions Law." The former location of each section of these new consolidations, as well as the sections of all of the Consolidated Laws, following the plan adopted in this edition, appears under

each section. All of the consolidators' notes being included in this edition reference is made to them for the history and scope of these new consolidations.

#### SECTION NUMBERS CHANGED — SCHEDULE OF REPEALS.

The section numbers of nearly all the General Laws have been necessarily changed by the introduction of statutes not heretofore contained in the General Laws, and to allow for expansion, by omitting numbers between articles which may be utilized if new sections are added to the Consolidated Laws.

A complete schedule of repeals forms a part of each of the Consolidated Laws in which all statutes consolidated in the text, also all obsolete and other statutes relating to the subject matter contained in each law, are repealed, including statutes previously repealed.

Statutes which have been amended "so as to read as follows" have been considered as superseded and repealed by the amending statute and are also included in the schedule.

#### THE CONSOLIDATED LAWS PRESENTED TO THE LEGISLATURE.

The sixty-one Consolidated Laws, with the legislation of 1907 incorporated and an Act amending the Code of Civil Procedure generally and an Act amending the Code of Criminal Procedure generally, contained in seven volumes, together with the report of the board, were presented to the Legislature on February 27, 1908, and thereafter several hundred copies were distributed among the state officers, the judiciary and members of the bar throughout the State, "for the purpose of obtaining their suggestion and advice," as provided in the act creating the board.

It being impossible to pass the laws so presented during the session of 1908, by direction of the Legislature of that year the board was "directed to complete its work and present its final report to the Legislature prior to February 1, 1909, and to prepare in official form for introduction all bills reported by it for enactment and have the same printed \* \* \* in typographical form as reported as senate and assembly bills for introduction on the first day of the session of the legislature of 1909," and by concurrent resolution a joint committee of the Legislature was appointed "to consider after the adjournment of the Legislature the proposed recommendations of the Board of Statutory Consolidation and to report thereon to the Legislature of 1909



for the purpose of facilitating the consideration of such recommendations by the next legislature."

Pursuant to the authority above mentioned the legislation of 1908 was incorporated in the Consolidated Laws and sixty-one chapters were printed in bill form contained in 8,143 pages and introduced in the Senate and Assembly January 6, 1909.

The joint committee made its report January 6, 1909, recommending the adoption of the Consolidated Laws as early in the session as possible to the end that any general legislation enacted during the session might become amendments or additions to the Consolidated Laws, and pursuant thereto all of the bills prepared by the board were passed without amendment and became laws with the approval of the Governor on February 17, 1909, except the following, which with slight amendments were thereafter passed, namely: The Penal Law, which went into effect March 12, 1909; the Tenement House Law, in effect March 20, 1909; the Transportation Corporations Law, in effect April 21, 1909; and except the Public Service Commissions Law and the Railroad Law which were vetoed as above stated.

#### CODE OF CIVIL PROCEDURE AND CODE OF CRIMINAL PROCEDURE.

Authority was given in the act creating the board to "report for enactment such amendments as it may deem proper and necessary to condense and simplify the existing practice and as shall best adapt the procedure to existing conditions," but the board determined to confine its work to the consolidation of the general statutes and to defer any action upon the revision of the Code of Civil Procedure other than to remove the substantive provisions contained therein and incorporate them in the Consolidated Laws.

Several independent general statutes existing in the Revised Statutes and throughout the session laws which relate wholly to practice and not heretofore found in the Codes or any general law were discovered in the progress of the work, and these have been added as new sections to the Code of Civil Procedure, the Code of Criminal Procedure and the Penal Law.

Over six hundred sections of the Code of Civil Procedure containing substantive matter have been eliminated therefrom and incorporated without change of substance and without change in practice in the following Consolidated Laws:

Banking Law, Civil Rights Law, County Law, Debtor and Creditor Law, Decedent Estate Law, Domestic Relations Law,

---

Executive Law, General Business Law, General Corporation Law, Joint-Stock Association Law, Judiciary Law, Lien Law, Military Law, Penal Law, Personal Property Law, Prison Law, Public Officers Law, State Finance Law.

By reason of the foregoing, acts amending the Code of Civil Procedure and the Code of Criminal Procedure became necessary, both of which are included in this edition.

The section numbers of the Code of Civil Procedure and the Code of Criminal Procedure remain unchanged, but the sections of the Penal (Code) Law have been renumbered throughout.

Tables are furnished showing the location in the Consolidated Laws of the substantive provisions removed from the Code of Civil Procedure while the location in the Penal Law of the former sections of the Penal Code may be found by turning to Laws 1881, chapter 676, in the "Consolidated Schedule of Repeals."

#### THE HISTORICAL RECORD OF GENERAL STATUTES.

The preparation of this record continued throughout the entire existence of the board and it is one of the most valuable results of its labor. It contains the short title and history of every general statute passed since 1778 and has been extended by the editor so as to include the legislation of 1909. By means of this table the bar will be able to ascertain at once the legislation affecting every section of any general law, including the Revised Statutes and the Codes to date, if amended, when amended, and if repealed, when repealed. The table further serves to show what statutes have been treated as of general application and included in the Consolidated Laws either in the text or in the schedule of repeals. The statutes which do not appear in the Historical Record were considered by the board special, private or local statutes and not included in the consolidation, and concerning them no record has been made. This is the first complete record of the kind ever prepared with reference to the general laws of this State and its importance can hardly be overestimated.

#### THE CONSOLIDATED SCHEDULE OF REPEALS.

This is a consolidation of the schedules which follow each of the Consolidated Laws. To this is added a reference to the section of the text of the Consolidated Law where each section of the live provisions of the statutes consolidated is incorporated.

Statutes which have been heretofore repealed in terms are printed in the first section column in Roman type, while the statutes which have not been heretofore repealed and which have been consolidated in the text or recommended for repeal are printed in italic. By means of this table the location, classification and disposition of every general statute either in the text or in the schedule of repeals may be readily ascertained.

This table includes the legislation of 1909 and will serve as a great convenience to the profession.

#### CONSOLIDATORS' NOTES.

In the preparation of the Consolidated Laws the consolidators prepared copious notes which contain the general scope and history of each law and such changes in the text as were made necessary by reason of the consolidation.

These notes were incorporated in the report of the board to the Legislature and were prepared in such a manner as to be useful when separated from the report; they appear to the editor to be of such importance and usefulness that they are incorporated in full in this edition, and it is believed they will add greatly to its value.

#### CONSTRUCTION OF THE CONSOLIDATED LAWS.

The Consolidated Laws are not deemed new enactments but furnish a continuation of the various statutes incorporated in them. In addition to the construction placed upon the Consolidated Laws by the General Construction Law, rules for the construction of the Consolidated Laws and Code amendments reported to the Legislature by the Board of Statutory Consolidation are further contained in Laws 1909, chapter 596, which act will be found on page xxiv in this volume and by its terms provides that "in construing the consolidated laws and the amendments to the code of civil procedure and the code of criminal procedure reported to the legislature by the board of statutory consolidation \* \* \* and in construing the act amendatory thereof known as chapter two hundred and forty of the laws of nineteen hundred and nine, for the purpose of determining the effect of any of the provisions or sections thereof on any other provision or section thereof, or on any special law theretofore enacted, the several provisions and sections of such laws and code amendments and said act amendatory thereof shall not be considered as having been enacted or re-enacted by the legislature at the time of the passage of the consolidated laws or such

code amendments or said act amendatory thereof but as having been enacted as of the various times when such provisions and sections first became laws by any earlier statutes \* \* \* the true purpose and intent of this act is to prescribe that the statute law of the state so far as it has been reproduced in such consolidated laws and in such amendments to the code of civil procedure and code of criminal procedure and in said chapter two hundred and forty of the laws of nineteen hundred and nine and all special laws in force at the time of the enactment of such consolidated laws shall be of the same force and effect as they were before the enactment of such consolidated laws or code amendments or said acts amendatory thereof." It is therefore expected that the Consolidated Laws will receive the same construction by the courts as that placed upon the statutes contained therein when they were originally enacted.

In its report to the Legislature the board summarized its work in the following language: "The board has endeavored to incorporate into the Consolidated Laws the substance of every living general statute enacted since 1778 in the language of that statute, and the language of the original statute, particularly of the Revised Statutes, has been changed only where its insertion in the Consolidated Laws made such change necessary. \* \* \* The board has endeavored not only to make the text of the Consolidated Laws embrace the living general substantive statutes of the State, but has sought to make the schedule of repeals complete by including statutes consolidated in the text, obsolete statutes and statutes previously repealed. The schedule is therefore a complete list of repeals and \* \* \* will wipe from the Session Laws many useless provisions and will add very much to a clearer understanding of the present law."

The members of the board served without compensation, and though actively engaged in their professional duties, they have given to the work much labor and thought, and the benefit of their extended experience and knowledge of the law, so essential to the completion and perfection of the important duty placed upon them by the Legislature. The active part in the work taken by the chairman of the board who was in daily touch with it, and constant in his efforts to perfect and complete it, was fittingly expressed by one of the members of the board at a recent meeting of the New York State Bar Association when he said, in referring to the work of the board: "We selected as our chairman, Judge Rodenbeck of the Court of Claims, who not being in active practice

himself has been able to give an amount of labor and attention to the detail of this work that has been simply incredible and has incited the admiration and wonder of his associates."

The Legislature manifested its appreciation of the services rendered by the members of the board by adopting the following resolution:

*"Resolved*, That the thanks of the Legislature be extended to the Honorable Adolph J. Rodenbeck, William B. Hornblower, John G. Milburn and Adelbert Moot, members of the Board of Statutory Consolidation, for their valuable services as members of said board in the preparation of the Consolidated Laws, and

*"Resolved*, That the clerk of the Senate be directed to cause this resolution to be suitably engrossed and attested and a copy to be presented to each of the members of said Board."

The entire body of the statute law of the State, of general application, except that contained in the Code of Civil Procedure, the Code of Criminal Procedure, the Public Service Commissions Law and the Railroad Law has thus been consolidated and systematically arranged without change of substance while all other general statutes have been repealed as required by the act creating the Board of Statutory Consolidation, thus rendering a search for any living general statutory law elsewhere than in the Consolidated Laws unnecessary.

The bar will recognize in the work accomplished by the Board of Statutory Consolidation a notable achievement and will not fail to justly estimate the value and importance of the work which has been done and accord to it a full measure of appreciation. It is the hope of the editor and the object of his very earnest endeavor that the members of the legal profession will approve the manner and the form in which that work, as enacted into law by the Legislature, is here presented, and that they will find this edition of the Consolidated Laws useful and valuable in the performance of their important duties.

Acknowledgment is due to Mr. Herbert W. Huntington, a co-employee in the work of the Board of Statutory Consolidation, for his assistance in preparing this edition of the Consolidated Laws for the press and to Mr. De Witt C. Blashfield, editor-in-chief of Abbott's Cyclopedic Digest of New York, editor of the Cyc Annual Annotations, etc., for the editorial supervision of the index.

FREDERICK E. WADHAMS.

ALBANY, N. Y., June, 1909.

**STATUTE CREATING THE BOARD OF STATUTORY CONSOLIDATION.**

**L. 1904, Ch. 664.**

AN ACT to provide for the consolidation of the statutes of the state.

Became a law May 9, 1904, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. A board of statutory consolidation is hereby constituted to consist of Adolph J. Rodenbeck, Charles Andrews, Judson S. Landon, William B. Hornblower and John G. Milburn, or such other persons as may be appointed by the governor in case of vacancy. The duty of such board shall be to direct and control the revision, simplification, arrangement and consolidation of the statutes of the state as hereinafter provided.

§ 2. The plan and scope of the work shall follow that adopted in the general laws, so far as practicable. The statutes shall not be changed in substance except that as to matters of procedure such board shall report for enactment such amendments as it may deem proper and necessary to condense and simplify the existing practice and as shall adapt the procedure to existing conditions.

§ 3. The consolidation of the statutes herein provided for shall be carried on under the direction and control of said board by such persons as it shall designate and employ for that purpose whose compensation and necessary expenses shall be fixed by said board and paid by the comptroller on the certificate of the chairman or such other executive officer thereof as may be designated by said board from any appropriation that may be made for that purpose. The members of said board shall serve without compensation, but shall receive their necessary expenses and disbursements incurred in the discharge of their duties either at the capital or elsewhere which shall be paid in the same manner as the compensation and expenses of persons employed by said board.

§ 4. The board shall cause its work to be printed from time to time, and distribute copies of the same to members of the legisla-

---

ture, judges of the courts, and such other persons as it may see fit for the purpose of obtaining their suggestion and advise.\* It shall report annually to the legislature upon the progress of the work and shall make its final report of the statutes so consolidated for enactment to the legislature of nineteen hundred and seven. The printing for said board may be done by the legislative printer and payment therefor shall then be made out of the appropriation for legislative printing. Such board shall not be charged with the duty of advising as to current legislation.

§ 5. Such board, in its final report to the legislature shall suggest such contradictions, omission and imperfections as may appear in the original text, with the manner in which they have reconciled, amended or supplied the same. It shall also designate such statutes, or parts of statutes, as in its judgment ought to be repealed, with the reasons for such repeal, and may also recommend the enactment of any acts, or parts of acts, which such repeal may, in its judgment, render necessary.

§ 6. The sum of thirty-two thousand five hundred dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated for the purpose of carrying out the provisions of this act up to the first day of June, nineteen hundred and five, to be expended in the manner herein provided.

§ 7. This act shall take effect immediately.

---

\* So in original.

**LIST OF CONSOLIDATED LAWS PREPARED BY THE BOARD  
OF STATUTORY CONSOLIDATION AND PASSED BY THE  
LEGISLATURE OF 1909.**

Chapter number	Law	When enacted
1.	Agricultural Law .....	L. 1909, Ch. 9
2.	Banking Law .....	L. 1909, Ch. 10
3.	Benevolent Orders Law .....	L. 1909, Ch. 11
4.	Business Corporations Law .....	L. 1909, Ch. 12
5.	Canal Law .....	L. 1909, Ch. 13
6.	Civil Rights Law (new) .....	L. 1909, Ch. 14
7.	Civil Service Law .....	L. 1909, Ch. 15
11.	County Law .....	L. 1909, Ch. 16
12.	Debtor and Creditor Law (new) .....	L. 1909, Ch. 17
13.	Decedent Estate Law (new) .....	L. 1909, Ch. 18
14.	Domestic Relations Law .....	L. 1909, Ch. 19
15.	Drainage Law (new) .....	L. 1909, Ch. 20
16.	Education Law (new) .....	L. 1909, Ch. 21
17.	Election Law .....	L. 1909, Ch. 22
18.	Executive Law .....	L. 1909, Ch. 23
19.	Forest, Fish and Game Law .....	L. 1909, Ch. 24
20.	General Business Law .....	L. 1909, Ch. 25
21.	General City Law .....	L. 1909, Ch. 26
22.	General Construction Law .....	L. 1909, Ch. 27
23.	General Corporation Law .....	L. 1909, Ch. 28
24.	General Municipal Law .....	L. 1909, Ch. 29
25.	Highway Law .....	L. 1909, Ch. 30
26.	Indian Law .....	L. 1909, Ch. 31
27.	Insanity Law .....	L. 1909, Ch. 32
28.	Insurance Law .....	L. 1909, Ch. 33
29.	Joint-Stock Association Law .....	L. 1909, Ch. 34
30.	Judiciary Law (new) .....	L. 1909, Ch. 35
31.	Labor Law .....	L. 1909, Ch. 36
32.	Legislative Law .....	L. 1909, Ch. 37
33.	Lien Law .....	L. 1909, Ch. 38
34.	Liquor Tax Law .....	L. 1909, Ch. 39
35.	Membership Corporations Law .....	L. 1909, Ch. 40
36.	Military Law .....	L. 1909, Ch. 41
37.	Navigation Law .....	L. 1909, Ch. 42



## LIST OF CONSOLIDATED LAWS

xxiii

---

Chapter number	Law	When enacted
38.	Negotiable Instruments Law.....	L. 1909, Ch. 43
39.	Partnership Law .....	L. 1909, Ch. 44
40.	Penal Law .....	L. 1909, Ch. 88
41.	Personal Property Law.....	L. 1909, Ch. 45
42.	Poor Law .....	L. 1909, Ch. 46
43.	Prison Law (new).....	L. 1909, Ch. 47
44.	Public Buildings Law.....	L. 1909, Ch. 48
45.	Public Health Law.....	L. 1909, Ch. 49
46.	Public Lands Law.....	L. 1909, Ch. 50
47.	Public Officers Law.....	L. 1909, Ch. 51
50.	Real Property Law.....	L. 1909, Ch. 52
51.	Religious Corporations Law.....	L. 1909, Ch. 53
52.	Salt Springs Law.....	L. 1909, Ch. 54
53.	Second Class Cities Law.....	L. 1909, Ch. 55
54.	State Boards and Commissions Law (new)	L. 1909, Ch. 56
55.	State Charities Law.....	L. 1909, Ch. 57
56.	State Finance Law.....	L. 1909, Ch. 58
57.	State Law .....	L. 1909, Ch. 59
58.	State Printing Law.....	L. 1909, Ch. 60
59.	Stock Corporation Law.....	L. 1909, Ch. 61
60.	Tax Law .....	L. 1909, Ch. 62
61.	Tenement House Law.....	L. 1909, Ch. 99
62.	Town Law .....	L. 1909, Ch. 63
63.	Transportation Corporations Law.....	L. 1909, Ch. 219
64.	Village Law .....	L. 1909, Ch. 64

**STATUTE PRESCRIBING RULES FOR THE CONSTRUCTION OF  
THE CONSOLIDATED LAWS.**

**L. 1909, Ch. 596.**

AN ACT to prescribe the rules for the construction of the consolidated laws and code amendments reported to the legislature under and in pursuance to the provisions of chapter six hundred and sixty-four of the laws of nineteen hundred and four, and also for the construction of chapter two hundred and forty of the laws of nineteen hundred and nine.

Became a law May 29, 1909, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. In construing the consolidated laws and the amendments to the code of civil procedure and the code of criminal procedure reported to the legislature by the board of statutory consolidation constituted under the provisions of chapter six hundred and sixty-four of the laws of nineteen hundred and four, entitled "An act to provide for the consolidation of the statutes of the state," and enacted by the legislature of nineteen hundred and nine, and in construing the act amendatory thereof, known as chapter two hundred and forty of the laws of nineteen hundred and nine, for the purpose of determining the effect of any of the provisions or sections thereof on any other provision or section thereof, or on any special law theretofore enacted, the several provisions and sections of such laws and code amendments and said act amendatory thereof shall not be considered as having been enacted or re-enacted by the legislature at the time of the passage of the consolidated laws or such code amendments or said act amendatory thereof but as having been enacted as of the various times when such provisions and sections first became laws by any earlier statutes, provided, however, that when any provision of law after its first enactment by the legislature has been amended or re-enacted, then for the purpose of its construction for the determination of its effect on other sections or provisions of the consolidated laws, it shall be considered as having been enacted at the date of such amendment or re-enactment. If in any such consolidated law and such amendments to the code

of civil procedure and the code of criminal procedure as enacted by the legislature of nineteen hundred and nine or said act amendatory thereof there shall have been incorporated any provisions of law that have heretofore been superseded or impliedly repealed, the incorporation of any such provisions shall not be construed as a legislative intent to revive such superseded or repealed provisions, nor shall such incorporation in such consolidated laws be construed to indicate any legislative determination that such provisions had not been theretofore so superseded or repealed. The true purpose and intent of this act is to prescribe that the statute law of the state, so far as it has been reproduced in such consolidated laws and in such amendments to the code of civil procedure and the code of criminal procedure, and in said chapter two hundred and forty of the laws of nineteen hundred and nine, and all special laws in force at the time of the enactment of such consolidated laws, shall be of the same force and effect as they were before the enactment of such consolidated laws or code amendments or said act amendatory thereof.

§ 2. This act shall take effect immediately.

**LIST OF GENERAL LAWS PREPARED BY THE STATUTORY  
REVISION COMMISSION AND PASSED BY THE LEGISLATURE  
FROM 1889 TO 1900.**

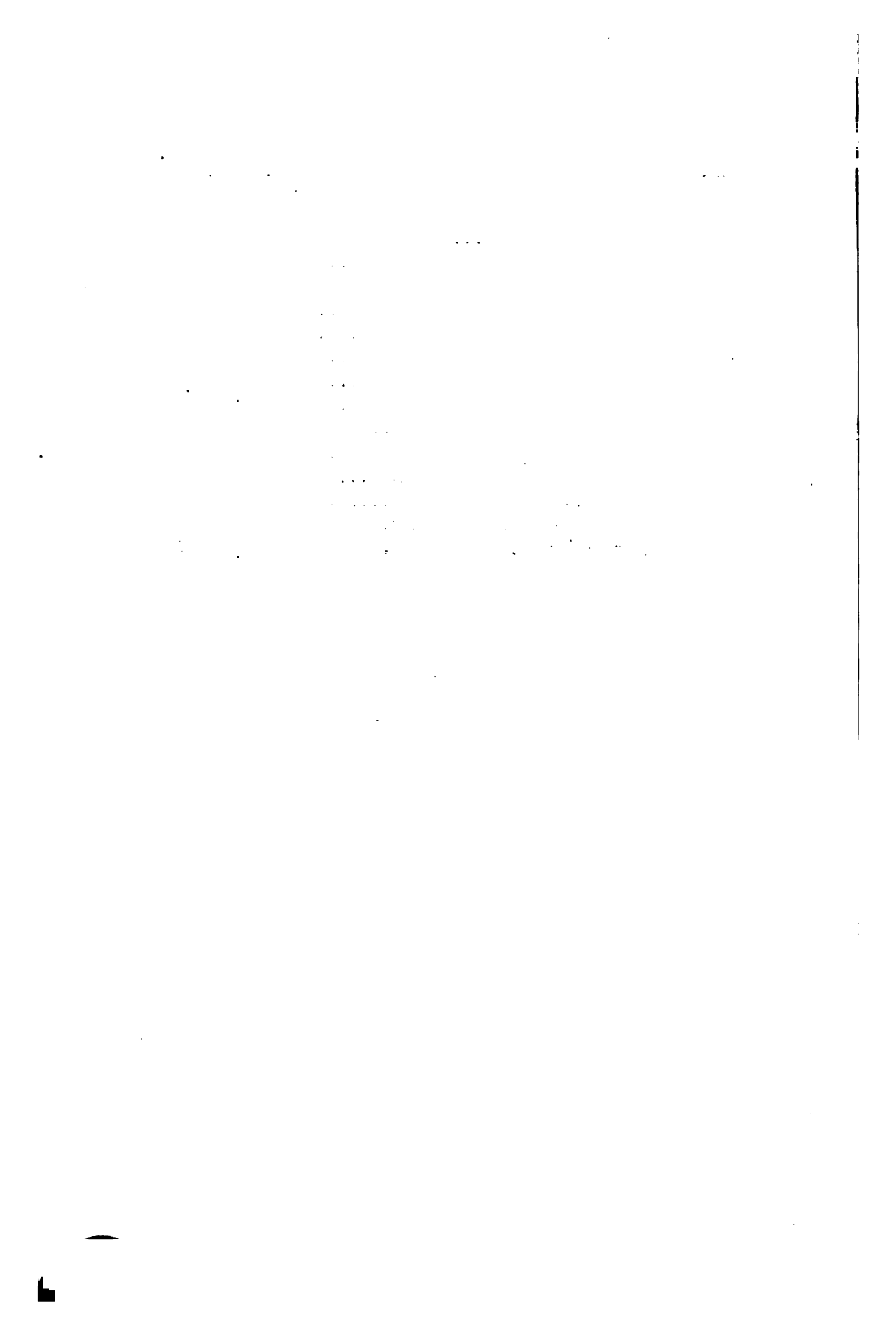
Chapter number	Short title	When enacted
1.	The Statutory Construction Law .....	L. 1892, Ch. 677
2.	The State Law .....	L. 1892, Ch. 678
3.	The Civil Service Law .....	L. 1899, Ch. 370
5.	The Indian Law .....	L. 1892, Ch. 679
6.	The Election Law .....	L. 1896, Ch. 909
7.	The Public Officers Law .....	L. 1892, Ch. 681
8.	The Legislative Law .....	L. 1892, Ch. 682
9.	The Executive Law .....	L. 1892, Ch. 683
10.	The State Finance Law .....	L. 1897, Ch. 413
11.	The Public Lands Law.....	L. 1894, Ch. 317
13.	The Canal Law [improperly 13].....	L. 1894, Ch. 338
13.	The Salt Springs Law .....	L. 1892, Ch. 684
14.	The Public Buildings Law .....	L. 1893, Ch. 227
16.	The Military Code .....	L. 1898, Ch. 212
17.	The General Municipal Law .....	L. 1892, Ch. 685
18.	The County Law .....	L. 1892, Ch. 686
19.	The Highway Law .....	L. 1890, Ch. 568
20.	The Town Law .....	L. 1890, Ch. 569
21.	The Village Law .....	L. 1897, Ch. 414
22.	The General City Law.....	L. 1900, Ch. 327
24.	The Tax Law .....	L. 1896, Ch. 908
25.	The Public Health Law.....	L. 1893, Ch. 661
26.	The State Charities Law .....	L. 1896, Ch. 546
27.	The Poor Law .....	L. 1896, Ch. 225
28.	The Insanity Law .....	L. 1896, Ch. 545
29.	The Liquor Tax Law .....	L. 1896, Ch. 112
30.	The Navigation Law .....	L. 1897, Ch. 592
31.	The Forest, Fish and Game Law.....	L. 1900, Ch. 20
32.	The Labor Law .....	L. 1897, Ch. 415
33.	The Agricultural Law .....	L. 1893, Ch. 338
34.	The Domestic Commerce Law.....	L. 1896, Ch. 376
35.	The General Corporation Law.....	L. 1890, Ch. 563
36.	The Stock Corporation Law.....	L. 1890, Ch. 564
37.	The Banking Law .....	L. 1892, Ch. 689

LIST OF GENERAL LAWS

xxvii

---

Chapter number	Short title	When enacted
38.	The Insurance Law .....	L. 1892, Ch. 690
39.	The Railroad Law .....	L. 1890, Ch. 565
40.	The Transportation Corporations Law...	L. 1890, Ch. 566
41.	The Business Corporations Law.....	L. 1890, Ch. 567
42.	The Religious Corporations Law.....	L. 1895, Ch. 723
43.	The Membership Corporations Law.....	L. 1895, Ch. 559
44.	The Benevolent Orders Law.....	L. 1896, Ch. 377
45.	The Joint Stock Association Law.....	L. 1894, Ch. 235
46.	The Real Property Law.....	L. 1896, Ch. 547
47.	The Personal Property Law.....	L. 1897, Ch. 417
48.	The Domestic Relations Law.....	L. 1896, Ch. 272
49.	The Lien Law .....	L. 1897, Ch. 418
50.	The Negotiable Instruments Law.....	L. 1897, Ch. 612
51.	The Partnership Law .....	L. 1897, Ch. 420



**THE CONSTITUTION**

OF THE

**STATE OF NEW YORK**





# CONSTITUTION OF NEW YORK

---

[Adopted November 6, 1894, and in force January 1, 1895.]

## ARTICLE I.

- SECTION**
1. Persons not to be disfranchised.
  2. Trial by jury.
  3. Freedom of worship; religious liberty.
  4. Habeas corpus.
  5. Excessive bail and fines.
  6. Bill of rights.
  7. Compensation for taking private property; private roads; drainage of agricultural lands.
  8. Freedom of speech and press; criminal prosecutions for libel.
  9. Right to assemble and petition; divorce; lotteries, pool-selling and gambling, laws to prevent.
  10. Escheats.
  11. Feudal tenures abolished.
  12. Allodial tenures.
  13. Leases of agricultural lands.
  14. Fines and quarter-sales abolished.
  15. Purchase of lands of Indians.
  16. Common law and acts of the colonial and state legislatures.
  17. Grants of land made by the king of Great Britain since 1775; prior grants.
  18. Damages for injuries causing death.

## ARTICLE II.

- SECTION**
1. Qualifications of voters.
  2. Persons excluded from right of suffrage.
  3. Certain occupations and conditions not to affect residence.
  4. Registration and election laws to be passed.
  5. Manner of voting.
  6. Registration and election boards to be non-partisan, except at town and village elections.

## ARTICLE III.

- SECTION**
1. Legislative powers.
  2. Number and terms of senators and assemblymen.
  3. Senate districts.
  4. Enumerations and reapportionments.
  5. Apportionment of assemblymen; creation of assembly districts.
  6. Compensation of members.
  7. Civil appointments of members void.
  8. Persons disqualified from being members.
  9. Time of elections.
  10. Powers of each house.
  11. Journals; open sessions; adjournments.
  12. Members not to be questioned for speeches.

- SECTION**
13. Bills may originate in either house.
  14. Enacting clause of bills.
  15. Manner of passing bills.
  16. Private and local bills not to embrace more than one subject.
  17. Existing law made applicable to be inserted.
  18. Cases in which private and local bills shall not be passed; restrictions as to laws authorizing street railroads.
  19. Private claims not to be audited by legislature.
  20. Two-thirds bills.
  21. Appropriation bills.
  22. Restrictions as to provisions in the appropriation or supply bills.
  23. Certain sections not to apply to commission bills.
  24. Tax bills to state tax distinctly.
  25. When ayes and nays necessary; three-fifths to constitute quorum.
  26. Boards of supervisors.
  27. Local legislative powers.
  28. Extra compensation prohibited.
  29. Prison labor; contract system abolished.

## ARTICLE IV.

- SECTION**
1. Executive power.
  2. Qualifications of governor and lieutenant-governor.
  3. Election of governor and lieutenant-governor.
  4. Duties and powers of governor; compensation.
  5. Reprieves, commutations and pardons to be granted by governor.
  6. When lieutenant-governor to act as governor.
  7. Qualifications and duties of lieutenant-governor; succession to the governorship.
  8. Salary of lieutenant-governor.
  9. Bills to be presented to governor; approval; passage of bills by legislature if not approved.

## ARTICLE V.

- SECTION**
1. State officers.
  2. First election of state officers.
  3. Superintendent of public works; appointment; powers and duties.
  4. Superintendent of state prisons; appointment; powers and duties.
  5. Commissioners of the land office; of the canal fund; canal board.
  6. Powers and duties of boards.
  7. State treasurer; suspension by governor.
  8. Certain offices abolished.
  9. Civil service appointments and promotions.

## ARTICLE VI.

- SECTION**
1. Supreme court; how constituted; judicial districts.
  2. Judicial departments; appellate division, how constituted; governor to designate justices; reporter; time and place of holding courts.
  3. Judge or justice not to sit in review; testimony in equity cases.
  4. Terms of office; vacancies, how filled.
  5. City courts abolished; judges become justices of supreme court; salaries; jurisdiction vested in supreme court.
  6. Circuit courts and courts of oyer and terminer abolished.
  7. Court of appeals.
  8. Vacancy in court of appeals, how filled.
  9. Jurisdiction of court of appeals.
  10. Judges not to hold any other office.
  11. Removal of judges.

- SECTION** 12. Compensation; age restriction; assignment by governor.  
 13. Trial of impeachments.  
 14. County courts.  
 15. Surrogates' courts; surrogates, their powers and jurisdiction; vacancies.  
 16. Local judicial officers.  
 17. Justices of the peace; district court justices.  
 18. Inferior local courts.  
 19. Clerks of courts.  
 20. No judicial officer, except justice of the peace, to receive fees; not to act as attorney or counselor.  
 21. Publication of statutes.  
 22. Terms of office of present justices of the peace and local judicial officers.  
 23. Courts of special sessions.

ARTICLE VII.

- SECTION** 1. State credit not to be given.  
 2. State debts, power to contract.  
 3. State debts to repel invasions.  
 4. Limitation of legislative power to create debts.  
 5. Sinking fund, how kept and invested.  
 6. Claims barred by statute of limitations.  
 7. Forest preserve.  
 8. Canals, not to be sold; not applicable to certain canals; disposition of funds.  
 9. No tolls to be imposed; contracts for work and materials; no extra compensation.  
 10. Canal improvement and cost thereof.  
 11. Payment of state debts.  
 12. Debts for improvements of highways.

ARTICLE VIII.

- SECTION** 1. Corporations, formation of.  
 2. Dues of corporations.  
 3. Corporation, definition of term.  
 4. Savings bank charters; restrictions upon trustees; special charters not to be granted.  
 5. Specie payment.  
 6. Registry of bills or notes.  
 7. Liability of stockholders of banks.  
 8. Billholders of insolvent bank, preferred creditors.  
 9. Credit or money of the state not to be given.  
 10. Counties, cities and towns not to give or loan money or credit; limitation of indebtedness.  
 11. State board of charities; state commission in lunacy; state commission of prisons.  
 12. Boards appointed by governor.  
 13. Existing laws to remain in force.  
 14. Maintenance and support of inmates of charitable institutions.  
 15. Commissioners continued in office.

ARTICLE IX.

- SECTION** 1. Common schools.  
 2. Regents of the university.  
 3. Common school, literature and the United States deposit funds.  
 4. No aid to denominational schools.

## ARTICLE X.

- SECTION 1. Sheriffs, clerks of counties, district attorneys and registers; governor may remove.
2. Appointment or election of officers not provided for by this constitution.
3. Duration of term.
4. Time of election.
5. Vacancies in office, how filled.
6. Political year.
7. Removal from office for misconduct, etc.
8. Office deemed vacant.
9. Compensation of officers.

## ARTICLE XI.

- SECTION 1. State militia.
2. Enlistment.
3. Organization of militia.
4. Appointment of military officers by the governor.
5. Manner of election of military officers prescribed by the legislature.
6. Commissioned officers, their removal.

## ARTICLE XII.

- SECTION 1. Organization of cities and villages.
2. Classification of cities; general and special city laws; special city laws; how passed by legislature and acceptance by cities.
3. Election of city officers, when to be held; extension and abridgment of terms.

## ARTICLE XIII.

- SECTION 1. Oath of office.
2. Official bribery and corruption.
3. Offer or promise to bribe.
4. Person bribed or offering a bribe may be a witness.
5. Free passes, franking privileges, etc., not to be received by a public officer; penalty.
6. Removal of district attorney for failure to prosecute; expenses of prosecutions for bribery.

## ARTICLE XIV.

- SECTION 1. Amendments to constitution, how proposed, voted upon and ratified.
2. Future constitutional conventions; how called; election of delegates; compensation; quorum; submission of amendments; officers; rules; vacancies; taking effect.
3. Amendments of convention and legislature submitted coincidentally.

## ARTICLE XV.

- SECTION 1. Time of taking effect.

## THE CONSTITUTION

---

**Preamble.** We, the people of the State of New York, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this Constitution.

### ARTICLE I.

**Persons not to be disfranchised.** Section 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

**Trial by jury.** § 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

**Freedom of worship; religious liberty.** § 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

**Habeas corpus.** § 4. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

**Excessive bail and fines.** § 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

**Bill of rights.** § 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in active service, and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in

person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

**Compensation for taking private property; private roads; drainage of agricultural lands.** § 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited. General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dykes upon the lands of others, under proper restrictions and with just compensation, but no special laws shall be enacted for such purposes.

**Freedom of speech and press; criminal prosecutions for libel.** § 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

**Right to assemble and petition; divorce; lotteries, pool-selling and gambling; laws to prevent.** § 9. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this state; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.

**Escheats.** § 10. The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people.

**Feudal tenures abolished.** § 11. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving however, all rents and services certain which at any time heretofore have been lawfully created or reserved.

**Allodial tenures.** § 12. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

**Leases of agricultural lands.** § 13. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

**Fines and quarter-sales abolished.** § 14. All fines, quarter-sales or other like restraints upon alienation, reserved in any grant of land hereafter to be made, shall be void.

**Purchase of lands of Indians.** § 15. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature.

**Common law and acts of the colonial and State Legislatures.** § 16. Such parts of the common law, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated.

**Grants of land made by the king of Great Britain since 1775; prior grants.** § 17. All grants of land within this State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the State, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

**Damages for injuries causing death.** § 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

## ARTICLE II.

**Qualification of voters.** Section 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

**Persons excluded from the right of suffrage.** § 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giv-



ing or withholding of any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

**Certain occupations and conditions not to affect residence.** § 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.

**Registration and election laws to be passed.** § 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

**Manner of voting.** § 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

**Registration and election boards to be bi-partisan, except at town and village elections.** § 6. All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the Legislature may direct. Existing laws on this subject shall continue until the Legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.

### ARTICLE III.

**Legislative powers.** Section 1. The legislative power of this State shall be vested in the Senate and Assembly.

**Number and terms of senators and assemblymen.**

§ 2. The Senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The Assembly shall consist of one hundred and fifty members who shall be chosen for one year.

**\*Senate districts.** § 3. The state shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive.

District number one (1) shall consist of the counties of Suffolk and Richmond.

District number two (2) shall consist of the county of Queens.

District number three (3) shall consist of that part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

District number four (4) shall consist of that part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

District number five (5) shall consist of that part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

\* For present apportionment of Senate districts see State Law, § 120.

District number six (6) shall consist of that part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

District number seven (7) shall consist of that part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

District number eight (8) shall consist of that part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

District number nine (9) shall consist of that part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

District number ten (10) shall consist of that part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Grand street and Jackson street, to the East river and thence around the southern end of Manhattan island, to the place of beginning, and also Governor's, Bedloe's and Ellis islands.

District number eleven (11) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

District number twelve (12) shall consist of that part of the county of New York lying north of districts numbers ten and eleven and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson street, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river, to the place of beginning.

District number thirteen (13) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the

Bowery and Third avenue, Fourteenth street, Sixth avenue, West Fifteenth street, Seventh avenue, West Nineteenth street, Eighth avenue, West Twentieth street, and the Hudson river, to the place of beginning.

District number fourteen (14) shall consist of that part of the county of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river, to the place of beginning.

District number fifteen (15) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fortieth street, Eighth avenue, and the transverse road across Central park at Ninety-seventh street, Fifth avenue, East Ninety-sixth street, Lexington avenue, East Twenty-third street, Third avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

District number sixteen (16) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and West Nineteenth street, and running thence along West Nineteenth street, Eighth avenue, West Twentieth street, the Hudson river, West Forty-sixth street, Tenth avenue, West Forty-third street, Eighth avenue, West Fortieth street and Seventh avenue, to the place of beginning.

District number seventeen (17) shall consist of that part of the county of New York lying north of district number sixteen, and within and bounded by a line beginning at the junction of Eighth avenue and West Forty-third street, and running thence along West Forty-third street, Tenth avenue, West Forty-sixth street, the Hudson river, West Eighty-ninth street, Tenth or Amsterdam avenue, West Eighty-sixth street, Ninth or Columbus avenue, West Eighty-first street and Eighth avenue, to the place of beginning.

District number eighteen (18) shall consist of that part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street,

Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

District number nineteen (19) shall consist of that part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and Tenth street, Fifth avenue, the transverse road across Central park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

District number twenty (20) shall consist of that part of the county of New York lying north of districts numbers eighteen and fifteen and within and bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One Hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along the Harlem and East rivers, to the place of beginning; and also Randall's island and Ward's island.

All the above districts in the county of New York bounded upon or along the boundary waters of the county, shall be deemed to extend to the county line.

District number twenty-one (21) shall consist of that part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One Hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred and Twenty-ninth street, Fifth avenue and the Harlem river to the place of beginning; and all that part of the county of New York not hereinbefore described.

District number twenty-two (22) shall consist of the county of Westchester.

District number twenty-three (23) shall consist of the counties of Orange and Rockland.

District number twenty-four (24) shall consist of the counties of Dutchess, Columbia and Putnam.

District number twenty-five (25) shall consist of the counties of Ulster and Greene.

District number twenty-six (26) shall consist of the counties of Delaware, Chenango and Sullivan.

District number twenty-seven (27) shall consist of the counties of Montgomery, Fulton, Hamilton and Schoharie.

District number twenty-eight (28) shall consist of the counties of Saratoga, Schenectady and Washington.

District number twenty-nine (29) shall consist of the county of Albany.

District number thirty (30) shall consist of the county of Rensselaer.

District number thirty-one (31) shall consist of the counties of Clinton, Essex and Warren.

District number thirty-two (32) shall consist of the counties of St. Lawrence and Franklin.

District number thirty-three (33) shall consist of the counties of Otsego and Herkimer.

District number thirty-four (34) shall consist of the county of Oneida.

District number thirty-five (35) shall consist of the counties of Jefferson and Lewis.

District number thirty-six (36) shall consist of the county of Onondaga.

District number thirty-seven (37) shall consist of the counties of Oswego and Madison.

District number thirty-eight (38) shall consist of the counties of Broome, Cortland and Tioga.

District number thirty-nine (39) shall consist of the counties of Cayuga and Seneca.

District number forty (40) shall consist of the counties of Chemung, Tompkins and Schuyler.

District number forty-one (41) shall consist of the counties of Steuben and Yates.

District number forty-two (42) shall consist of the counties of Ontario and Wayne.

District number forty-three (43) shall consist of that part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

District number forty-four (44) shall consist of that part of the county of Monroe comprising the towns of Chili, Clarkson,

Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden, and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth, and twentieth wards of the city of Rochester, as at present constituted.

District number forty-five (45) shall consist of the counties of Niagara, Genesee, and Orleans.

District number forty-six (46) shall consist of the counties of Allegany, Livingston and Wyoming.

District number forty-seven (47) shall consist of that part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

District number forty-eight (48) shall consist of that part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo, as at present constituted.

District number forty-nine (49) shall consist of that part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo, as at present constituted; and all the remainder of the said county of Erie not hereinbefore described.

District number fifty (50) shall consist of the counties of Chautauqua and Cattaraugus.

**Enumerations and reapportionments.** § 4. An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times, consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks which, from their location, may be included in either

of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

**Apportionment of assemblymen; creation of assembly districts.** § 5. The members of the Assembly shall be chosen by single districts, and shall be apportioned by the Legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of Assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders on their order thereof respectively. No county shall



have more members of assembly than a county having a greater number of inhabitants, excluding aliens.

\*Until after the next enumeration, members of the Assembly shall be apportioned to the several counties as follows: Albany county, four members; Allegany county, one member; Broome county, two members; Cattaraugus county, two members; Cayuga county, two members; Chautauqua county, two members; Chemung county, one member; Chenango county, one member; Clinton county, one member; Columbia county, one member; Cortland county, one member; Delaware county, one member; Dutchess county, two members; Erie county, eight members; Essex county, one member; Franklin county, one member; Fulton and Hamilton counties, one member; Genesee county, one member; Greene county, one member; Herkimer county, one member; Jefferson county, two members; Kings county, twenty-one members; Lewis county, one member; Livingston county, one member; Madison county, one member; Monroe county, four members; Montgomery county, one member; New York county, thirty-five members; Niagara county, two members; Oneida county, three members; Onondaga county, four members; Ontario county, one member; Orange county, two members; Orleans county, one member; Oswego county, two members; Otsego county, one member; Putnam county, one member; Queens county, three members; Rensselaer county, three members; Richmond county, one member; Rockland county, one member; St. Lawrence county, two members; Saratoga county, one member; Schenectady county, one member; Schoharie county, one member; Schuyler county, one member; Seneca county, one member; Steuben county, two members; Suffolk county, two members; Sullivan county, one member; Tioga county, one member; Tompkins county, one member; Ulster county, two members; Warren county, one member; Washington county, one member; Wayne county, one member; Westchester county, three members; Wyoming county, one member, and Yates county, one member.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory

\* For present apportionment of members of the Assembly, see State Law, § 121.

in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of the said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the state enumeration of one thousand eight hundred and ninety-two, so far as may be, instead of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the Legislature.

An apportionment by the Legislature, or other body, shall be subject to review by the Supreme Court, at the suit of any citizen, under such reasonable regulations as the Legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same.

**Compensation of members.** § 6. Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, once in each session, on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

**Civil appointments of members void.** § 7. No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

**Persons disqualified from being members.** § 8. No person shall be eligible to the Legislature, who at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

**Time of elections.** § 9. The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

**Powers of each house.** § 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the Senate shall choose a temporary president to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall refuse to act as president, or shall act as Governor.

**Journals; open sessions; adjournments.** § 11. Each house shall keep a journal of its proceedings, and publish the same,

except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

**Members not to be questioned for speeches.** § 12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

**Bills may originate in either house.** § 13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

**Enacting clause of bills.** § 14. The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

**Manner of passing bills.** § 15. No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the Governor, or the acting Governor, shall have certified to the necessity of its immediate passage, under his hand and the seal of the State; nor shall any bill be passed or become a law, except by the assent of the majority of the members elected to each branch of the Legislature; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the yeas and nays entered on the journal.

**Private and local bills not to embrace more than one subject.** § 16. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

**Existing law made applicable to be inserted.** § 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.

**Cases in which private and local bills shall not be passed; restrictions as to laws authorizing street railroads.** § 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any persons, association, firm or corporation, an exemption from taxation on real or personal property.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the state.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment, may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the Appellate Division of the Supreme Court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

**Private claims not to be audited by Legislature.**

§ 19. The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money

to pay such claims as shall have been audited and allowed according to law.

**Two-thirds bills.** § 20. The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

**Appropriation bills.** § 21. No money shall ever be paid out of the treasury of this State, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

**Restrictions as to provisions in the appropriation or supply bills.** § 22. No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

**Certain sections not to apply to commission bills.** § 23. Sections seventeen and eighteen of this article shall not apply to any bill or the amendments to any bill, which shall be reported to the Legislature by commissioners who have been appointed pursuant to law to revise the statutes.

**Tax bills to state tax distinctly.** § 24. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

**When ayes and nays necessary; three-fifths to constitute quorum.** § 25. On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by ayes and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

**Board of supervisors.** § 26. There shall be in each county, except in a county wholly included in a city, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city.

**Local legislative powers.** § 27. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may, from time to time, deem expedient.

**Extra compensation prohibited.** § 28. The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

**Prison labor; contract system abolished.** § 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

#### ARTICLE IV.

**Executive power.** Section 1. The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year.

**Qualifications of Governor and Lieutenant-Governor.** § 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this State.

**Election of Governor and Lieutenant-Governor.** § 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

**Duties and powers of Governor; compensation.** § 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature, or the Senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to it as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

**Reprieves, commutations, and pardons to be granted by Governor.** § 5. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the



Legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

**When Lieutenant-Governor to act as Governor.**

§ 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State, in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

**Qualifications and duties of Lieutenant-Governor; succession to the governorship.**

§ 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be president of the Senate, but shall have only a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled or the disability shall cease; and if the President of the Senate for any of the above causes shall become incapable of performing the duties pertaining to the office of Governor, the Speaker of the Assembly shall act as Governor until the vacancy be filled or the disability shall cease.

**Salary of Lieutenant-Governor.** § 8. The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite, for any duty or service he may be required to perform by the Constitution or by law.

**Bills to be presented to Governor; approval; passage of bills by Legislature if not approved.** § 9. Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members

electd to that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

#### **ARTICLE V.**

**State officers.** Section 1. The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be chosen at a general election, at the times and places of electing the Governor and Lieutenant-Governor, and shall hold their offices for two years, except as provided in section two of this article. Each of the officers in this article named, excepting the Speaker of the Assembly, shall, at stated times during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive to his use any fees or perquisites of office or other compensation. No per-

son shall be elected to the office of State Engineer and Surveyor who is not a practical civil engineer.

**First election of State officers.** § 2. The first election of the Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor, pursuant to this article, shall be held in the year one thousand eight hundred and ninety-five, and their terms of office shall begin on the first day of January following, and shall be for three years. At the general election in the year one thousand eight hundred and ninety-eight, and every two years thereafter, their successors shall be chosen for the term of two years.

**Superintendent of Public Works; appointment; powers and duties of.** § 3. A Superintendent of Public Works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor, whenever, in his judgment, the public interest shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal, and shall report such removal and the cause thereof to the Legislature at its next session. The Superintendent of Public Works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the Legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the Superintendent of Public Works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintendent shall be filled for the remainder of the term for which he was appointed, by the Superintendent of Public Works; but in case

of the suspension or removal of any such assistant superintendent by him, he shall at once report to the Governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the State Engineer and Surveyor, shall be appointed by the Superintendent of Public Works, and be subject to suspension or removal by him. The Superintendent of Public Works shall perform all the duties of the former Canal Commissioners and Board of Canal Commissioners, as now declared by law, until otherwise provided by the Legislature. The Governor, by and with the advice and consent of the Senate, shall have power to fill vacancies in the office of Superintendent of Public Works; if the Senate be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the Senate.

**Superintendent of State Prisons; appointment; powers and duties of.** § 4. A Superintendent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the Superintendent. The Comptroller shall appoint the clerks of the prisons. The Superintendent shall have all the powers and perform all the duties not inconsistent herewith, which were formerly had and performed by the Inspectors of State Prisons. The Governor may remove the Superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defense.

**Commissioners of the Land Office; of the Canal Fund; Canal Board.** § 5. The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be the Commissioners of the Land Office. The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer and Attorney-General shall be the Commissioners of the Canal Fund. The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor and the Superintendent of Public Works.

**Powers and duties of boards.** § 6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

**State Treasurer; suspension by Governor.** § 7. The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office during such suspension of the Treasurer.

**Certain offices abolished.** § 8. All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished; and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

**Civil service appointments and promotions.** § 9. Appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained so far as practicable, by examinations, which, so far as practicable, shall be competitive; provided, however, that honorably discharged soldiers and sailors from the army and navy of the United States in the late civil war, who are citizens and residents of this State, shall be entitled to preference in appointment and promotion without regard to their standing on any list from which such appointment or promotion may be made. Laws shall be made to provide for the enforcement of this section.

## ARTICLE VI.

### **Supreme Court; how constituted; judicial districts.**

Section 1. The Supreme Court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law not inconsistent with this article. The existing judicial districts of the State are continued until changed as hereinafter provided. The Supreme Court shall consist of the Justices now in office and of the

Judges transferred thereto by the fifth section of this article, all of whom shall continue to be Justices of the Supreme Court during their respective terms, and of twelve additional Justices who shall reside in and be chosen by the electors of the several existing judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors. The successors of said Justices shall be chosen by the electors of their respective judicial districts. The Legislature may alter the judicial districts once after every enumeration under the Constitution, of the inhabitants of the State, and thereupon reapportion the Justices to be thereafter elected in the district so altered. The Legislature may from time to time increase the number of Justices in any judicial district except that the number of Justices in the first and second district or in any of the districts into which the second district may be divided, shall not be increased to exceed one Justice for each eighty thousand, or fraction over forty thousand of the population thereof, as shown by the last State or Federal census or enumeration, and except that the number of Justices in any other district shall not be increased to exceed one Justice for each sixty thousand or fraction over thirty-five thousand of the population thereof as shown by the last State or Federal census or enumeration. The Legislature may erect out of the second judicial district as now constituted, another judicial district and apportion the Justices in office between the districts, and provide for the election of additional Justices in the new district not exceeding the limit herein provided.

**Judicial departments; appellate division, how constituted; Governor to designate justices; reporter; time and place of holding courts.** § 2. The Legislature shall divide the State into four judicial departments. The first department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof. There shall be an Appellate Division of the Supreme Court, consisting of seven Justices in the first department, and of five Justices in each of the other departments. In each department four shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five Justices shall sit in any case. From all the Justices elected to the Supreme Court the Governor shall designate those who shall constitute the Appellate Division in each department; and he shall designate the Presiding Justice thereof, who shall act as such

during his term of office, and shall be a resident of the department. The other Justices shall be designated for terms of five years or the unexpired portions of their respective terms of office, if less than five years. From time to time as the terms of such designations expire, or vacancies occur, he shall make new designations. A majority of the Justices so designated to sit in the Appellate Division, in each department shall be residents of the department. He may also make temporary designations in case of the absence or inability to act of any Justice in the Appellate Division, or in case the Presiding Justice of any Appellate Division shall certify to him that one or more additional Justices are needed for the speedy disposition of the business before it. Whenever the Appellate Division in any department shall be unable to dispose of its business within a reasonable time, a majority of the Presiding Justices of the several departments at a meeting called by the Presiding Justice of the department in arrears may transfer any pending appeals from such department to any other department for hearing and determination. No Justice of the Appellate Division shall, within the department to which he may be designated to perform the duties of an Appellate Justice, exercise any of the powers of a Justice of the Supreme Court, other than those of a Justice out of court, and those pertaining to the Appellate Division, or to the hearing and decision of motions submitted by consent of counsel, but any such justice, when not actually engaged in performing the duties of such Appellate Justice in the department to which he is designated, may hold any term of the Supreme Court and exercise any of the powers of a Justice of the Supreme Court in any county or judicial district in any other department of the State. From and after the last day of December, eighteen hundred and ninety-five, the Appellate Division shall have the jurisdiction now exercised by the Supreme Court at its General Terms and by the General Terms of the Court of Common Pleas for the city and county of New York, the Superior Court of the city of New York, the Superior Court of Buffalo and the city of Brooklyn, and such additional jurisdiction as may be conferred by the Legislature. It shall have power to appoint and remove a reporter. The Justices of the Appellate Division in each department shall have power to fix the times and places for holding Special Terms therein, and to assign the Justices in the departments to hold such terms; or to make rules therefor.

**Judge or Justice not to sit in review; testimony in equity cases.** § 3. No Judge or Justice shall sit in the Appel-

late Division or in the Court of Appeals in review of a decision made by him or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and, except as herein otherwise provided, the Legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and in equity that it has heretofore exercised.

**Terms of office; vacancies, how filled.** § 4. The official terms of the Justices of the Supreme Court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of Justice of the Supreme Court the same shall be filled for a full term, at the next general election, happening not less than three months after such vacancy occurs; and, until the vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session the Governor, may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

**City courts abolished; Judges become Justices of Supreme Court; salaries; jurisdiction vested in Supreme Court.** § 5. The Superior Court of the City of New York, the Court of Common Pleas for the City and County of New York, the Superior Court of Buffalo, and the City Court of Brooklyn, are abolished from and after the first day of January, one thousand eight hundred and ninety-six, and thereupon the seals, records, papers and documents of or belonging to such courts, shall be deposited in the offices of the clerks of the several counties in which said courts now exist; and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. The Judges of said courts in office on the first day of January, one thousand eight hundred and ninety-six, shall, for the remainder of the terms for which they were elected or appointed, be Justices of the Supreme Court; but they shall sit only in the counties in which they were elected or appointed. Their salaries shall be paid by the said counties respectively, and shall be the same as the salaries of the other Justices of the Supreme Court residing in the same counties. Their successors shall be elected as Justices of the Supreme Court by the electors of the judicial districts in which they respectively reside.



The jurisdiction now exercised by the several courts hereby abolished, shall be vested in the Supreme Court. Appeals from inferior and local courts now heard in the Court of Common Pleas for the City and County of New York and the Superior Court of Buffalo, shall be heard in the Supreme Court in such manner and by such Justice or Justices as the Appellate Division in the respective departments which include New York and Buffalo shall direct, unless otherwise provided by the Legislature.

**Circuit Courts and Courts of Oyer and Terminer abolished.** § 6. Circuit Courts and Courts of Oyer and Terminer are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All their jurisdiction shall thereupon be vested in the Supreme Court, and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. Any Justice of the Supreme Court, except as otherwise provided in this article, may hold court in any county.

**Court of Appeals.** § 7. The Court of Appeals is continued. It shall consist of the Chief Judge and Associate Judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the State. The official terms of the Chief Judge and Associate Judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants. Whenever and as often as a majority of the Judges of the Court of Appeals shall certify to the Governor that said court is unable by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the Governor shall designate not more than four Justices of the Supreme Court to serve as Associate Judges of the Court of Appeals. The Justices so designated shall be relieved from their duties as Justices of the Supreme Court and shall serve as Associate Judges of the Court of Appeals until the causes undisposed of in said court are reduced to two hundred, when they shall return to the Supreme Court. The Governor may designate Justices of the Supreme Court to fill vacancies. No Justice shall serve as Associate Judge of the Court of Appeals except while holding the office of Justice of the Supreme Court, and no more than seven Judges shall sit in any case.

**Vacancy in Court of Appeals, how filled.** § 8. When a vacancy shall occur otherwise than by expiration of term, in the office of Chief or Associate Judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor, by and with the advice and consent of the Senate, if the Senate shall be in session or if not in session the Governor, may fill such vacancy by appointment. If any such appointment of Chief Judge shall be made from among the Associate Judges, a temporary appointment of Associate Judge shall be made in like manner; but in such case, the person appointed Chief Judge shall not be deemed to vacate his office of Associate Judge any longer than until the expiration of his appointment as Chief Judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of Judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

**Jurisdiction of Court of Appeals.** § 9. After the last day of December, one thousand eight hundred and ninety-five, the jurisdiction of the Court of Appeals, except where the judgment is of death, shall be limited to the review of questions of law. No unanimous decision of the Appellate Division of the Supreme Court that there is evidence supporting or tending to sustain a finding of fact or a verdict not directed by the court, shall be reviewed by the Court of Appeals. Except where the judgment is of death, appeals may be taken, as of right, to said court only from judgments or orders entered upon decisions of the Appellate Division of the Supreme Court, finally determining actions or special proceedings, and from orders granting new trials on exceptions, where the appellants stipulate that upon affirmance judgment absolute shall be rendered against them. The Appellate Division in any department may, however, allow an appeal upon any question of law which, in its opinion, ought to be reviewed by the Court of Appeals.

The Legislature may further restrict the jurisdiction of the Court of Appeals and the right of appeal thereto, but the right to appeal shall not depend upon the amount involved.

The provisions of this section shall not apply to orders made or judgments rendered by any General Term before the last day of December, one thousand eight hundred and ninety-five, but appeals therefrom may be taken under existing provisions of law.

**Judges not to hold any other office.** § 10. The Judges of the Court of Appeals and the Justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void.

**Removal of judges.** § 11. Judges of the Court of Appeals and Justices of the Supreme Court may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except Justices of the Peace and Judges or Justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

**Compensation; age restriction; assignment by Governor.** § 12. The Judges and Justices hereinbefore mentioned shall receive for their services a compensation established by law, which shall not be increased or diminished during their official terms, except as provided in section five of this article. No person shall hold the office of Judge or Justice of any court longer than until and including the last day of December next after he shall be seventy years of age. No Judge or Justice elected after the first day of January, one thousand eight hundred and ninety-four, shall be entitled to receive any compensation after the last day of December next after he shall be seventy years of age; but the compensation of every Judge of the Court of Appeals or Justice of the Supreme Court elected prior to the first day of January, one thousand eight hundred and ninety-four, whose term of office has been, or whose present term of office shall be, so abridged, and who shall have served as such Judge or Justice ten years or more, shall be continued during the remainder of the term for which he was elected; but any such Judge or Justice may, with his consent, be assigned by the Governor, from time to time, to any duty in the Supreme Court while his compensation is so continued.

**Trial of impeachments.** § 13. The Assembly shall have the power of impeachment, by vote of a majority of all the members elected. The Court for the Trial of Impeachments shall be

composed of the President of the Senate, the Senators, or the major part of them, and the Judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor or Lieutenant-Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

**County Courts.** § 14. The existing County Courts are continued, and the Judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be two County Judges and the additional County Judge shall be chosen at the next general election held after the adoption of this article. The successors of the several County Judges shall be chosen by the electors of the counties for the term of six years. County Courts shall have the powers and jurisdiction they now possess, and also original jurisdiction in actions for the recovery of money only, where the defendants reside in the county, and in which the complaint demands judgment for a sum not exceeding two thousand dollars. The Legislature may hereafter enlarge or restrict the jurisdiction of the County Courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which the sum demanded exceeds two thousand dollars, or in which any person not a resident of the county is a defendant.

Courts of Sessions, except in the county of New York, are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All the jurisdiction of the Court of Sessions in each county, except the county of New York, shall thereupon be vested in the County Court thereof, and all actions and proceedings then pending in such Courts of Sessions shall be transferred to said County Courts for hearing and determination. Every County Judge shall perform such duties as may be required by law. His salary shall be established by law, payable out of the county treasury. A County Judge of any county may

hold County Courts in any other county when requested by the Judge of such other county.

**Surrogates' Courts; Surrogates, their powers and jurisdiction; vacancies.** § 15. The existing Surrogates' Courts are continued, and the Surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of their respective counties, and their terms of office shall be six years, except in the county of New York, where they shall continue to be fourteen years. Surrogates and Surrogates' Courts shall have the jurisdiction and powers which the Surrogates and existing Surrogates' Courts now possess, until otherwise provided by the Legislature. The County Judge shall be Surrogate of his county, except where a separate Surrogate has been or shall be elected. In counties having a population exceeding forty thousand, wherein there is no separate Surrogate, the Legislature may provide for the election of a separate officer to be Surrogate, whose term of office shall be six years. When the Surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. No County Judge or Surrogate shall hold office longer than until and including the last day of December next, after he shall be seventy years of age. Vacancies occurring in the office of County Judge or Surrogate shall be filled in the same manner as like vacancies occurring in the Supreme Court. The compensation of any County Judge or Surrogate shall not be increased or diminished during his term of office. For the relief of Surrogates' Courts the Legislature may confer upon the Supreme Court in any county having a population exceeding four hundred thousand, the powers and jurisdiction of Surrogates, with authority to try issues of fact by jury in probate cases.

**Local judicial officers.** § 16. The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of County Judge and of Surrogate, in cases of their inability or of a vacancy, and in such other cases as may be provided by law, and to exercise such other powers in special cases as are or may be provided by law.

**Justices of the Peace; District Court Justices.** § 17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the Legislature may direct, elect Justices of the Peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring

before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the Peace and Judges or Justices of inferior courts not of record, and their clerks may be removed for cause, after due notice and an opportunity of being heard by such courts as are or may be prescribed by law. Justices of the Peace and District Court Justices may be elected in the different cities of this State in such manner and with such powers, and for such terms, respectively, as are or shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not likewise provided for in this article, shall be chosen by the electors of such cities, or appointed by some local authorities thereof.

**Inferior local courts.** § 18. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature, but no inferior local court hereafter created shall be a court of record. The Legislature shall not hereafter confer upon any inferior or local court of its creation, any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon County Courts by or under this article. Except as herein otherwise provided, all judicial officers shall be elected or appointed at such times and in such manner as the Legislature may direct.

**Clerks of courts.** § 19. Clerks of the several counties shall be clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The Justices of the Appellate Division in each department shall have power to appoint and to remove a clerk, who shall keep his office at a place to be designated by said Justices. The Clerk of the Court of Appeals shall keep his office at the seat of government. The Clerk of the Court of Appeals and the Clerks of the Appellate Division shall receive compensation to be established by law and paid out of the public treasury.

**No judicial officer, except Justice of the Peace, to receive fees; not to act as attorney or counselor.** § 20. No judicial officer, except Justices of the Peace, shall receive to his own use any fees or perquisites of office; nor shall any Judge of the Court of Appeals, or Justice of the Supreme Court, or any County Judge or Surrogate hereafter elected in a county having a population exceeding one hundred and twenty thousand, practice as an attorney or counselor in any court of record of this State, or act as referee. The Legislature may impose a similar prohibition upon County Judges and Surrogates in other counties. No one

shall be eligible to the office of Judge of the Court of Appeals, Justice of the Supreme Court, or, except in the county of Hamilton, to the office of County Judge or Surrogate, who is not an attorney and counselor of this State.

**Publication of statutes.** § 21. The Legislature shall provide for the speedy publication of all statutes, and shall regulate the reporting of the decisions of the courts; but all laws and judicial decisions shall be free for publication by any person.

**Terms of office of present Justices of the Peace and local judicial officers.** § 22. Justices of the Peace and other local judicial officers provided for in sections seventeen and eighteen in office when this article takes effect, shall hold their offices until the expiration of their respective terms.

**Courts of Special Sessions.** § 23. Courts of Special Sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

## ARTICLE VII.

**State credit not to be given.** Section 1. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association or corporation.

**State debts, power to contract.** § 2. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained or to repay the debt so contracted, and to no other purpose whatever.

**State debts to repel invasions.** § 3. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

**Limitation of legislative power to create debts.** § 4. Except the debts specified in sections two and three of this article, no debts shall be hereafter contracted by or in behalf of this State, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such

law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within fifty years from the time of the contracting thereof. No such law shall take effect until it shall at a general election have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

The Legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrevocable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, or for the payment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage or at any general election when any other law, or any bill shall be submitted to be voted for or against. The Legislature may provide for the issue of bonds of the State to run for a period not exceeding fifty years in lieu of bonds heretofore authorized but not issued and shall impose and provide for the collection of a direct annual tax for the payment of the same as hereinbefore required. When any sinking fund created under this section shall equal in amount the debt for which it was created, no further direct tax shall be levied on account of said sinking fund and the Legislature shall reduce the tax to an amount equal to the accruing interest on such debt.

**Sinking fund, how kept and invested.** § 5. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.



**Claims barred by statute of limitations.** § 6. Neither the Legislature, Canal Board, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time. This provision shall not be construed to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

**Forest preserve.** § 7. The lands of the State, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.

**Canals, not to be sold; not applied to certain canals; disposition of funds.** § 8. The Legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal; but they shall remain the property of the State and under its management forever. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portion of the canals.

**No tolls to be imposed; contracts for work and materials; no extra compensation.** § 9. No tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The Legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. All contracts for work or materials on any canal shall be made with the persons who shall offer to do or provide the same at the lowest price, with adequate security for their performance. No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any con-

tract shall prove to be unjust and oppressive, the Canal Board may, upon the application of the contractor, cancel such contract.

**Canal improvement, and cost thereof.** § 10. The canals may be improved in such manner as the Legislature shall provide by law. A debt may be authorized for that purpose in the mode prescribed by section four of this article, or the cost of such improvement may be defrayed by the appropriation of funds from the State treasury, or by equitable annual tax.

**Payment of State debts.** § 11. The Legislature may appropriate out of any funds in the treasury, moneys to pay the accruing interest and principal of any debt heretofore or hereafter created, or any part thereof, and may set apart in each fiscal year, moneys in the State treasury as a sinking fund to pay the interest as it falls due and to pay and discharge the principal of any debt heretofore or hereafter created under section four of article seven of the constitution until the same shall be wholly paid, and the principal and income of such sinking fund shall be applied to the purpose for which said sinking fund is created and to no other purpose whatever; and, in the event such moneys so set apart in any fiscal year be sufficient to provide such sinking fund, a direct annual tax for such year need not be imposed and collected, as required by the provisions of said section four of article seven, or of any law enacted in pursuance thereof.

**Improvement of highways.** § 12. A debt or debts of the State may be authorized by law for the improvement of highways. Such highways shall be determined under general laws, which shall also provide for the equitable apportionment thereof among the counties. The aggregate of the debts authorized by this section shall not at any one time exceed the sum of fifty millions of dollars. The payment of the annual interest on such debt and the creation of a sinking fund of at least two per centum per annum to discharge the principal at maturity shall be provided by general laws whose force and effect shall not be diminished during the existence of any debt created thereunder. The Legislature may by general laws require the county or town or both to pay to the sinking fund the proportionate part of the cost of any such highway within the boundaries of such county or town and the proportionate part of the interest thereon, but no county shall at any time for any highway be required to pay more than thirty-five hundredths of the cost of such highway, and no town more than fifteen hundredths. None of the provisions of the fourth section of this article shall apply to debts for the improvement of highways hereby authorized.

**ARTICLE VIII.**

**Corporations, formation of.** Section 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

**Dues of corporations.** § 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

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

**Savings bank charters; restrictions upon trustees; special charters not to be granted.** § 4. The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

**Specie payment.** § 5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation, issuing bank notes of any description.

**Registry of bills or notes.** § 6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

**Liability of stockholders of banks.** § 7. The stockholders of every corporation and joint-stock association for banking purposes, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

**Billholders of insolvent bank, preferred creditors.** § 8. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

**Credit or money of the State not to be given.** § 9. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking. This section shall not, however, prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held, by the State for educational purposes.

**Limitation of indebtedness of counties, cities, towns and villages; exception as to the city of New York.** § 10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as now may exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the

issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes.

Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted; except that debts incurred by the city of New York after the first day of January, nineteen hundred and four, and debts incurred by any city of the second class after the first day of January, nineteen hundred and eight, to provide for the supply of water shall not be so included. Whenever the boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county, heretofore existing, shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

**State Board of Charities; State Commission in Lunacy; State Commission of Prisons.** § 11. The Legislature shall provide for a State Board of Charities, which shall visit and inspect all institutions, whether state, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and

inspection of either of the commissions, hereinafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a State Commission in Lunacy which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a State Commission of Prisons which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

**Boards appointed by Governor.** § 12. The members of the said board and of the said commissions shall be appointed by the Governor, by and with the advice and consent of the Senate; and any member may be removed from office by the Governor for cause, an opportunity having been given him to be heard in his defense.

**Existing laws to remain in force.** § 13. Existing laws relating to institutions referred to in the foregoing sections and to their supervision and inspection, in so far as such laws are not inconsistent with the provisions of the Constitution, shall remain in force until amended or repealed by the Legislature. The visitation and inspection herein provided for shall not be exclusive of other visitation and inspection now authorized by law.

**Maintenance and support of inmates of charitable institutions.** § 14. Nothing in this Constitution contained shall prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the Legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the state board of charities. Such rules shall be subject to the control of the Legislature by general laws.

**Commissioners continued in office.** § 15. Commissioners of the State Board of Charities and Commissioners of the State

Commission in Lunacy, now holding office, shall be continued in office for the term for which they were appointed, respectively, unless the Legislature shall otherwise provide. The Legislature may confer upon the commissions and upon the board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the Constitution.

### ARTICLE IX.

**Common schools.** Section 1. The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

**Regents of the university.** § 2. The corporation created in the year one thousand seven hundred and eighty-four, under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised by not less than nine regents.

**Common school, literature and the United States deposit funds.** § 3. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common school fund.

**No aid in denominational schools.** § 4. Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination, or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

### ARTICLE X.

**Sheriffs, clerks of counties, district attorneys and registers; Governor may remove.** Section 1. Sheriffs, clerks of counties, district attorneys and registers in counties hav-

ing registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. Sheriffs shall hold no other office and be ineligible for the next term after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense.

**Appointment or election of officers, not provided for by this Constitution.** § 2. All county officers whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

**Duration of term.** § 3. When the duration of any office is not provided by this Constitution it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

**Time of election.** § 4. The time of electing all officers named in this article shall be prescribed by law.

**Vacancies in office; how filled.** § 5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.



**Political year.** § 6. The political year and the legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Wednesday in January.

**Removal from office for misconduct, etc.** § 7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial, whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

**Office deemed vacant.** § 8. The Legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this Constitution.

**Compensation of officers.** § 9. No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other state officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office or other compensation.

## ARTICLE XI.

**State militia.** Section 1. All able-bodied male citizens between the ages of eighteen and forty-five years, who are residents of the State, shall constitute the militia, subject however to such exemptions as are now, or may be hereafter created by the laws of the United States, or by the Legislature of this State.

**Enlistment.** § 2. The Legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted.

**Organization of militia.** § 3. The militia shall be organized and divided into such land and naval, and active and reserve forces, as the Legislature may deem proper, provided however that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the Legislature at each session to make sufficient appropriations for the maintenance thereof.

**Appointment of military officers by the Governor.** § 4. The Governor shall appoint the chiefs of the several staff departments, his aides-de-camp and military secretary, all of whom

shall hold office during his pleasure, their commissions to expire with the term for which the Governor shall have been elected; he shall also nominate, and with the consent of the Senate appoint, all major-generals.

**Manner of election of military officers prescribed by Legislature.** § 5. All other commissioned and non-commissioned officers shall be chosen or appointed in such manner as the Legislature may deem most conducive to the improvement of the militia, provided however that no law shall be passed changing the existing mode of election and appointment unless two-thirds of the members present in each house shall concur therein.

**Commissioned officers; their removal.** § 6. The commissioned officers shall be commissioned by the Governor as commander-in-chief. No commissioned officer shall be removed from office during the term for which he shall have been appointed or elected, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more.

## ARTICLE XII.

**Organization of cities and villages.** Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State or by any contractor or subcontractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof.

**Classification of cities; general and special city laws; special city laws; how passed by Legislature and accepted by cities.** § 2. All cities are classified according to the latest State enumeration, as from time to time made, as follows: The first class includes all cities having a population of one hundred and seventy-five thousand, or more; the second class, all cities having a population of fifty thousand

and less than one hundred and seventy-five thousand; the third class, all other cities. Laws relating to the property, affairs or government of cities, and the several departments thereof, are divided into general and special city laws; general city laws are those which relate to all the cities of one or more classes; special city laws are those which relate to a single city, or to less than all the cities of a class. Special city laws shall not be passed except in conformity with the provisions of this section. After any bill for a special city law, relating to a city, has been passed by both branches of the Legislature, the house in which it originated shall immediately transmit a certified copy thereof to the mayor of such city, and within fifteen days thereafter the mayor shall return such bill to the house from which it was sent, or if the session of the Legislature at which such bill was passed has terminated, to the Governor, with the mayor's certificate thereon, stating whether the city has or has not accepted the same. In every city of the first class, the mayor, and in every other city, the mayor and the legislative body thereof concurrently, shall act for such city as to such bill; but the Legislature may provide for the concurrence of the legislative body in cities of the first class. The Legislature shall provide for a public notice and opportunity for a public hearing concerning any such bill in every city to which it relates, before action thereon. Such a bill, if it relates to more than one city, shall be transmitted to the mayor of each city to which it relates, and shall not be deemed accepted unless accepted as herein provided, by every such city. Whenever any such bill is accepted as herein provided, it shall be subject as are other bills, to the action of the Governor. Whenever, during the session at which it was passed, any such bill is returned without the acceptance of the city or cities to which it relates, or within such fifteen days is not returned, it may nevertheless again be passed by both branches of the Legislature, and it shall then be subject as are other bills, to the action of the Governor. In every special city law which has been accepted by the city or cities to which it relates, the title shall be followed by the words "accepted by the city," or "cities," as the case may be; in every such law which is passed without such acceptance, by the words "passed without the acceptance of the city," or "cities," as the case may be.

**Election of city officers, when to be held; extension and abridgment of terms.** § 3. All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers

electd in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. The terms of office of all such officers elected before the first day of January, one thousand eight hundred and ninety-five, whose successors have not then been elected, which under existing laws would expire with an even-numbered year, or in an odd-numbered year and before the end thereof, are extended to and including the last day of December next following the time when such terms would otherwise expire; the terms of office of all such officers, which under existing laws would expire in an even-numbered year, and before the end thereof, are abridged so as to expire at the end of the preceding year. This section shall not apply to any city of the third class, or to elections of any judicial officer, except judges and justices of inferior local courts.

### ARTICLE XIII.

**Oath of office.** Section 1. Members of the Legislature, and all officers executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of \_\_\_\_\_, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration or test shall be required as a qualification for any office of public trust.

**Official bribery and corruption.** § 2. Any person holding office under the laws of this State, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to re-

ceive, directly or indirectly, anything of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

**Offer or promise to bribe.** § 3. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be guilty of an attempt to bribe, which is hereby declared to be a felony.

**Person bribed or offering a bribe may be a witness.** § 4. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

**Free passes, franking privileges, etc., not to be received by public officer; penalty.** § 5. No public officer, or person elected or appointed to a public office, under the laws of this State, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney-General. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation, giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

**Removal of district attorney for failure to prosecute; expenses of prosecutions for bribery.** § 6. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State, within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

#### ARTICLE XIV.

**Amendments to Constitution, how proposed, voted upon and ratified.** Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, and the yeas and nays taken thereon, and referred to the Legislature to be chosen at the general election of senators, and shall be published for three months previous to the time of making such choice; and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people for approval in such manner and at such times as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the Constitution from and after the first day of January next after such approval.

**Future constitutional conventions; how called; election of delegates; compensation; quorum; submission of amendments; officers; rules; vacancies; taking effect.** § 2. At the general election to be held in the year one thousand nine hundred and sixteen, and every twentieth year thereafter, and also at such times as the Legislature may by law provide, the question, "Shall there be a convention to revise the Constitution and amend the same?" shall be decided by the electors of the State; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the

electors of every senate district of the State, as then organized, shall elect three delegates at the next ensuing general election at which members of the Assembly shall be chosen, and the electors of the State voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation and the same mileage as shall then be annually payable to the members of the Assembly. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the Constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the State at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendments, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval.

**Amendments of convention and Legislature submitted coincidently.** § 3. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidently submitted to the people for approval at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the Legislature.

**ARTICLE XV.**

**Time of taking effect.** Section 1. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and ninety-five, except as herein otherwise provided.

Done in Convention at the Capitol in the city of Albany, the twenty-ninth day of September, in the year one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and nineteenth.

In witness whereof, we have hereunto subscribed our names.

JOSEPH HODGES CHOATE,  
*President and Delegate-at-Large.*

CHARLES ELLIOTT FITCH,  
*Secretary.*



# INDEX TO CONSTITUTION OF NEW YORK

	Art.	Sec.
<b>ACTIONS</b>		
impairing of actions or rights of action, provisions not to be construed as .....	I	17
venue, changing by private or local bill prohibited.....	III	18
<b>ADOPTION</b>		
<i>see "Constitution."</i>		
<b>AGRICULTURE</b>		
drainage of agricultural lands.....	I	7
leases of agricultural lands, limitation on.....	I	13
<b>ALIENATION</b>		
restraints on, void.....	I	14
<b>ALLODIAL TENURE</b>		
<i>see "Estates."</i>		
<b>AMENDMENTS</b>		
to constitution, <i>see "Constitution."</i>		
<b>APPEAL AND ERROR</b>		
appeals to court of appeals, right to review, when appeal may be taken as of right.....	VI	9
— decision reviewable, necessity of finality.....	VI	9
— necessity of entry of judgment.....	VI	9
— orders granting new trial.....	VI	9
<b>APPELLATE DIVISION</b>		
<i>see "Courts."</i>		
<b>APPOINTMENTS</b>		
<i>see "Governor."</i>		
of particular officers, <i>see separate titles.</i>		
<b>APPORTIONMENT</b>		
<i>see "Legislature."</i>		
<b>APPROPRIATIONS</b>		
<i>see "State."</i>		
<b>ARMY AND NAVY</b>		
<i>see, also, "Militia."</i>		
soldiers, criminal proceeding against.....	I	6
— right of absent ones who are electors to vote.....	II	1
veterans of civil war, right to preference in appointment to office and promotions . . . . .	V	9
<b>ASSEMBLE</b>		
right peacefully to .....	I	9
<b>ASSEMBLY</b>		
<i>see "Legislature."</i>		

	Art.	Sec.
<b>ASYLUMS</b>		
<i>see, also, "Insane Persons."</i>		
voting residence of persons kept at.....	II	3
<b>ATTORNEY AND CLIENT</b>		
right to practice law, judges and justices of various courts..	VI	20
<b>ATTORNEY-GENERAL</b>		
election and tenure .....	V	1, 2
compensation .....	V	1
<b>AUDIT</b>		
<i>see "State."</i>		
<b>BAIL</b>		
excessive, prohibited .....	I	5
<b>BANKS AND BANKING</b>		
<i>see, also, "Corporations."</i>		
savings banks, charters .....	VIII	4
— capital stock, right to have.....	VIII	4
— directors or trustees, restrictions on.....	VIII	4
— loans, limitations on .....	VIII	4
stock-holders, corporators, liability for dues of corporation....	VIII	2
— liability for debts of bank.....	VIII	7
bills or notes, registry of.....	VIII	6
— security for .....	VIII	6
specie payments, power to authorize suspension of.....	VIII	5
insolvency, preferences, right of billholders to.....	VIII	8
<b>BILL OF RIGHTS</b>		
provision setting forth.....	I	6
<b>BILLS</b>		
<i>see "Laws;" "Legislature;" "State."</i>		
<b>BLACK RIVER CANAL</b>		
sale, lease, etc., power of legislature .....	VII	8
<b>BLIND</b>		
education and support of, power of State, county, city, etc., to provide .....	VIII	9, 14
<b>BOARD OF SUPERVISORS</b>		
<i>see "Counties."</i>		
<b>BONDS</b>		
<i>see, also, "Contracts;" "Corporations;" "Counties;" "Municipal Corporations;" "Towns;" "Villages."</i>		
of particular officers, <i>see separate titles.</i>		
of contractors for work on canals.....	VII	9
<b>BOOK-MAKING</b>		
prohibited .....	I	9
<b>BRIBERY</b>		
of public officers .....	XIII	2
attempt to bribe, what constitutes .....	XIII	3
— punishment ..	XIII	3
expense of investigating and prosecuting, how defrayed.....	XIII	6
evidence, right of accused to testify.....	XIII	4

# INDEX TO CONSTITUTION

lxxxix

	Art.	Sec.
<b>BRIBERY — Continued:</b>		
witnesses, compelling person offering bribe to testify.....	XIII	3
— exemption from prosecution of person who testifies to offering bribe .....	XIII	3
<b>BRIDGES</b>		
erection of, providing for by private or local bills prohibited.	III	18
<b>CANALS</b>		
establishment, maintenance, improvement, management, etc...	V	3
— contracts for work and materials.....	VII	9
— expense of, how provided for .....	IX	9
navigation of, tolls, power to impose.....	VII	9
sale, lease, etc., power of legislature.....	VII	8
funds, disposition of those derived from sale or lease of, etc...	VII	8
canal board, how constituted .....	V	5
— powers and duties .....	V	6
— limitation on power to audit claims.....	VII	6
— power to cancel contracts.....	VII	9
commissioners of canal fund, who to be.....	V	5
— powers and duties .....	V	6
employees, collectors of tolls, etc., appointment and removal...	V	3
<b>CAPITAL OFFENSES</b>		
<i>see "Crimes and Punishments;" "Indictments and Informations."</i>		
<b>CARRIERS</b>		
passes to public officers, offense of giving.....	XIII	5
<b>CAYUGA AND SENECA CANAL</b>		
sale, lease of, etc., power of legislature.....	VII	8
<b>CENSUS</b>		
time of taking, etc.....	III	4
<b>CHAMPLAIN CANAL</b>		
sale, lease, etc., power of legislature.....	VII	8
<b>CHARITIES</b>		
charitable institutions, existing laws to remain in force.....	VIII	13
— inmates, support of .....	VIII	14
— voting residence of persons kept at.....	II	3
— inspection of .....	VIII	11
state board of charities, creation, duty of legislature to provide for .....	VIII	11
— appointment of members .....	VIII	12
— powers and duties .....	VIII	11
— additional powers, right of legislature to confer.....	VIII	15
— removal of members .....	VIII	12
— commissioners continued in office .....	VIII	15
<b>CHARTERS</b>		
<i>see, also, "Banks and Banking;" "Corporations."</i>		
granted by king of Great Britain, validity.....	I	17
granted by state since year 1775, validity.....	I	17

	Art.	Sec.
<b>CIRCUIT COURTS</b>		
<i>see</i> "Courts."		
<b>CITIES</b>		
<i>see</i> "Municipal Corporations."		
<b>CITIZENS</b>		
<i>see, also,</i> "Elections."		
equal rights to all, guaranteed .....	I	1
disfranchisement of .....	I	1
<b>CITY COURTS</b>		
<i>see</i> "Courts."		
<b>CIVIL RIGHTS</b>		
equal to all citizens .....	I	1
<b>CIVIL SERVICE</b>		
appointments and promotions to be governed by.....	V	9
<b>CLAIMS</b>		
<i>see</i> "Canals;" "State."		
<b>CLERKS OF COURTS</b>		
court of appeals, who to be, compensation, etc.....	VI	19
supreme court, appellate division, appointment, tenure, compensation, etc .....	VI	19
superior courts, power and duties, etc.....	VI	19
<b>COLLEGES AND UNIVERSITIES</b>		
regents of University of the State of New York continued....	IX	2
University of State of New York, regulation and powers.....	IX	2
students, voting residence of.....	II	3
<b>COMMISSIONERS</b>		
in eminent domain proceedings, to fix compensation.....	I	7
in proceedings to establish street railroads, to determine appli- cations .....	III	18
<b>COMMISSIONERS OF CANAL FUND</b>		
<i>see</i> "Canals."		
<b>COMMISSIONERS OF LAND OFFICE</b>		
<i>see</i> "Public Lands."		
<b>COMMON LAW</b>		
as law of the state .....	I	16
<b>COMPENSATION</b>		
<i>see</i> "Drainage;" "Eminent Domain;" "Private Ways."		
of particular officers, <i>see separate titles.</i>		
<b>COMPTROLLER</b>		
<i>see</i> "State Comptroller."		
<b>CONSTITUTION</b>		
when to take effect .....	XV	1
amendments to, how proposed, adopted, etc., in general.....	XIV	1
— submission to voters, coincidently, of amendment proposed by constitutional convention and legislature, relating to same subject, effect.....	XIV	3
— when to take effect .....	XIV	1

# INDEX TO CONSTITUTION

xci

	Art.	Sec.
<b>CONSTITUTION — Continued:</b>		
— constitutional convention, how called.....	XIV	2
— when to convene .....	XIV	2
— delegates, selection, compensation, etc.....	XIV	2
— officers, selection .....	XIV	2
— vacancies, how filled, etc.....	XIV	2
— employees and assistants, appointment, compensation, etc.	XIV	2
— proceedings, rules of, power to fix.....	XIV	2
— journal of .....	XIV	2
— quorum .....	XIV	2
— vote necessary to submit proposed amendment to electors .....	XIV	2
<b>CONTRACTS</b>		
impairing obligation of debts .....	I	17
canals, contracts for work and materials on.....	VII	9
— bond of contractors .....	VII	9
hours of labor and wages of employees under state, etc., contracts .....	XII	1
prison labor, contract system abolished .....	III	29
<b>CONVICTS</b>		
convict labor, contract system abolished.....	III	29
right to vote.....	II	2
<b>CORPORATIONS</b>		
<i>see, also, "Banks and Banking."</i>		
definition .....	VIII	3
formation of .....	VIII	1
— alteration or repeal of laws governing, power of legislature.	VIII	1
charters granted by king of Great Britain prior to 1775, validity .....	I	17
— uniformity of charters of savings banks.....	VIII	4
— special, for banks, right to grant.....	VIII	4
powers, right to sue and be sued.....	VIII	3
stock-holders, corporators, liability for dues of corporation....	VIII	2
— liability for debts of banking corporations.....	VIII	7
stock, right to have, savings banks.....	VIII	4
stock and bonds, right of counties to hold.....	VIII	10
— right of municipal corporations to hold.....	VIII	10
— right of towns to hold .....	VIII	10
— right of villages to hold .....	VIII	10
<b>COUNSEL</b>		
right to, persons charged with crime .....	I	6
<b>COUNTIES</b>		
creation, limitation on .....	III	5
county-seat, location, fixing or changing by private or local bills prohibited .....	III	19
division of, power to cause.....	III	5
— into senate and assembly districts, limitation on.....	III	4, 5
officers, selection, when method not fixed by constitution, etc..	X	2
— tenure .....	X	3

	Art.	Sec.
<b>COUNTIES</b> — Continued:		
— liability for acts of, sheriff.....	X	1
board of supervisors, who to compose, election of members, etc. ....	III	26
— powers and duties, legislative powers.....	III	27
— when city includes county, who to exercise power.....	III	27
— power as to dividing territory into districts.....	III	5
— application for election of local judicial officers, when to be made by .....	VI	16
employees, hours of labor, etc., power to fix.....	XII	1
— compensation, power to fix .....	XII	1
— extra, right to.....	III	28
finances, indebtedness, limitation of.....	VIII	10
— bonds and certificates of indebtedness.....	VIII	10
— charges against county cost of highway improvements.....	VII	12
— support of inmates of charitable institutions. etc. ....	VIII	14
— salaries of county judges.....	VI	14
— salaries of successors of judges of abolished city courts who become justices of supreme court.....	VI	5
— power to hold stock or bonds of corporations.....	VIII	10
<b>COUNTY CLERKS</b>		
election of, time, etc.....	X	1, 4
tenure .....	X	1
removal .....	X	1
duties, to be clerk of supreme court, etc.....	VI	19
filing description of assembly districts with.....	III	5
<b>COUNTY COURTS</b>		
<i>see "Courts."</i>		
<b>COUNTY JUDGE</b>		
<i>see "Attorney and Client;" "Courts."</i>		
<b>COURTS</b>		
<i>see, also, "Judges."</i>		
<b>General Provisions</b>		
jurisdiction, power of legislature to alter.....	VI	3
procedure, power of legislature to alter.....	VI	3
decisions, reporting of, regulation, publication, etc.....	VI	21
judicial officers, election, extension and abridgment of terms, etc. ....	XII	3
— oath of office .....	XIII	1
— fees and perquisites, right to.....	VI	20
— removal for misconduct, etc.....	X	7
<b>Court of Appeals</b>		
continued .....	VI	7
how constituted .....	VI	7
jurisdiction, appeals as of right.....	VI	9
— limited to questions of law.....	VI	9
— questions of law which in opinion of appellate division of supreme court should be reviewed.....	VI	9

# INDEX TO CONSTITUTION

xciii

<b>COURTS — Continued:</b>	Art.	Sec.
— review of unanimous decision of appellate division of supreme court that evidence supports or tends to support question of fact.....	VI	9
— not to depend on amount involved.....	VI	9
— effect of vacancies on .....	VI	8
— power of legislature to restrict.....	VI	9
— to what judgments constitutional provision applicable.....	VI	9
decisions, number of justices necessary to.....	VI	7
— number of justices who must concur.....	VI	7
judges, eligibility, necessity of being attorney and counselor-at-law . . . . .	VI	20
— election, tenure, etc. ....	VI	7
— tenure of associate justice appointed to chief judgeship to fill vacancy .....	VI	8
— compensation, age restriction, etc. ....	VI	12
— assignments to superannuated .....	VI	12
— vacancies, how filled .....	VI	8
— effect on jurisdiction and powers of court.....	VI	8
— designation of additional ones to expedite disposal of cases.	VI	7
— removal, grounds and procedure.....	VI	11
ministerial officers, reporters, clerks, and attendants, appointment and removal, etc.....	VI	7, 19
 <b>Supreme Court</b>		
judicial districts, which to remain, alteration, etc.....	VI	1
how constituted . . . . .	VI	1
jurisdiction, in general .....	VI	1
— abolished city courts' jurisdiction vested in.....	VI	5
— abolished circuit and oyer and terminer courts' jurisdiction vested in .....	VI	6
— abolished circuit and oyer and terminer courts' jurisdiction vested in .....	VI	5
— surrogate jurisdiction, when to have.....	VI	15
— relating to review of apportionment of assemblymen.....	III	5
— transfer of causes, from abolished circuit and oyer and terminer courts to supreme court .....	VI	6
— from abolished city courts.....	VI	5
justices, eligibility, necessity of being attorney and counselor-at-law . . . . .	VI	20
— election . . . . .	VI	1
— judges of abolished city courts to be.....	VI	5
— election of successors of judges of abolished city courts who have become.....	VI	5
— designation of additional ones to expedite disposal of cases.	VI	2
— tenure . . . . .	VI	4, 12
— compensation . . . . .	VI	12
— vacancies, how filled, etc. ....	VI	4
— removal, grounds and procedure.....	VI	11
— assignments to special terms, etc.....	VI	2

<b>COURTS</b> — Continued:	Art.	Sec.
— power to hold court in other counties.....	VI	6
— right to practice law or act as referee.....	VI	20
— right to hold other offices.....	VI	10
— ministerial officers, reporter, appointment and removal.....	VI	2
— clerk, county clerk to be.....	VI	19
<b>Appellate Division of Supreme Court</b>		
judicial departments, number, creation, boundaries, etc.....	VI	2
how constituted .....	VI	2
jurisdiction, in general .....	VI	2
— over proceedings to establish street railroads.....	III	18
— transfer of causes from one department to another.....	VI	2
justices, eligibility .....	VI	2
— compensation, age restriction, etc.....	VI	12
— assignment to departments, etc. ....	VI	2
— power to act as supreme court justices.....	VI	2
— ministerial officers, reporters, appointment and removal.....	VI	2
— clerk, who to be, appointment and removal .....	VI	19
times and places of holding court, special terms, designation of, assignment of justices, etc. ....	VI	2
decisions, number of judges necessary to .....	VI	2
— number of judges who must concur in.....	VI	2
rules of court, power to make .....	VI	2
<b>County Courts</b>		
continued .....	VI	14
jurisdiction, original, in actions for money only.....	VI	14
— as dependent on amount involved .....	VI	14
— that of abolished courts of sessions vested in.....	VI	14
— transfer of causes to, from abolished courts of sessions...	VI	14
— power of legislature to alter .....	VI	14
judges, eligibility, necessity of being attorney and counsel- or-at-law .....	VI	20
— election .....	VI	14
— tenure .....	VI	14, 15
— compensation .....	VI	14, 15 20
— duties . . . . .	VI	14
— when to act as surrogate.....	VI	15
— power to hold court in other counties.....	VI	14
— vacancies, how filled, etc. ....	VI	16
— in office when acting as surrogate.....	VI	15
— selection of local judicial officers to act as.....	VI	16
— right to practice law .....	VI	20
<b>Surrogates' Courts</b>		
continued .....	VI	15
jurisdiction and powers .....	VI	15
surrogates, eligibility, necessity of being attorney and coun- selor-at-law .....	VI	20



# INDEX TO CONSTITUTION

xcv

	Art.	Sec.
<b>COURTS — Continued:</b>		
— election . . . . .	VI	15
— tenure . . . . .	VI	15
— compensation . . . . .	VI	15, 20
— vacancies, how filled, etc. . . . .	VI	15, 16
— when county judge to be . . . . .	VI	15
— selection of local judicial officers to act as . . . . .	VI	16
— right to practice law . . . . .	VI	20
<b>Inferior Courts Not of Record, Etc.</b>		
power to establish . . . . .	VI	18
jurisdiction . . . . .	VI	18
judges, tenure of present ones . . . . .	VI	22
— removal, grounds and procedure . . . . .	VI	11, 17
clerks of, removal, etc. . . . .	VI	17
district courts, judges, election, tenure, etc. . . . .	VI	17
courts of special sessions, jurisdiction, over misdemeanors . . . . .	VI	23
<b>Court for Trial of Impeachments</b>		
how constituted, etc. . . . .	VI	13
<b>Courts Abolished by Constitution</b>		
circuit court . . . . .	VI	6
court of common pleas . . . . .	VI	5
court of oyer and terminer . . . . .	VI	6
courts of sessions, except in New York county . . . . .	VI	14
superior courts . . . . .	VI	5
<b>CRIMES AND PUNISHMENTS</b>		
particular crimes, <i>see separate titles.</i>		
jurisdiction, misdemeanors . . . . .	VI	23
— venue, change of by private or local law prohibited . . . . .	III	18
proceedings to punish, capital offenses . . . . .	I	6
— impeachment . . . . .	I	6
— crimes committed in army or navy, etc. . . . .	I	6
— when to be by indictment or information, in general . . . . .	I	6
— bail, excessive, prohibited . . . . .	I	5
— presence of accused, right to appear at trial . . . . .	I	6
— evidence, compelling accused to testify against himself . . . . .	I	6
defenses, former jeopardy . . . . .	I	6
appeals, right to appeal, when judgment is death . . . . .	VI	9
— scope of review, when judgment is death . . . . .	VI	9
— when limited to questions of law . . . . .	VI	9
punishments, cruel and unusual, prohibited . . . . .	I	5
— fines, excessive, prohibited . . . . .	I	5
— reprieves, commutations, and pardons . . . . .	VI	5
<b>DAMAGES</b>		
<i>see, also, "Drainage;" "Eminent Domain;" "Private Roads."</i>		
for death by wrongful act, statutory limitation of . . . . .	I	18
<b>DEAF AND DUMB</b>		
education and maintenance, power of legislature to provide . . . . .	VIII	9, 14

	Art.	Sec.
<b>DEATH</b>		
by wrongful act, action for right to abrogate.....	I	18
— damages, statutory limitation of.....	I	18
<b>DEBTS</b>		
<i>see, also, "State."</i>		
counties, limitation of .....	VIII	10
municipal corporations, limitation of.....	VIII	10
towns, limitation of .....	VIII	10
villages, limitation of . . . . .	VIII	10
corporations in general, stockholders' liability.....	VIII	2
banks, stockholders' liability.....	VIII	7
joint stock companies, stockholders' liability.....	VIII	2
impairing obligation of .....	I	17
<b>DISTRICT ATTORNEYS</b>		
election .....	X	1
tenure .....	X	1
removal .....	X	1
— for failure to prosecute .....	XIII	6
<b>DIVORCE</b>		
proceedings for .....	I	9
<b>DRAINS</b>		
establishment, proceedings for, etc. ....	I	7
— private or local bills providing for, prohibited.....	III	18
<b>DUE PROCESS OF LAW</b>		
right to, for protection of life, liberty, and property.....	I	6
<b>EDUCATION</b>		
<i>see, also, "Colleges and Universities;" "Schools."</i>		
of blind, deaf and dumb, juvenile delinquents, etc. ....	VIII	9, 14
<b>ELECTIONS</b>		
right to vote, in general.....	I	1
— qualifications, in general .....	II	1
— residence, persons in service of United States, students, paupers, etc. . . . .	II	3
— soldiers and sailors in war times.....	II	1
— disqualifications, bribery, betting, etc. ....	II	2
— convicts, in general .....	II	2
election districts, number and boundaries.....	III	3, 5
— creation and alteration .....	III	3, 5
— senate districts .....	III	3
— assembly districts .....	III	5
election boards, appointment, bi-partisan character, etc.....	II	6
registration of voters, in general.....	II	4
— registration boards, appointment, bi-partisan character....	II	6
time for holding, how fixed, etc.....	X	4
— for electing members of legislature.....	III	9
conduct of, regulation by private or local bills prohibited.....	III	18
voting, manner of .....	II	5

# INDEX TO CONSTITUTION

xvii

	Art.	Sec.
<b>ELECTIONS</b> — Continued:		
— secrecy of ballot . . . . .	II	5
— challenges, oath, etc. . . . .	II	2
contests, when legislature to determine. . . . .	III	10
<b>EMINENT DOMAIN</b>		
compensation for property taken, necessity of. . . . .	I	6, 7
— how fixed . . . . .	I	7
<b>EQUITY</b>		
jurisdiction, supreme court to have. . . . .	VI	1
— local inferior courts not to have. . . . .	VI	18
— power of legislature to alter. . . . .	VI	3
proceedings, power of legislature to alter. . . . .	VI	3
evidence, manner of taking testimony to be same as at law. . . . .	VI	3
<b>ERIE CANAL</b>		
sale, lease, etc., power of legislature. . . . .	VII	8
<b>ESCHEATS</b>		
provision for . . . . .	I	10
<b>ESTATES</b>		
allodial tenures, all lands held by. . . . .	I	12
feudal tenures, abolished. . . . .	I	11
<b>EVIDENCE</b>		
<i>see "Bribery;" "Crimes and Punishments;" "Libel," etc.</i>		
<b>EXECUTIVE POWER</b>		
in whom vested . . . . .	IV	1
<b>EXEMPTIONS</b>		
<i>see "Taxation."</i>		
<b>FEES</b>		
for fees of particular officers, <i>see particular titles.</i>		
<b>FEUDAL TENURES</b>		
<i>see "Estates."</i>		
<b>FINANCES</b>		
<i>see "Counties;" "Municipal Corporations;" "State;" "Towns;" "Villages."</i>		
<b>FINES</b>		
excessive, prohibited . . . . .	I	5
on alienation, void . . . . .	I	14
<b>FOREST PRESERVE</b>		
<i>see "Woods and Forests."</i>		
<b>FRANCHISES</b>		
exclusive, granting by private or local laws prohibited. . . . .	III	18
<b>FREEDOM OF SPEECH AND PRESS</b>		
guaranteed . . . . .	I	8
<b>GAMING</b>		
elections bets, effect on bettor's right to vote. . . . .	II	2
lotteries, pool-selling, bookmaking, etc., prohibited. . . . .	I	9
<b>GENERAL LAWS</b>		
<i>see "Laws."</i>		

	Art.	Sec.
<b>GOVERNOR</b>		
executive residence .....	IV	4
eligibility .....	IV	2
election of, time, place, vote required, etc. ....	IV	3
— tie vote, power of legislature to elect. ....	IV	3
oath of office .....	XIII	1
tenure .....	IV	1
compensation .....	IV	4
death, removal, inability, etc., who to fill office upon .....	IV	6
powers, in general .....	IV	4
— executive power vested in .....	IV	1
— to be commander-in-chief of army. ....	IV	4
— appointing power, relating to officers, boards, and commis- sions .....	VIII	12
— military officers .....	XI	4
— superintendent of prisons. ....	V	4
— superintendent of public works. ....	V	3
— justices to fill vacancies in court of appeals. ....	VI	7, 8
— justices to fill vacancies in supreme court. ....	VI	4
— removing power, relating to officers, superintendent of public works .....	V	3
— sheriffs, registers, county clerks, etc. ....	X	1
— district attorney .....	X	1
— for failure to prosecute. ....	XIII	6
— judges and justices of the peace. ....	VI	10
— state treasurer, power to suspend. ....	V	7
— over legislature, to convene legislature in extraordinary session .....	IV	4
— veto power, time and manner of exercising. ....	IV	9
— over special laws, relating to cities. ....	XII	2
— over courts, designation of appellate division justices. ....	VI	2
— designation of additional justices of court of appeals. ....	VI	7
— to grant reprieves, commutations and pardons. ....	IV	5
duties in general .....	IV	4
— reports, duty to make, relating to reprieves, commutations and pardons .....	IV	5
— messages, duty to send to legislature. ....	IV	4
<b>GRAND JURY</b>		
selecting, drawing, summoning, or impaneling, private or local laws regulating, prohibited. ....	III	18
<b>GRANTS</b>		
by king of Great Britain prior to year 1775. ....	I	17
by state since year 1775. ....	I	17
<b>HABEAS CORPUS</b>		
suspension of writ, restriction on. ....	I	4
<b>HAMILTON COUNTY</b>		
right of legislature to abolish. ....	III	5

INDEX TO CONSTITUTION

xcix

	Art.	Sec.
<b>HEALTH</b>		
protection, offices created for, not abrogated.....	V	8
<b>HIGHWAYS</b>		
<i>see "Streets and Highways."</i>		
<b>HORSE RACING</b>		
<i>see "Gaming."</i>		
<b>IMMUNITIES</b>		
<i>see, also, "Bribery;" "Legislature;" "Witnesses."</i>		
exclusive, granting by private or local bills prohibited.....	III	18
<b>IMPEACHMENT</b>		
of governor, who to act in his stead.....	IV	6
of lieutenant-governor, how vacancy in presidency of senate filled .....	III	10
jurisdiction over .....	VI	13
court for trial of, how constituted.....	VI	13
— oath or affirmation .....	VI	13
proceedings for .....	I	6
— articles of impeachment, effect of preferring, on judicial officers' powers .....	VI	13
— trial of .....	VI	13
— decision, number of members of court who must concur..	VI	13
— judgment, scope of .....	VI	13
reprieves, commutations, and pardons in cases of, power to grant .....	IV	5
criminal liability in addition to impeachment .....	VI	13
<b>IMPRISONMENT</b>		
<i>see "Crimes and Punishments."</i>		
<b>INDEBTEDNESS</b>		
<i>see "Counties;" "Municipal Corporations;" "State," etc.</i>		
<b>INDIANS</b>		
Indian lands, purchase of.....	I	15
<b>INDICTMENTS AND INFORMATIONS</b>		
right of accused to.....	I	6
<b>INFANTS</b>		
juvenile delinquents, etc., education and support.....	VIII	9, 14
<b>INFERIOR LOCAL COURTS</b>		
<i>see "Courts."</i>		
<b>INSANE PERSONS</b>		
state commission in lunacy, existing laws continued.....	VIII	13
— duty of legislature to provide.....	VIII	11
— commissioners continued in office.....	VIII	15
— appointment of members, etc. ....	VIII	12
— power and duties, relating to inspection, etc. ....	VIII	11
— right to confer additional.....	VIII	15
— removal of members .....	VIII	12
<b>INSOLVENCY</b>		
of banks, preferences, right of billholders to.....	VIII	8

	Art.	Sec.
<b>INSPECTION</b>		
charitable institutions, etc. ....	VIII	11, 13
denominational schools, expense of.....	IX	4
of merchandise, produce, commodities, etc., offices established for, abolished .....	V	8
<b>INTEREST</b>		
rate of, regulation by private or local bills prohibited.....	III	18
on state debts, necessity of provision for in tax laws.....	VII	4
<b>JOINT STOCK COMPANIES</b>		
term "corporations" to include .....	VIII	3
stockholders, liability for debts of banking concern.....	VIII	7
<b>JUDGES</b>		
<i>see, also, "Courts."</i>		
holding two offices, justices of court of appeals, prohibited....	VI	10
— justices of supreme court, prohibited .....	VI	10
disqualification to act, review of own decision by justice of ap- pellate division or court of appeals.....	VI	3
— age limit, assignments to superannuated justices.....	VI	12
power to hold court in other counties, county judges.....	VI	14
— out of court, of supreme court justices, when appellate di- vision justice may exercise.....	VI	2
removal, for misconduct, etc. ....	X	7
— judges of court of appeals.....	VI	11
— justices of supreme court .....	VI	11
— justices of inferior courts not of record.....	VI	11
impeachment . . . . .	VI	13
criminal liability, in addition to impeachment.....	VI	13
<b>JUDGMENTS</b>		
<i>see "Courts;" "Impeachment."</i>		
<b>JUDICIAL POWER</b>		
<i>see "Courts."</i>		
<b>JURISDICTION</b>		
<i>see "Courts."</i>		
<b>JURY</b>		
trial by, right to, in general.....	I	2
— waiver .....	I	2
to fix damages, in eminent domain proceedings.....	I	7
— caused by private roads .....	I	7
— in drainage proceedings .....	I	7
selecting, drawing, summoning, or impaneling, private or local laws regulating prohibited .....	III	18
<b>JUSTICES OF THE PEACE</b>		
number, classification .....	VI	17
election . . . . .	VI	17
powers . . . . .	VI	17
tenure.....	VI	17
— of present ones .....	VI	22
fees and perquisites, right to.....	VI	22

# INDEX TO CONSTITUTION

ci

	Art.	Sec.
<b>JUSTICES OF THE PEACE</b> — Continued:		
removal, grounds, and procedure .....	VI	11, 17
vacancies, how filled .....	VI	17
clerks, removal .....	VI	17
<b>JUVENILE DELINQUENTS</b>		
<i>see</i> "Infants."		
<b>LABOR</b>		
<i>see</i> "Contracts;" "Convicts;" "Prisons."		
hours of labor, and wages .....	XII	1
<b>LANDLORD AND TENANT</b>		
agricultural leases, duration, limitation on .....	I	13
<b>LAND OFFICE COMMISSIONERS</b>		
<i>see</i> "Public Lands."		
<b>LARCENY</b>		
petit, proceedings to punish .....	I	6
<b>LAWS</b>		
<i>see, also, "Legislature."</i>		
common law to remain in force .....	I	16
colonial acts, continued .....	I	16
statute law, continued .....	I	16
— necessity of enacting by bill .....	III	14
— enacting clause .....	III	14
general, when laws to be .....	III	18
— necessity for those conferring local legislative powers being .....	III	27
— necessity of those for creation of corporations being .....	VIII	1
publication of .....	VI	21
<b>LEGISLATIVE POWER</b>		
in whom vested .....	III	1
<b>LEGISLATURE</b>		
<i>see, also, "State."</i>		
power over particular subjects, <i>see, also, particular titles.</i>		
members, in general, election and qualifications, power to determine .....	III	10
— holding two offices by .....	III	7, 8
— tenure .....	III	2
— privilege, relating to speeches in legislature .....	III	12
senators, number .....	III	2
— apportionment .....	III	4
— eligibility .....	III	8
— election .....	III	9
— oath of office .....	XIII	1
— tenure .....	III	2
— compensation .....	III	6
senate, president, choice of temporary .....	III	10
— when to act as governor .....	IV	7
— consent necessary to appointment of military officers .....	XI	4
— to fill vacancies in court of appeals .....	VI	8

<b>LEGISLATURE</b> —Continued:	Art.	Sec.
— to fill vacancies in supreme court.....	VI	4
— to appointment of superintendent of prisons.....	V	4
— to appointment of superintendent of public works.....	V	3
— to sale of Indian lands .....	I	15
assemblymen, apportionment .....	III	5
— number, etc. ....	III	2
— election .....	III	9
— oath of office .....	XIII	1
— tenure .....	III	2
— compensation .....	III	6
assembly, speaker, compensation.....	V	1
—when to act as governor.....	IV	7
officers, in general, choice of.....	III	10
power, legislative power vested in.....	III	1
— to alter jurisdiction and proceedings of courts.....	VI	3
— to restrict jurisdiction of court of appeals.....	VI	9
— relating to surrogates.....	VI	15
— relating to appointing local judicial officers for counties...	VI	16
— relating to removal of judges and justices of the peace....	VI	11
— relating to reprieves, commutations and pardons.....	IV	5
— to audit or allow private claims against state.....	III	19
convening of, time .....	X	6
proceedings, when to be public.....	III	11
— rules, adoption of .....	III	10
— quorum .....	III	10
— for action on revenue, etc., bills.....	III	25
— during extraordinary session, subjects to be considered.....	IV	4
— bills, private, prohibition of.....	III	18
— where to originate.....	III	13
— form and contents, necessity of printing.....	III	15
— enacting clause.....	III	14
— embracing more than one subject .....	III	16
— necessity of inserting existing laws when made appli- cable .....	III	17
— annual appropriation bill.....	III	21, 22
— commission bills .....	III	23
— tax bills .....	III	24
— amendments, on third reading.....	III	15
— by other house.....	III	13
— passage of, time, etc.....	III	15
— vote necessary to pass, in general .....	III	15
— over veto .....	IV	9
— when public money appropriated for local or private purposes .....	III	20
— bills to authorize tax to pay state debts .....	VII	4
— special, relating to cities .....	XII	2
— presentation to governor for approval.....	IV	9
— reconsideration after veto.....	IV	9



# INDEX TO CONSTITUTION

ciii

	Art.	Sec.
<b>LEGISLATURE</b> — Continued:		
— journal of, to be kept.....	III	11
— recording vote on journal.....	III	15
— entries in relation to passage of bill to authorize tax to pay state debts.....	VII	4
— entering vote on revenue, etc., matters.....	III	25
— recording governor's veto in.....	IV	9
— recording vote on vetoed bill.....	IV	9
— entry of cause of removing judges, and vote on question of.....	VI	11
adjournments, length of.....	III	11
<b>LIBEL AND SLANDER</b>		
criminal libel, truth as defense.....	I	8
— questions for jury.....	I	8
<b>LIBERTY</b>		
deprivation of, without due process of law.....	I	6
freedom of speech and press.....	I	8
religious liberty.....	I	3
right to assemble.....	I	9
right to petition.....	I	9
<b>LIEUTENANT-GOVERNOR</b>		
eligibility.....	IV	2, 7
election of, time, place, vote required, etc.....	IV	1, 3
— tie vote, power of legislature to elect.....	IV	3
oath of office.....	XIII	1
powers, executive power vested in.....	IV	1
duties.....	IV	7
— when to act as governor.....	IV	6
tenure.....	IV	1
compensation.....	IV	8
death, removal, disability, etc., who to fill office upon.....	IV	7
impeachment, how vacancy in presidency of senate filled.....	III	10
<b>LIMITATION OF ACTIONS</b>		
claims against state in general.....	VII	6
effect of disability of claimant.....	VII	6
<b>LOANS</b>		
<i>see "Counties;" "Municipal Corporations;" "State;" "Towns," "Villages,"</i>		
<b>LOCAL INFERIOR COURTS</b>		
<i>see "Courts."</i>		
<b>LOCAL LAWS</b>		
<i>see "Laws."</i>		
<b>LOTTERIES</b>		
prohibited.....	I	9
<b>LUNACY</b>		
<i>see "Insane Persons."</i>		

	Art.	Sec.
<b>MAIN AND HAMBURG CANAL</b>		
sale, lease, etc., power of legislature .....	VII	8
<b>MANUFACTURES</b>		
inspection of, offices for, not abrogated.....	V	8
<b>MEASURES</b>		
<i>see "Weights and Measures."</i>		
<b>MILITIA</b>		
how constituted . . . . .	'XI	1
organization . . . . .	XI	3
size of force to be maintained ready for active service.....	XI	3
expenses, duty of legislature to make appropriations for.....	XI	3
enlistment in, power to provide for .....	XI	2
officers, commander-in-chief, governor to be.....	IV	4
— selection, tenure, etc.....	XI	4, 5
— commissions . . . . .	XI	6
— removal, grounds, procedure, etc. ....	XI	6
militiamen, criminal proceedings against.....	I	6
exemptions from service . . . . .	XI	1
<b>MOTIONS</b>		
submitted by consent, jurisdiction of justice of appellate division . . . . .	VI	2
<b>MUNICIPAL CORPORATIONS</b>		
organization, duty of legislature to provide for, etc. ....	XII	1
classification of cities.....	XII	2
laws relating to, general and special, provision for.....	XII	2
— special laws, title, etc. ....	XII	2
— how enacted, etc. ....	XII	2
— acceptance by cities .....	XII	2
council, powers and duties, relating dividing territory into assembly districts .....	III	5
— when same as county supervisor.....	III	26
officers, selection when method not fixed by constitution.....	X	2
— election, time, etc. ....	XII	3
— appointment and promotion, civil service rules .....	V	9
— tenure, extension and abridgement of terms.....	XII	3
— compensation, extra, power to grant .....	III	28
employees, hours of labor, etc., power to regulate.....	XII	1
— compensation, power to fix.....	XII	1
— extra, power to grant.....	III	28
finances, indebtedness, duty of legislature to restrict.....	XII	1
— limitation of . . . . .	VIII	10
— bonds and certificates of indebtedness.....	VIII	10
— charges, support of inmates of charitable institutions.....	VIII	14
— taxing powers, duty of legislature to restrict .....	XII	1
<b>NAMES</b>		
change of, private or local bills for, prohibited.....	III	18
<b>NAVY</b>		
<i>see "Army and Navy."</i>		

# INDEX TO CONSTITUTION

cv

	Art.	Sec.
<b>NEGLIGENCE</b>		
<i>see "Death."</i>		
<b>NEW TRIAL</b>		
appeal as of right to court of appeals from orders granting...	VI	9
<b>NOTICE</b>		
to district attorney, in proceedings for removal from office....	XIII	6
to justices of the peace, inferior court judges, etc., in proceeding for removal from office.....	VI	17
<b>OATHS</b>		
oaths of office, state officers, form, etc.....	XIII	1
of challenged voters .....	II	2
<b>OFFICERS</b>		
<i>see "Civil Service."</i>		
particular officers, <i>see particular titles.</i>		
certain offices abolished .....	V	8
eligibility, preferences, right of civil war veterans to.....	V	9
— sheriffs after expiration of term.....	X	1
— holding two offices, members of legislature.....	II	7, 8
— justices of supreme court or court of appeals.....	VI	10
— sheriffs .....	X	1
selection, for offices hereafter created .....	X	2
— election, time, how fixed .....	X	4
— appointments and promotions, when to be governed by civil service .....	V	9
term of office, when not fixed by constitution.....	X	3
— when not fixed by constitution or statute.....	X	3
compensation, how fixed, etc.....	X	9
— fees or perquisites, right to.....	X	9
— extra, right to .....	X	9
— right to grant.....	III	28
— increasing or diminishing during term.....	X	9
— private or local bills for, prohibited.....	III	18
impeachment . . . . .	VI	13
removal, for misconduct, etc.....	X	7
vacancies, when office deemed vacant.....	X	8
— provision for filling .....	X	5
offenses, accepting passes, franking privileges, etc.....	XIII	5
— bribery, punishment .....	XIII	2
— attempt to bribe, what constitutes.....	XIII	3
— punishment . . . . .	XIII	3
criminal liability in addition to impeachment.....	VI	13
<b>ORPHAN ASYLUMS</b>		
education and support of inmates, power to provide for.....	VIII	14
<b>OSWEGO CANAL</b>		
sale, lease, etc., power of legislature.....	VII	8
<b>PARDONS</b>		
power of governor and legislature to grant.....	IV	5

	Art.	Sec.
<b>PAUPERS</b>		
education and support, power to provide for.....	VIII	10, 14
voting residence of .....	II	3
<b>PETITION</b>		
right to, guaranteed.....	I	9
<b>POLITICAL YEAR</b>		
beginning of .....	X	6
<b>POOL-SELLING</b>		
prohibited . . . . .	I	9
<b>PRESS</b>		
freedom of, guaranteed .....	I	8
<b>PRISONS</b>		
existing laws continued .....	VIII	13
prison labor, contract system abolished.....	III	29
state commission of prisons, appointment of members.....	VIII	12
— powers and duties .....	VIII	11, 13
		15
— removal of members.....	VIII	12
superintendent of prisons, appointment, tenure.....	V	4
— bond . . . . .	V	4
— powers and duties .....	V	4
superintendence, management, and control .....	V	4
wardens, agents, physicians, chaplains, etc. ....	V	4
clerks of prisons, appointment, tenure, etc.....	V	4
<b>PRIVATE OR LOCAL LAWS</b>		
<i>see "Laws."</i>		
<b>PRIVATE ROADS</b>		
opening of, authority, compensation for property taken, etc...	I	7
<b>PRIVILEGES</b>		
exclusive, granting by private or local laws prohibited.....	III	18
legislators, relating to speeches .....	III	12
<b>PROPERTY</b>		
<i>see "Due Process of Law;" "Eminent Domain;" "Escheats;"</i> <i>"Estates;" "Grants;" "Indians;" "Landlord and Ten-</i> <i>ant."</i>		
deprivation of, compensation, necessity of.....	I	6
alienation of, restraints on, void.....	I	14
<b>PROSECUTING ATTORNEY</b>		
<i>see "District Attorney."</i>		
<b>PUBLIC LANDS</b>		
commissioners of land office, who to be.....	V	5
— powers and duties .....	V	6
<b>PUBLIC WORKS</b>		
superintendent of public works, appointment, tenure, compensa- tion, etc. . . . .	V	3
— powers and duties.....	V	3
— vacancies in office of.....	V	3
— reports to be made by.....	V	3
— assistants, appointment, tenure, compensation, etc.....	V	3

# INDEX TO CONSTITUTION

evii

	Art.	Sec.
<b>QUARTER SALES</b>		
void . . . . .	I	14
<b>RACE TRACKS</b>		
<i>see "Gaming."</i>		
<b>RAILROADS</b>		
<i>see, also, "Street Railroads."</i>		
passes to public officers, offense of giving . . . . .	XIII	5
tracks, right to lay, granting by private or local bills prohibited . . . . .	III	18
<b>RECORDS</b>		
of legislature, <i>see "Legislature."</i>		
of abolished city courts, disposition of . . . . .	VI	5
<b>REFERENCES</b>		
referees, eligibility, judges and justices of various courts . . . . .	VI	20
<b>REFORMATORIES</b>		
— existing laws to remain in force . . . . .	VIII	13
contract system abolished . . . . .	III	29
inspection of . . . . .	VIII	11
<b>REGENTS</b>		
<i>see "Colleges and Universities."</i>		
<b>REGISTERS</b>		
election, tenure, etc. . . . .	X	1, 4
<b>RELIGIOUS LIBERTY</b>		
guaranty of, etc. . . . .	I	3
witnesses not to be disqualified because of religious belief . . . . .	I	3
<b>REPORTS</b>		
by governor, of removal of superintendent of public works . . . . .	V	3
— of reprieves, commutations, and pardons . . . . .	IV	5
by superintendent of public works, of removal of assistants . . . . .	V	3
<b>REPRIEVES</b>		
power to grant . . . . .	IV	5
<b>REVENUE</b>		
<i>see "State."</i>		
<b>REVIEW</b>		
<i>see, also, "Appeal and Error;" "Crimes and Punishments."</i>		
of apportionment of assemblymen . . . . .	III	5
<b>SALARIES</b>		
of particular officers, <i>see particular titles.</i>		
<b>SAVINGS BANKS</b>		
<i>see "Banks and Banking."</i>		
<b>SCHOOLS</b>		
common schools, maintenance . . . . .	IX	1
denominational schools, aid by state or subdivision thereof . . . . .	IX	4
— inspection, expense of . . . . .	IX	4
funds, disposition of . . . . .	IX	3
students, voting residence of . . . . .	II	3

	Art.	Sec.
<b>SEALS</b>		
of abolished city courts, disposition of.....	VI	5
<b>SECRETARY OF STATE</b>		
election, tenure, compensation, etc.....	V	1, 2
duties relating to census .....	III	4
filing description of assembly districts with.....	III	5
<b>SHERIFFS</b>		
election, tenure, etc.....	X	1
bond . . . . .	X	1
disqualification for holding other offices.....	X	1
<b>SIGNATURES</b>		
signature of governor to bills approved by him.....	IV	9
<b>SINKING FUNDS</b>		
<i>see "State."</i>		
<b>SPECIAL LAWS</b>		
<i>see "Laws."</i>		
<b>STATE</b>		
<i>see "Grants;" "Laws;" "Legislature."</i>		
employees, compensation, hours of labor, regulation of.....	XII	1
<b>Finances</b>		
appropriations, necessity of, to authorize expenditure.....	III	21
— vote necessary to pass bills when for local or private purposes . . . . .	III	20
— to pay claims against state.....	III	19
— for payment of state debts.....	VII	11
— for militia .....	XI	3
— for canal improvement, etc. ....	VII	10
— annual appropriation bill, contents.....	III	21, 22
state credit, loaning to individuals, associations, corporations..	VII	1
— exceptions . . . . .	VIII	9
state debts, power to contract, limitation on.....	VII	2, 3, 4
— to meet failures in revenue.....	VII	4
— for canal expenses .....	VII	10
— to repel invasions, etc. ....	VII	3
— diverting of borrowed money from purpose of loan prohibited . . . . .	VII	2, 4
— sinking funds, power to set apart moneys for.....	VII	11
— right to levy tax after funds equal to debts.....	VII	4
— how kept and invested.....	VII	5
— diversion of prohibited.....	VII	5, 11
— payment of .....	VII	11
claims against state, private claims, power of legislature to audit . . . . .	III	19
— statute of limitations .....	VII	6
charges, expense of investigating and prosecuting bribery of officers . . . . .	XIII	6
bonds, right to issue, etc. ....	VII	4

# INDEX TO CONSTITUTION

cix

	Art.	Sec.
<b>STATE BOARD OF CHARITIES</b>	Art.	Sec.
<i>see "Charities."</i>		
<b>STATE COMPTROLLER</b>		
election, tenure, compensation, etc.....	V	1, 2
power to appoint clerks of prisons.....	V	4
<b>STATE CREDIT</b>		
<i>see "State."</i>		
<b>STATE DEBTS</b>		
<i>see "State."</i>		
<b>STATE ENGINEER AND SURVEYOR</b>		
eligibility, election, tenure, and compensation.....	V	1
<b>STATE MILITIA</b>		
<i>see "Militia."</i>		
<b>STATE TREASURER</b>		
election, tenure, compensation, etc.....	V	1
suspension by governor .....	V	7
<b>STATE TREASURY</b>		
<i>see, also, "State."</i>		
paying moneys out of, necessity of appropriation.....	III	21
<b>STATUTE OF LIMITATIONS</b>		
<i>see "Limitation of Actions."</i>		
<b>STATUTES</b>		
<i>see "Laws."</i>		
<b>STOCK</b>		
<i>see "Corporations."</i>		
<b>STREETS AND HIGHWAYS</b>		
establishment, alteration, discontinuance or improvement, private or local bill providing for, prohibited.....	III	18
improvement of, cost, how defrayed.....	VII	12
— power to authorize.....	VII	12
<b>STREET RAILROADS</b>		
establishment, consent of property owners and local authorities .....	III	18
<b>SUPERINTENDENT OF PRISONS</b>		
<i>see "Prisons."</i>		
<b>SUPERINTENDENT OF PUBLIC WORKS</b>		
<i>see "Public Works."</i>		
<b>SUPERVISORS</b>		
<i>see "Counties."</i>		
<b>SUPREME COURT</b>		
<i>see "Courts."</i>		
<b>SURROGATES' COURTS</b>		
<i>see "Courts."</i>		

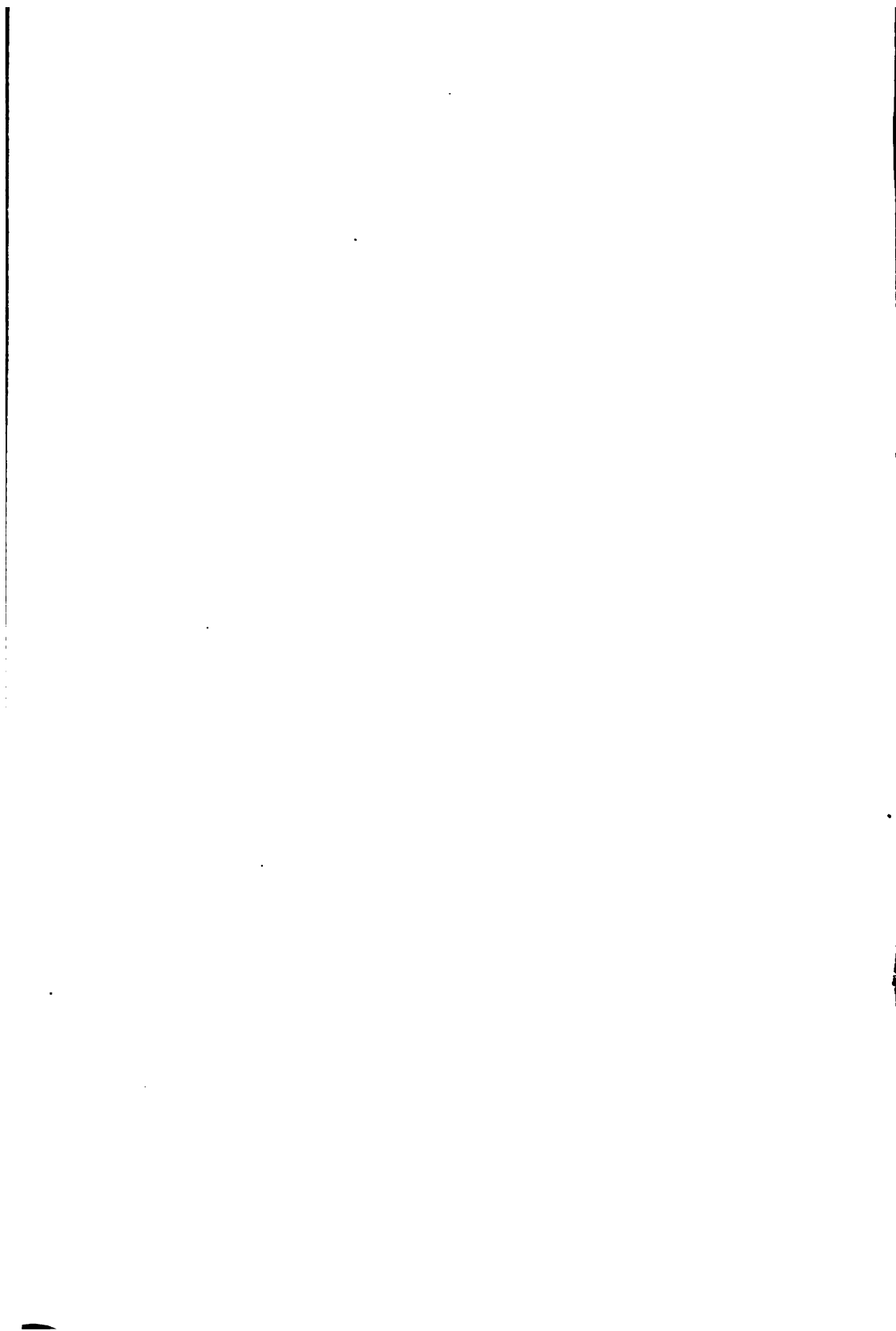
	Art.	Sec.
<b>SUSPENSION OF POWER OF ALIENATION</b>		
validity, in general .....	I	14
<b>TAXATION</b>		
<i>see, also, "State."</i>		
tax bills, form and contents .....	III	24
— quorum necessary to action on .....	III	25
direct taxes for paying state debts, how authorized, etc.....	VII	4
— when imposition unnecessary.....	VII	11
counties and cities, limitation on .....	VIII	10
canals, taxes for maintenance, etc., of, duty to provide for....	VII	9, 10
protection of revenue, offices created for, not abrogated .....	V	8
exemptions, private or local bills providing for, prohibited....	III	18
<b>TELEGRAPHS AND TELEPHONES</b>		
rates, to public officers, discrimination, offense.....	XIII	5
<b>TOLLS</b>		
<i>see "Canals;" "Telegraphs and Telephones."</i>		
<b>TOWNS</b>		
organization . . . . .	XII	1
officers, in general, selection .....	X	2
employees, hours of labor, etc., power to fix.....	XII	1
— compensation, power to fix .....	XII	1
finances, indebtedness, duty of legislature to restrict.....	XII	1
— limitation of .....	VIII	10
— bonds and certificates of indebtedness .....	VIII	10
— charges, support of inmates of charitable institutions.....	VIII	14
— cost of highway improvements.....	VII	12
— taxing powers, duty of legislature to restrict.....	XII	1
<b>TREASON</b>		
power to grant reprieves, commutations, pardons for.....	IV	5
<b>TREASURER</b>		
<i>see "State Treasurer."</i>		
<b>TRIAL</b>		
<i>see "Courts;" "Equity;" "Jury;" etc.</i>		
<b>UNIVERSITY OF STATE OF NEW YORK</b>		
<i>see "Colleges and Universities."</i>		
<b>VENUE</b>		
change of, by private or local bills prohibited.....	III	18
<b>VETERANS</b>		
<i>see "Army and Navy."</i>		
<b>VILLAGES</b>		
incorporation, private or local bills providing for, prohibited..	III	18
organization, duty of legislature to provide for.....	XII	1
officers, selection, when method not fixed by constitution.....	X	2
— for offices hereafter created .....	X	2



# INDEX TO CONSTITUTION

cxi

	Art.	Sec.
<b>VILLAGES</b> — Continued:		
— civil service rules.....	V	9
— preference to veterans .....	V	9
employees, wages and salaries, etc., regulation of .....	XII	1
finances, borrowing powers, duty of legislature to restrict.....	XII	1
— indebtedness, limitation on, duty of legislature .....	XII	1
— provisions limiting .....	VIII	10
— bonds and certificates of indebtedness.....	VIII	10
— property, giving to or in aid of individuals, etc. ....	VIII	10
— corporate stock or bonds, right to hold.....	VIII	10
— aiding individuals, corporations, or associations, prohibited.	VIII	10
— support of poor, power to provide for .....	VIII	10
— support of inmates of charitable institutions.....	VIII	14
— taxing power, duty of legislature to restrict.....	XII	1
<b>VOTING</b>		
<i>see "Elections."</i>		
<b>WAGERS</b>		
<i>see "Elections;" "Gaming."</i>		
<b>WAGES</b>		
<i>see "Counties;" "Municipal Corporations;" "States;"</i> <i>"Towns;" "Villages."</i>		
<b>WAR</b>		
power to contract debts to defend state in time of.....	VII	3
suspension of writ of habeas corpus during .....	I	4
<b>WEIGHTS AND MEASURES</b>		
standards, offices created to supply correct, not abrogated....	V	8
<b>WITNESSES</b>		
privileges, compelling accused person to be witness against himself .....	I	6
— compelling person offering bribe to testify.....	XIII	3
— persons giving passes, etc., to public officers.....	XIII	5
exemption from prosecution of person testifying to offering bribe .....	XIII	3
qualifications, effect of religious belief.....	I	3
— person offering or accepting bribe.....	XIII	4
detention, unreasonable, prohibited .....	I	5
<b>WOODS AND FORESTS</b>		
forest preserve, sale of, lease, etc., prohibited.....	VII	7
<b>WORSHIP</b>		
freedom of, guaranteed .....	I	3



**THE CONSOLIDATED LAWS**

**OF THE**

**STATE OF NEW YORK**

**Enacted by the Legislature of 1909**

Vertical line on the right side of the page.



# AGRICULTURAL LAW

---

**L. 1909, Ch. 9. "AN ACT in relation to agriculture, constituting chapter one of the Consolidated Laws."**

(In effect February 17, 1909.)

## CHAPTER 1 OF THE CONSOLIDATED LAWS

[Formerly L. 1893, Ch. 338, being chapter 33 of the General Laws.]

- Article**
1. Short title (§ 1).
  2. General provisions (§§ 2-11).
  3. Dairy products (§§ 30-54).
  4. Adulterated vinegar (§§ 70-73).
  5. Diseases of domestic animals (§§ 90-108).
  6. Prevention of fraud in sale of paris green and other substances (§§ 140-144).
  7. Sale and analysis of concentrated commercial feeding stuffs (§§ 160-165).
  8. Sale, adulteration or misbranding of food and food products (§§ 200, 201).
  9. Sale and analysis of commercial fertilizers (§§ 220-224).
  10. Turpentine, linseed or flaxseed oil (§§ 240-243).
  11. Apples; pears; peaches; quinces (§§ 260-263).
  12. Agricultural statistics (§§ 280, 281).
  13. State fair (§§ 290-294).
  14. Miscellaneous provisions (§§ 300-318).
  15. Laws repealed; when to take effect (§§ 340, 341).

## ARTICLE 1

### Short Title

**Section 1.** Short title.

**§ 1. Short title.** This chapter shall be known as the "Agricultural Law."

Formerly L. 1893, ch. 338, § 1.

---

**Explanation.**— For location and disposition of former sections of the Agricultural Law see L. 1893, Ch. 338, in "Consolidated Schedule of Repeals," Vol. 7.

**ARTICLE 2****General Provisions**

- Section 2. Commissioner of agriculture.
3. Power of commissioner, his assistants and employees.
  4. Expert butter and cheese makers.
  5. Annual report.
  6. Certificate of chemist presumptive evidence.
  7. Evidence; principal's liability for acts of agent.
  8. Prosecution for penalties.
  9. Disposal of fines and moneys recovered.
  10. When injunction may be obtained.
  11. When prosecution shall not be compelled to elect.

**§ 2. Commissioner of agriculture.** There shall be a department of the state government known as the department of agriculture, which shall be charged with the execution of the laws relating to agriculture and agricultural products. The commissioner of agriculture shall be the chief of the department. The commissioner of agriculture shall be appointed by the governor, by and with the advice and consent of the senate. His term of office shall be three years. He shall be paid an annual salary of four thousand dollars and his necessary expenses not to exceed five hundred dollars, incurred in the discharge of his official duties. He may appoint a director of farmers' institutes and such clerks and assistant commissioners and employ such clerks, chemists, agents and counsel as he may deem necessary for the proper enforcement of such laws and the proper administration of the department, who shall receive such compensation as may be fixed by him and their necessary expenses. The compensation of his clerks, assistants and other persons employed by him and such necessary expenses shall be paid on his certificate by the treasurer on the warrant of the comptroller. All other charges, accounts and expenses of the department authorized by law shall be paid by the treasurer on the warrant of the comptroller, after they have been audited and allowed by the comptroller. The trustees of public buildings shall furnish suitable rooms for the use of the department in the capitol.

Formerly L. 1893, ch. 338, § 2.

**§ 3. Power of commissioner, his assistants and employees.** The commissioner of agriculture, his clerks, assistants, experts, chemists, agents and counsel employed by him, shall have full access to all places of business, factories, farms, buildings, car-

riages, cars and vessels used in the manufacture, sale or transportation within the state of any dairy products or any imitation thereof, or of any article or product with respect to which any authority is conferred by this chapter on such commissioner. They may examine and open any package, can or vessel containing or believed to contain any article or product, which may be manufactured, sold or exposed for sale in violation of the provisions of this chapter, and may inspect the contents therein, and take therefrom samples for analysis. The commissioner of agriculture shall have the power by subpoena or subpoena duces tecum, issued and attested by him in his official capacity to require the attendance and testimony before him, or any of his assistant commissioners, of any person whom he may have reason to believe has knowledge of any alleged violation of this chapter, and the production, before him or any of his assistant commissioners of agriculture of any records, books, papers and documents for the purpose of investigating any alleged violation of this chapter. Such subpoenas or subpoena duces tecum may be served by any person over the age of twenty-one years. No person shall be excused from attending and testifying or producing any records, books, papers or other documents before said commissioner of agriculture or any of his assistant commissioners of agriculture upon such investigation upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal action, investigation or proceeding. Any person who shall omit, neglect or refuse to attend and testify or to produce any records, books, papers or documents, if in his power so to do, in obedience to such subpoena or subpoena duces tecum shall be guilty of a misdemeanor. Any person who shall wilfully and knowingly make any false statement under oath before the commissioner of agriculture or his assistant commissioners of agriculture concerning a material matter, shall be guilty of perjury. The commissioner of agriculture and his assistant commissioners of agriculture are hereby authorized and empowered to administer oaths and affirmations in the usual appropriate forms to any person in any matter or proceedings authorized as aforesaid and in all matters pertaining or relating to this chapter and to take and administer oaths and affirmations in the usual appro-

priate forms, in taking any affidavit or deposition which may be necessary or required by law or by any order, rule or regulation of the commissioner of agriculture for or in connection with the official purposes, affairs, powers, duties or proceedings of said commissioner of agriculture or his assistant commissioners of agriculture or for any official purpose lawfully authorized by said commissioner of agriculture.

Formerly L. 1893, ch. 338, § 3; with L. 1893, ch. 338, § 32, part as am'd by L. 1898, ch. 153, § 1; L. 1904, ch. 168, § 2; L. 1905, ch. 603, § 1; L. 1907, ch. 178, § 1, and L. 1907, ch. 713, § 1, incorporated.

**§ 4. Expert butter and cheese makers.** The commissioner of agriculture may appoint and employ not more than five expert butter and cheese makers, who shall, under his direction, examine and inspect butter and cheese factories and attend at agricultural fairs, societies and meetings designated by the commissioner, to impart thereat information as to the best and most improved method of making butter and cheese and improving the quality thereof.

Formerly L. 1893, ch. 338, § 4.

**§ 5. Annual report.** The commissioner of agriculture shall make an annual report to the legislature on or before January fifteenth, of his work and proceedings for the year ending September thirtieth, next preceding, which shall include a statement in detail of the number of assistant commissioners, chemists, experts, agents, and counsel employed under the provisions of this chapter during such year, and their compensation, expenses and disbursements; and also a statement in detail of the expenditures of moneys appropriated for the state agricultural society, the county agricultural societies and the New York agricultural experiment station; and other agricultural purposes and estimates of the amounts required for all such purposes for the ensuing year. He may require the state agricultural society and the county agricultural societies to make reports to him and prescribed the form of such reports.

Formerly L. 1893, ch. 338, § 5.

**§ 6. Certificate of chemist presumptive evidence.** Every certificate, duly signed and acknowledged, of a chemist, analyst or other expert employed by the commissioner of agriculture or any analysis, examination or investigation made by such analyst, chemist or expert with respect to any matter or product which the commissioner has authority to examine or cause to be examined, shall be presumptive evidence of the facts therein stated.

Formerly L. 1893, ch. 338, § 6.



**§ 7. Evidence; principal's liability for acts of agent.** The doing of anything prohibited by this chapter shall be evidence of the violation of the provisions of this chapter relating to the thing so prohibited, and the omission to do anything directed to be done shall be evidence of a violation of the provisions of the chapter relative to the thing so directed to be done. The intent of any person doing or omitting to do any such act is immaterial in any prosecution for a violation of the provisions of this chapter. Any person who suffers, permits or allows any violation of the provisions of this chapter by his agent or servant or in any room or building occupied or controlled by him, shall be deemed a principal in such violation and liable accordingly. Any person who shall keep, store or display any article or product, the manufacture or sale of which is prohibited or regulated by this chapter, with other merchandise or stock in his place of business, shall be deemed to have the same in his possession for sale.

Formerly L. 1893, ch. 338, § 7, as am'd by L. 1907, ch. 406, § 1.

**§ 8. Prosecution for penalties.** Whenever the commissioner of agriculture shall know or have reason to believe that any penalty has been incurred by any person for a violation of any of the provisions of this chapter, or that any sum has been forfeited by reason of any such violation, he may cause an action or proceeding to be brought in the name of the people for the recovery of the same. Such action may be brought in the county where the product is sold, offered or exposed for sale, or in the county where the adulteration or violation, or any part thereof, occurred.

Formerly L. 1893, ch. 338, § 8, as am'd by L. 1907, ch. 137.

**§ 9. Disposal of fines and moneys recovered.** One-half of all moneys recovered, either as penalties, forfeitures or otherwise, for the violation of any of the provisions of this chapter, and from fines imposed as a punishment for any criminal offense committed in violation of the provisions of this chapter, or of the penal law relating to the punishment of criminal offenses committed in violation of the provisions of law for the prevention of frauds in the manufacture or sale of any of the articles or products to which this chapter relates, shall be paid by the court or the clerk thereof to the city or county where the recovery shall be had or fine collected, for the benefit of the poor of such city or county, except in the city of New York, where the same shall be paid to the proper authorities, and equally divided by them between the pension funds of the police and fire departments. The residue of such moneys shall be paid into the

treasury of the state, and paid out by the treasurer, upon the warrant of the comptroller, for the purpose of defraying the expenses of the department of agriculture, audited by the comptroller. The same disposal shall be made of all moneys recovered upon any bond given by any officer by virtue of the provisions of this chapter.

Formerly L. 1893, ch. 338, § 9.

**§ 10. When injunction may be obtained.** In an action in the supreme court for the recovery of a penalty or forfeiture incurred for the violation of any of the provisions of this chapter an application may be made on the part of the people to the court or any justice thereof for an injunction to restrain the defendant, his agents and employees from the further violation of such provisions. The court or justice to whom such application may be made, shall grant such injunction on proof, by affidavit, that the defendant has been guilty of the violations alleged in the complaint, or of a violation of any such provision subsequent to the commencement of the action, and in the same manner as injunctions are usually granted under the rules and practice of the court. No security on the part of the plaintiff shall be required, and costs of the application may be granted or refused in the discretion of the court or justice. If the plaintiff shall recover judgment in the action for any penalty or forfeiture demanded in the complaint, the judgment shall contain a permanent injunction, restraining the defendant, his agents and employees, from any further violation of such provision of this chapter. Any injunction, order or judgment obtained under this section may be served on the defendant by posting the same upon the outer door of the defendant's usual place of business, or where such violation was or may be committed, or in the manner required by the code of civil procedure, and the rules and practice of the court. Personal service of the injunction shall not be necessary when such service can not be secured with reasonable diligence, but the service herein provided shall be deemed sufficient in any proceeding for the violation of such injunction.

Formerly L. 1893, ch. 338, § 10.

**§ 11. When prosecution shall not be compelled to elect.** In an action for a penalty or forfeiture incurred by reason of the violation of the provisions of this chapter, when the complaint charges a violation of any two or all of such provisions, the plaintiff shall not be compelled to elect between the counts under such different provisions but shall be entitled to recover if

it is found that a violation of any one of such provisions has been committed for which a penalty or forfeiture is imposed.

Formerly L. 1893, ch. 338, § 11.

### ARTICLE 3

#### Dairy Products

**Section 30. Definitions.**

31. Care and feed of cows.
32. Prohibiting the sale of adulterated milk, imitation cream and regulating the sale of certified milk.
33. Regulations in regard to butter and cheese factories.
34. Penalty for delivery of adulterated milk.
35. Inspection; how conducted.
36. Branded cans, jars or bottles not to be sold, re-marked or used without consent of owner.
37. Regulations in regard to condensed milk.
38. Manufacture and sale of imitation butter prohibited.
39. Manufacture or mixing of animal fats with milk, cream or butter prohibited.
40. Prohibited articles not to be furnished for use.
41. Use of coloring matter prohibited.
42. Coloring matter in food products; analysis by state board of health.
43. Manufacture and sale of imitation cheese prohibited.
44. When prohibitions do not apply to skim-milk or skim-cheese.
45. Unclean receptacles and places for keeping milk; notice to violators of provisions.
46. Unsanitary cans and receptacles condemned.
47. Receptacles to be cleaned before return; may be seized; evidence; violation; milk can inspectors.
48. Manufacturer's brand of cheese.
49. Use of false brand prohibited.
50. County trade marks.
51. Object and intent of this article.
52. Penalties.
53. Butterine and similar products not to be purchased by certain institutions.
54. Purchase, sale and use of butterine and similar products prohibited in certain institutions.

**§ 30. Definitions.** The terms "butter" and "cheese," when used in this article, mean the products of the dairy, usually

known by those terms, which are manufactured exclusively from pure, unadulterated milk or cream or both, with or without salt or rennet, and with or without coloring matter or sage. The terms "oleomargarine," "butterine," "imitation butter" or "imitation cheese" shall be construed to mean any article or substance in the semblance of butter or cheese not the usual product of the dairy, and not made exclusively of pure and unadulterated milk or cream, or any such article or substance into which any oil, lard or fat not produced from milk or cream enters as a component part, or into which melted butter or butter in any condition or state, or any oil thereof has been introduced to take the place of cream. The term "adulterated milk," when so used, means:

1. Milk containing more than eighty-eight per centum of water or fluids.
2. Milk containing less than twelve per centum of milk solids.
3. Milk containing less than three per centum of fats.
4. Milk drawn from cows within fifteen days before and five days after parturition.
5. Milk drawn from animals fed on distillery waste or any substance in a state of fermentation or putrefaction or on any unhealthy food.
6. Milk drawn from cows kept in a crowded or unhealthy condition.
7. Milk from which any part of the cream has been removed.
8. Milk which has been diluted with water or any other fluid, or to which has been added or into which has been introduced any foreign substance whatever.

All adulterated milk shall be deemed unclean, unhealthy, impure and unwholesome. The terms "pure milk" or "unadulterated milk," when used singly or together, mean sweet milk not adulterated, and the terms, "pure cream" or "unadulterated cream," when used singly or together, mean cream taken from pure and unadulterated milk.

Formerly L. 1893, ch. 337, § 20.

**§ 31. Care and feed of cows.** No person shall keep cows, for the production of milk for market or for sale or exchange, or for manufacturing the milk or cream from the same into any article of food, in a crowded or unhealthy condition, or feed any such cows on distillery waste or on any substance in the state of putrefaction or fermentation, or upon any food that is unhealthy or that produces impure, unhealthy, diseased or unwholesome milk. But this section shall not be construed to prohibit the feeding of ensilage.

Formerly L. 1893, ch. 338, § 21.

**§ 32. Prohibiting the sale of adulterated milk, imitation cream and regulating the sale of certified milk.** No person shall sell or exchange or offer or expose for sale or exchange, any unclean, impure, unhealthy, adulterated or unwholesome milk or any cream from the same, or any unclean, impure, unhealthy, adulterated, colored, or unwholesome cream, or sell or exchange, or offer or expose for sale or exchange, any substance in imitation or semblance of cream, which is not cream, nor shall he sell or exchange, or offer or expose for sale or exchange any such substance as and for cream, or sell or exchange, or offer or expose for sale or exchange any article of food made from such milk or cream or manufacture from any such milk or cream any article of food. No person shall sell or exchange, or offer or expose for sale or exchange, as and for certified milk, any milk which does not conform to the regulations prescribed by and bear the certification of a milk commission appointed by a county medical society organized under and chartered by the medical society of the state of New York and which has not been pronounced by such authority to be free from anti-septics, added preservatives, and pathogenic bacteria, or bacteria in excessive numbers. All milk sold as certified milk shall be conspicuously marked with the name of the commission certifying it. Any person delivering milk to any butter or cheese factory, condensary, milk gathering station or railway station to be shipped to any city, town or village shall be deemed to expose or offer the same for sale whether the said milk is delivered or consigned to himself or another. Each and every can thus delivered, shipped or consigned, if it be not pure milk, must bear a label or card upon which shall be stated the constituents or ingredients of the contents of the can.

Formerly L. 1893, ch. 338, § 22, as am'd by L. 1900, ch. 101, § 1; L. 1904, ch. 480, § 1; L. 1904, ch. 566, § 1; L. 1905, ch. 602, § 1, and L. 1907, ch. 241, § 1.

**§ 33. Regulations in regard to butter and cheese factories.** No person shall sell, supply or bring to be manufactured to any butter or cheese factory any milk diluted with water, or any unclean, impure, unhealthy, adulterated or unwholesome milk, or milk from which any of the cream has been taken, except pure skim milk to skim-cheese factories. No person shall sell, supply or bring to be manufactured to any butter or cheese factory any milk from which there has been kept back any part of the milk commonly known as strippings, or any milk that is sour, except pure skim milk to skim-cheese factories. The owner or proprietor or the person having charge of any butter or cheese factory, not buying all the milk used by him,

shall not use for his own benefit, or allow any of his employees or any other person to use for his own benefit, any milk, cream, butter or cheese or any other product thereof, brought to such factory, without the consent of the owners of such milk or the products thereof. Every butter or cheese manufacturer not buying all the milk he uses, shall keep a correct account of all the milk daily received, of the number of packages of butter and cheese made each day, and the number of packages and aggregate weight of cheese and butter disposed of each day; which account shall be open to inspection to any person who delivers milk to such factory. Whenever manufacturers of butter or cheese purchase milk upon the basis of the amount of fat contained therein and use for ascertaining the amount of such fat what is known as the Babcock test, or whenever the proceeds of co-operative creameries and cheese factories are allotted on the basis of determinations of milk fat by the Babcock test, the bottles and pipettes used in such test shall before use be examined by the director of the New York agricultural experiment station. If such bottles are found to be properly constructed and graded so as to accurately show the amount of fat contained in milk, each of them shall be legibly and indelibly marked "S. B." No bottle shall be so marked except as herein provided or used in any such test by such manufacturers, unless so examined and marked. The acid used in making such test by such manufacturers shall be examined from time to time by competent chemists employed by the commissioner of agriculture and if found not to be of sufficient strength the use of such acid shall be prohibited. No person or persons receiving or purchasing milk or cream upon the basis of the amount of fat contained therein, shall credit any patron or patrons delivering milk or cream thereto with a greater or lesser percentage or average percentage of fat than is actually contained in the milk or cream so delivered. The commissioner of agriculture or persons employed by him for that purpose may at any time assist in making tests of milk received at a butter or cheese factory for the purpose of determining the efficiency of tests usually made at such factory. All persons using other than standard bottles or acid which is not of the required strength to accurately determine the amount of fats in milk or crediting any patron or patrons delivering milk or cream with a greater or lesser percentage or average percentage of fat than is actually contained in the milk or cream so delivered, shall be subject to the penalties prescribed by section fifty-two of this article, and shall be guilty of a misdemeanor.

Formerly L. 1893, ch. 338, § 23, as am'd by L. 1900, ch. 544, § 1; L. 1901, ch. 429, § 1, and L. 1905, ch. 601, § 1.

**§ 34. Penalty for delivery of adulterated milk.**

Any person, firm, association or corporation delivering any milk to any butter or cheese factory in violation of any of the provisions of this chapter shall forfeit and pay to the patrons, firm, association or corporation owning the milk delivered to such factory the sum of fifty dollars, to be recovered in a civil action by the person, firm, association or corporation entitled thereto.

Formerly L. 1893, ch. 338, § 23-a, as added by L. 1906, ch. 605, § 1.

**§ 35. Inspection; how conducted.** When the commissioner of agriculture, an assistant commissioner, or any person or officer authorized by the commissioner, or by this chapter, to examine or inspect any product manufactured or offered for sale shall in discharge of his duties take samples of such product, he shall before taking a sample, request the person delivering the milk or who has charge of it at the time of inspection, to thoroughly stir or mix the said milk before the sample is taken. If the person so in charge refuses to stir or mix the milk as requested, then the person so requesting shall himself so stir and mix the milk before taking the sample, and the defendant shall thereafter be precluded from introducing evidence to show that the milk so taken was not a fair sample of the milk delivered, sold, offered or exposed for sale by him. The person taking the sample of milk for analysis shall take duplicate samples thereof in the presence of at least one witness, and he shall in the presence of such witness seal both of such samples, and shall tender, and, if accepted, deliver at the time of taking one sample to the manufacturer or vendor of such product, or to the person having custody of the same, with a statement in writing of the cause of the taking of the sample. In taking samples of milk for analysis at a creamery, factory, platform or other place where the same is delivered by the producer for manufacture, sale or shipment, or from a milk vendor who produces the milk which he sells, with a view of prosecuting the producer of such milk for delivering, selling or offering for sale adulterated milk, the said commissioner of agriculture or assistant or his agent or agents shall within ten days thereafter, with the consent of the said producer, take a sample in a like manner of the mixed milk of the herd of cows from which the milk first sampled was drawn and shall deliver the duplicate sample to the said producer and shall cause the sample taken by himself or his agent to be analyzed. If the sample of milk last taken by the commissioner of agriculture or his agent or agents shall upon analysis prove to contain no higher percentage of milk solids, or no

higher percentage of fat than the sample taken at the creamery, factory, platform or other place, then no action shall lie against the said producer for violation of subdivisions one, two, three, seven and eight of section thirty of this chapter. In taking a second sample as above set forth from the mixed milk of the herd, it shall be the duty of the commissioner of agriculture to have an assistant, agent or agents present during the entire time in which the said cattle are being milked to observe closely so as to be sure that the milk thus to be sampled is not adulterated and to see that it is thoroughly mixed so that the sample taken shall be a fair sample of the average quality of the mixed milk of the entire dairy or herd of cows of said producer. If, however, the said producer refuses to allow such examination of the milk produced by his dairy, then he shall be precluded from offering any evidence whatever tending to show that the milk delivered by him at the said creamery, factory, platform or other place was just as it came from the cow. If the said producer does permit such examination, the commissioner of agriculture shall, upon receiving application therefor, send to said producer a copy of the analysis of each of the samples of milk so taken and analyzed as above provided.

Formerly L. 1893, ch. 338, § 12, as am'd by L. 1898, ch. 557, § 1.

**§ 36. Branded cans, jars or bottles not to be sold, re-marked or used without consent of owner.** No person shall hereafter without the consent of the owner or shipper, use, sell, dispose of, buy or traffic in any milk can, jar or bottle, or cream can, jar or bottle, belonging to any dealer or shipper of milk or cream residing in the state of New York or elsewhere, who may ship milk or cream to any city, town or place within this state, having the name or initials of the owner, dealer or shipper, stamped, marked or fastened on such can, jar or bottle, or wilfully mar, erase or change by re-marking or otherwise said name or initials of any such owner, dealer or shipper, so stamped, marked or fastened upon said can, jar or bottle. Nor shall any person without the consent of the owner use such can, jar or bottle, for any other purpose than for milk or cream; nor shall any person without the consent of the owner place in any such can, jar or bottle, any substance or product other than milk or cream.

Formerly L. 1893, ch. 338, § 24, as am'd by L. 1901, ch. 375, § 1, and L. 1904, ch. 168, § 1.

**§ 37. Regulations in regard to condensed milk.** No condensed milk shall be made or offered or exposed for sale or



exchange unless manufactured from pure, clean, healthy, fresh, unadulterated and wholesome milk from which the cream has not been removed either wholly or in part, or unless the proportion of milk solids shall be in quantity the equivalent of twelve per centum of milk solids in crude milk, and of which solids twenty-five per centum shall be fats. No person shall manufacture, sell or offer for sale or exchange in hermetically sealed cans, any condensed milk unless put up in packages upon which shall be distinctly labeled or stamped the name of the persons or corporation by whom made and the brand by which or under which it is made. When condensed milk shall be sold from cans or packages not hermetically sealed, the vendor shall brand or label such cans or packages with the name of the manufacturer of the milk contained therein.

Formerly L. 1893, ch. 338, § 25, as am'd by L. 1893, ch. 564, § 1, and L. 1894, ch. 143, § 1.

**§ 38. Manufacture and sale of imitation butter prohibited.** No person by himself, his agents or employees, shall produce or manufacture out of or from any animal fats or animal or vegetable oils not produced from unadulterated milk or cream from the same, the article known as oleomargarine or any article or product in imitation or semblance of natural butter produced from pure, unadulterated milk or cream of the same; or mix, compound with or add to milk, cream or butter any acids or other deleterious substance or any animal fats or animal or vegetable oils not produced from milk or cream, so as to produce any article or substance or any human food in imitation or in semblance of natural butter, nor sell, keep for sale or offer for sale any article, substance or compound, made, manufactured or produced in violation of the provisions of this section, whether such article, substance or compound shall be made or produced in this state or elsewhere. Any person manufacturing, selling, offering or exposing for sale any commodity or substance in imitation or semblance of butter, the product of the dairy, shall be deemed guilty of a violation of this chapter, whether he sells such commodity or substance as butter, oleomargarine or under any other name or designation whatsoever and irrespective of any representations he may make relative to such commodity or substance. Any dealer in any article or product, the manufacture or sale of which is prohibited by this section, who shall keep, store or display such article or product, with other merchandise or stock in his place of business, shall be deemed to have the same in his possession for sale.

Formerly L. 1893, ch. 338, § 26, as am'd by L. 1894, ch. 426, § 1; L. 1897, ch. 768, § 1, and L. 1902, ch. 385, § 1.

**§ 39. Manufacture or mixing of animal fats with milk, cream or butter prohibited.** No person shall manufacture, mix or compound with or add to natural milk, cream or butter any animal fats or animal or vegetable oils, nor make or manufacture any oleaginous substance not produced from milk or cream, with intent to sell the same as butter or cheese made from unadulterated milk or cream or have the same in his possession with such intent; nor shall any person solicit or take orders for the same or offer the same for sale, nor shall any such article or substance or compound so made or produced, be sold as and for butter or cheese, the product of the dairy. No person shall coat, powder or color with annatto or any coloring matter whatever, butterine or oleomargarine or any compound of the same or any product or manufacture made in whole or in part from animal fats or animal or vegetable oils not produced from unadulterated milk or cream by means of which such product, manufacture or compound shall resemble butter or cheese, the product of the dairy; nor shall he have the same in his possession with intent to sell the same nor shall he sell or offer to sell the same. No person by himself, his agents or employees, shall manufacture, sell, offer or expose for sale, butter that is produced by taking original packing stock or other butter or both and melting the same, so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk or milk or cream or other milk product and rechurning the said mixture, or that is produced by any similar process and is commonly known as boiled or process butter, unless he shall plainly brand or mark the package or tub or wrapper in which the same is put up in a conspicuous place with the words "renovated butter" or "process butter." If the same shall be put up, sold, offered or exposed for sale in prints or rolls, then the said prints or rolls shall be labeled plainly with printed letters in a conspicuous place on the wrapper with the words "renovated butter" or "process butter." If the same is packed in tubs or boxes or pails or other kind of a case or package the words "renovated butter" or "process butter" shall be printed on the top and side of the same in letters, at least, one inch in length, so as to be plainly seen by the purchaser. If such butter is exposed for sale, uncovered, not in a package or case, a placard containing the label so printed shall be attached to the mass of butter in such manner as to easily be seen and read by the purchaser. Every person selling, offering or exposing for sale at retail, "renovated butter" or "process butter," shall cause each parcel or package of such butter delivered to or for a customer to be wrapped in a light colored paper on which shall

be printed in black letters, not less than three-eighths inch square and in Gothic type, the words "renovated butter" or "process butter." No person shall sell, offer or expose for sale, any butter or other dairy products containing a preservative, but this shall not be construed to prohibit the use of salt in butter or cheese, or spirituous liquors in club or other fancy cheese or sugar in condensed milk. No person, firm, association or corporation shall induce or attempt to induce any person to violate any of the provisions of this chapter. Any person, firm, association or corporation selling, offering or advertising for sale any substance, preparation or matter for use in violation of the provisions of this chapter shall be guilty of a violation of this section.

Formerly L. 1893, ch. 338, § 27, as am'd by L. 1899, ch. 149, § 1; L. 1900, ch. 534, § 1, and L. 1907, ch. 322, § 1.

**§ 40. Prohibited articles not to be furnished for use.** No keeper or proprietor of any bakery, hotel, boarding-house, restaurant, saloon, lunch-counter or place of public entertainment, nor any person having charge thereof or employed thereat, nor any person furnishing board for any others than members of his own family, or for any employees where such board is furnished for a compensation or as part of the compensation of any such employee, shall keep, use or serve therein either as food for his guests, boarders, patrons, customers or employees or for cooking purposes any article or substance made in violation of the provisions of this article.

Formerly L. 1893, ch. 338, § 28.

**§ 41. Use of coloring matter prohibited.** No person manufacturing with intent to sell any substance or article in imitation or semblance of butter or cheese not made exclusively from unadulterated milk or cream or both, with salt or rennet or both and with or without coloring matter or sage, but into which any animal, intestinal or offal fats, or any oils or fats or oleaginous substance of any kind not produced from pure, unadulterated milk or cream, or into which melted butter, or butter in any condition or state or any modification of the same, or lard or tallow shall be introduced, shall add thereto or combine therewith any annatto or compounds of the same, or any other substance or substances whatever, for the purpose or with the effect of imparting thereto a color resembling yellow, or any shade of yellow butter or cheese, nor introduce any such coloring matter or other substance into any of the articles of which the same is composed.

Formerly L. 1893, ch. 338, § 29.

**§ 42. Coloring matter in food products; analysis by state board of health.** No person or persons shall manufacture, sell or expose for sale any poisonous coloring matter for the coloring of food products of any kind, nor shall any person or persons use any poisonous coloring matter manufactured, sold, offered or exposed for sale within this state; nor shall any person or persons sell, offer or expose for sale any food product containing such poisonous coloring matter. The state commissioner of health shall cause samples of coloring matter that are exposed for sale upon the market for use in food products to be analyzed and report the results of such analysis to the legislature at the next session.

Formerly L. 1893, ch. 338, § 29-a, as added by L. 1899, ch. 518, § 1.

**§ 43. Manufacture and sale of imitation cheese prohibited.** No person shall manufacture, deal in, sell, offer or expose for sale or exchange any article or substance, in the semblance of or in imitation of cheese made exclusively of unadulterated milk or cream, or both, into which any animal, intestinal or offal fats or oils, or melted butter or butter in any condition or state or modification of the same, or oleaginous substances of any kind not produced from unadulterated milk or cream, shall be introduced.

Formerly L. 1893, ch. 338, § 30.

**§ 44. When prohibitions do not apply to skim-milk or skim-cheese.** Except in the counties of New York and Kings, the prohibitions contained in this article against the sale of adulterated milk shall not apply to skim-milk, which is clean, pure, healthy, wholesome and unadulterated, except by skimming, sold for use in the county in which it is produced or an adjoining county, if it is sold for and as skimmed milk. The prohibitions in this article against the sale of cheese made from unadulterated milk or cream, shall not apply to pure skim-cheese made from milk which is clean, pure, healthy, wholesome and unadulterated, except by skimming.

Formerly L. 1893, ch. 338, § 31.

**§ 45. Unclean receptacles and places for keeping milk; notice to violators of provisions.** No person, firm, association or corporation, producing, buying or receiving milk for the purpose of selling the same for consumption as such, or for manufacturing the same into butter, cheese, condensed milk, or other human food, shall keep the same in utensils, cans, vessels, rooms, or buildings that are unclean or have unsanitary surroundings or drainage, or in any

condition whatsoever that would tend to produce or promote conditions favorable to unhealthfulness or disease. The commissioner of agriculture shall notify all persons, firms, associations or corporations, violating this section, to clean said utensils, cans, vessels, rooms, or buildings, or to so improve the sanitary conditions that the law will not be violated, and if such notice is complied with in ten days' time, Sundays excepted, then no action shall lie for a violation of this section. Any person having charge of any milk gathering station where milk is bought or received from the dairymen for the purpose of selling the same for consumption or shipping the same to market for consumption as human food before taking such charge or operating or working as such agent or person in charge shall apply to the commissioner of agriculture for a license to so work or operate or have charge, and shall at the time of making such application, file with the commissioner a statement under oath, setting forth the fact that he will not while having charge of or operating any such milk gathering establishment or while employed therein adulterate or suffer or permit the adulteration of any such milk or any product thereof during the term for which he may be licensed. After the applicant shall have complied with the foregoing provisions of this section, the commissioner of agriculture upon being satisfied that the applicant is a person of good moral character and a qualified and proper person to so have charge of or operate any such milk gathering station or establishment shall issue to said applicant a license, which shall qualify him to have charge of any such milk gathering station or establishment for the period of two years from the date of such license. The person regularly doing the work of receiving, caring for and shipping the milk at any station or establishment, or in case more than one person is so employed then the foreman in charge of such works shall be deemed to be a person in charge of such station or establishment within the meaning and purposes of this section. Such license certificate shall be kept at such station or establishment where the licensee is so employed and shall be open to the inspection of the representatives of the department of agriculture and the public. Any person having charge of any milk gathering station or establishment as aforesaid, shall keep a true and correct daily record of the receipts of milk or other dairy products received at such station or establishment, and if milk so received is delivered to such station or establishment at two regular periods each day, namely in the morning and at night, then such daily record must separately show such receipts of milk at each of such periods. Any person

having charge of any milk gathering station or establishment as aforesaid shall also keep a true and correct daily record of all sales or shipments of milk, cream and dairy products shipped or sold from such station or establishment, and of all pure milk, skim milk and cream which at the end of the day remains on hand at such station or establishment to be used, shipped or otherwise disposed of on following days, and shall keep a true and correct daily record of the cream there produced by skimming or artificial separation and the amount of milk used therefor, also the amount of other dairy products there manufactured, and shall also keep a full, true and correct daily record of all skim milk there received and of all skim milk there produced by such separation or skimming at such station or establishment, and of the sale, shipment, use or disposition of the same, and each separate sale or shipment of skim milk therefrom with the name and address of each person to whom the same is so shipped or sold and the quantity of the same so shipped or sold to each of such persons. Such record shall be preserved at such station or establishment for at least two years after the same shall have been made and such records shall at all times be open to the inspection of the commissioner of agriculture, his assistants or agents. The commissioner of agriculture may prepare and supply to persons in charge of such milk gathering stations or establishments blank forms upon which to make such daily records, upon application for the same. When cream is sold or shipped from any such station or establishment so selling or shipping milk for consumption as aforesaid, each bottle or package of one quart or less of cream so shipped or sold shall bear a label securely attached to the side of such bottle or package on which shall be conspicuously printed the word "cream" in black letters of at least one-fourth of an inch in length or else the word "cream" shall be blown in the side of such bottle in plain raised letters of at least one-half an inch in length, and the top and side of each and every other package or can containing cream or crate or case containing bottles of cream so shipped or sold shall bear a label securely attached on which shall be conspicuously printed the word "cream" in black letters of at least one inch in length and also a plainly written or printed statement on the label stating from whom and what station the same is shipped and the name of the consignee and point of destination and the date on which the cream therein was produced by such separation or skimming. The shipment of each and every such package of cream so shipped and not so labeled as herein required shall constitute a separate violation. When cream is so separated or

skimmed from milk at any such station or establishment and the supply of milk on hand thereat at the time of the next regular daily shipment of milk therefrom, consisting of the total amount of milk in such shipment, together with that remaining on hand immediately after such shipment, is not thereby decreased or correspondingly less than the total quantity received during any period extending from some point of time before such skimming was done until the time of such shipment, together with the amount of milk on hand at the commencement of such period, and such decrease is not equal in amount to the quantity of milk that must have been used in so separating such cream in addition to the quantity otherwise there used or disposed of during such period, such fact is conclusive that skim milk or other foreign substance was added to such milk supply within such period and shall be presumptive evidence within the meaning of this section that the same was added to each can or vessel of milk in such shipment. When cream or skim milk is found to have been on the premises of any such station or establishment or is sold or shipped therefrom, such cream or skim milk so found or so sold or shipped therefrom shall be presumed to have been produced by separating or skimming at such station or establishment. In any action or proceeding relative to the adulteration of milk by removing cream therefrom or adding skim milk or other foreign substance thereto, it shall be presumed that when cream has been produced by so skimming or separating, or butter has been manufactured, there was used at least five quarts of milk in the production of each quart of cream so produced and there was necessarily so produced thereby at least four quarts of skim milk to each quart of cream so produced, and that there was used at least nine quarts of milk in the production of each pound of butter so manufactured. If any such person so duly licensed shall thereafter refuse or neglect to keep and preserve full and complete records as herein required or shall refuse to exhibit such records to the commissioner of agriculture, his assistants or agents or shall violate any of the provisions of this section or any of the provisions of this chapter relative to milk or the products thereof he shall forfeit his license and shall be disqualified for a period of five years from being again licensed by the commissioner of agriculture.

Formerly L. 1893, ch. 338, § 32, part as am'd by L. 1898, ch. 153, § 1; L. 1904, ch. 168, § 2; L. 1905, ch. 603, § 1; L. 1907, ch. 178 § 1. and L. 1907, ch. 713, § 1.

**§ 46. Unsanitary cans and receptacles condemned.**

All cans, or receptacles used in the sale of milk, cream or curd for

consumption, or in transporting or shipping the same to market or the delivery thereof to purchasers for consumption as human food, when found by the commissioner of agriculture or his assistants or agents to be in unfit condition to be so used by reason of being worn out, badly rusted, or with rusted inside surface, or unclean or unsanitary or in such condition that they can not be rendered clean and sanitary by washing, and will tend to produce or promote in milk, cream or curd when contained therein, bad flavors, unclean or unwholesome conditions favorable to unhealthfulness or disease, shall be condemned by the commissioner of agriculture or his assistants or agents. Every such can or receptacle when so condemned shall be marked by a stamp, impression or device, designed by the commissioner of agriculture, showing that it has been so condemned, and when so condemned shall not thereafter be used by any person for the purpose of so selling, transporting or shipping milk, cream or curd.

Formerly L. 1893, ch. 338, § 32-a, as added by L. 1907, ch. 610, § 1.

**§ 47. Receptacles to be cleaned before return; may be seized; evidence; violation; milk can inspectors.**

Whenever any can or receptacle is used for transporting or conveying milk, cream or curd to market for the purpose of selling or furnishing the same for consumption as human food, which can or receptacle, when emptied, is returned or intended to be returned to the person so selling, furnishing or shipping such substance to be again thus used, or which is liable to continued use in so transporting, conveying, selling or shipping such substance as aforesaid, the consumer, dealer or consignee using, selling or receiving the milk, cream or curd from such can or receptacle, shall, before so returning such can or receptacle, thoroughly remove all particles of such substance therefrom, by rinsing with water or otherwise. When any such milk, cream or curd is sold within any city of this state or shipped into any such city, the fact of such shipment or sale shall be prima facie evidence that the same was so shipped or sold for consumption as human food. When any such can or receptacle is returned or delivered or shipped to any person or creamery so selling such substance within, or shipping the same into any such city, it is deemed that such can or receptacle is liable to such continued use in so selling or shipping such substance therein for consumption as human food within the meaning and purposes of this section and section forty-six. No person shall place or suffer to be placed in any such can or receptacle any sweepings, refuse, dirt, litter, garbage, filth or any



other animal or vegetable substance liable to decay and tending to produce or promote an unsanitary condition, nor shall any such consignee or other person through himself, his agent or employee, bring or deliver to any person or railroad or other conveyance any such can or receptacle for the purpose of such return, or any milk, cream or curd can or receptacle for the purpose of delivery or shipment to any person or creamery engaged in so selling or shipping such substances for consumption as human food, which can or receptacle contains such particles of milk, cream or curd, or such other substance as is herein prohibited from being placed therein. The word "curd" as used in this section and section forty-six applies to the substance otherwise known as "pot cheese" or "cottage cheese." Whenever any such can or receptacle is used, returned, delivered or shipped in violation of this section, or of section forty-six of this chapter, every such use, return, delivery or shipment of each such can or receptacle shall be deemed a separate violation thereof. Such cans or receptacles so used, returned, delivered or shipped in violation of this section or of section forty-six may be seized by the commissioner of agriculture, his assistants or agents and held as evidence of such violation. For the proper enforcement of this section and section forty-six, the commissioner of agriculture may appoint two milk can inspectors to be stationed chiefly in the city of New York who shall receive the usual compensation of other agents of the department of agriculture.

Formerly L. 1893, ch. 338, § 32-b, as added by L. 1907, ch. 610, § 2.

**§ 48. Manufacturer's brand of cheese.** Every manufacturer of full-milk cheese may put a brand or label upon such cheese indicating "full-milk cheese," and the date of the month and year when made; and no person shall use such a brand or label upon any cheese made from milk from which any of the cream has been taken. The commissioner of agriculture shall procure and issue to the cheese manufacturers of the state, on proper application therefor, and under such regulations as to the custody and use thereof as he may prescribe, a uniform stencil brand or labels bearing a suitable device or motto, and the words, "New York state full-cream cheese." Every such brand or label shall be used upon the outside of the cheese and shall bear a different number for each separate factory. The commissioner shall keep a book, in which shall be registered the name, location and number of each manufactory using the brands or labels, and the name or names of the persons at each manufactory authorized to use the same. No such brand or labels shall be used

upon any other than full-cream cheese or packages containing the same.

Formerly L. 1893, ch. 338, § 33, as am'd by L. 1898, ch. 559, § 1, and L. 1904, ch. 27, § 1.

**§ 49. Use of false brand prohibited.** No person shall offer, sell, or expose for sale, in any package, butter or cheese which is falsely branded or labeled.

Formerly L. 1893, ch. 338, § 34.

**§ 50. County trade marks.** At a regular or special meeting of a county dairymen's association in any county of the state there may be adopted a county trade mark, by a majority of the members present and voting, to be used as a trade mark by a person manufacturing pure unadulterated butter or full-cream cheese in such county. The secretary of the association shall forthwith send to the commissioner of agriculture a copy of such trade mark, which copy he shall place on file in his office, noting thereupon the day and hour he received the same. But one county trade mark for butter and for cheese shall be placed on file for the same county. No association shall adopt any trade mark of any county already on file, or use that of any other county in the formation of a trade mark.

Formerly L. 1893, ch. 338, § 35.

**§ 51. Object and intent of this article.** This article and each section thereof are declared to be enacted to prevent deception in the sale of dairy products, and to preserve the public health, which is endangered by the manufacture, sale and use of the articles or substances herein regulated or prohibited.

Formerly L. 1893, ch. 338, § 36.

**§ 52. Penalties.** Every person violating any of the provisions of this chapter, shall forfeit to the people of the state of New York the sum of not less than fifty dollars nor more than one hundred dollars for the first violation and not less than one hundred dollars nor more than two hundred dollars for the second and each subsequent violation. When such violation consists of the manufacture or production of any prohibited article, each day during which or any part of which such manufacture or production is carried on or continued, shall be deemed a separate violation. When the violation consists of the sale, or the offering or exposing for sale or exchange of any prohibited article or substance, the sale of each one of several packages shall constitute a separate violation, and each day on which any such article or substance is offered or exposed for sale or exchange shall constitute a sepa-

rate violation. When the use of any such article or substance is prohibited, each day during which or any part of which said article or substance is so used or furnished for use, shall constitute a separate violation, and the furnishing of the same for use to each person to whom the same may be furnished shall constitute a separate violation. Whoever by himself or another violates any of the provisions of articles three, four, six, eight and nine or sections three hundred fourteen and three hundred fifteen of this chapter or of sections one hundred six, one hundred seven and one hundred eight of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars, nor more than two hundred dollars, or by imprisonment of not less than one month nor more than six months or by both such fine and imprisonment, for the first offense; and by six months' imprisonment for the second offense.

Formerly L. 1893, ch. 338, § 37, as am'd by L. 1897, ch. 554, § 1; L. 1898, ch. 558, § 1; L. 1899, ch. 435, § 1; L. 1900, ch. 76, § 1; L. 1900, ch. 559, § 1, and L. 1901, ch. 656, § 1.

**§ 53. Butterine and similar products not to be purchased by certain institutions.** No money appropriated by law for maintenance and support in whole or in part of a state institution; nor money received by a charitable, benevolent, penal or reformatory institution from the state, or from a county, city or town thereof, or appropriated by such county, city or town for the maintenance or support in whole or in part of such institution; nor money belonging to or used for the maintenance or support of such institution, shall be expended for the purchase of, or in payment for, butterine, oleomargarine, lard, cheese, or articles or products in imitation or semblance of natural butter or cheese produced from pure unadulterated milk or cream from the same, which articles or products have been rendered or manufactured in whole or in part from animal fats, or animal or vegetable oils not produced from unadulterated milk or cream from the same.

Formerly L. 1893, ch. 364, § 1.

**§ 54. Purchase, sale and use of butterine and similar products prohibited in certain institutions.** No officer, manager, superintendent or agent of an institution mentioned in section fifty-three of this chapter, shall purchase for the use of such institution articles or products, for the purchase of which the money appropriated by law, or by a county, city or town, is forbidden to be used by section fifty-three of this chapter, and no person shall sell to, or for the use of such institution, such articles or products. Nor shall such articles or products be used as

articles of food or for cooking purposes in such institutions within this state.

Formerly L. 1893, ch. 364, § 2.

## ARTICLE 4

### Adulterated Vinegar

Section 70. Definition of adulterated vinegar.

71. Manufacture and sale of adulterated or imitation vinegar prohibited.

72. Packages containing cider vinegar to be branded.

73. Penalties.

**§ 70. Definition of adulterated vinegar.** All vinegar which contains any proportion of lead, copper, sulphuric acid or other ingredients injurious to health, or any artificial coloring matter, or which has not an acidity equivalent to the presence of at least four and one-half per centum, by weight, of absolute acetic acid, or cider vinegar which has less than such an amount of acidity, or less than two per centum of cider vinegar solids on full evaporation over boiling water, shall be deemed adulterated. The term "cider vinegar" when used in this article, means vinegar made exclusively from pure apple juice. Provided, however, that cider vinegar made by a farmer in this state, exclusively from apples grown on his land, or their equivalent in cider taken in exchange therefor, shall not be deemed adulterated, if it contain two per centum solids and sufficient alcohol to develop the required amount of acetic acid.

Formerly L. 1893, ch. 338, § 50, as am'd by L. 1901, ch. 308, § 1.

**§ 71. Manufacture and sale of adulterated or imitation vinegar prohibited.** No person shall manufacture for sale, keep for sale or offer for sale:

1. Any adulterated vinegar.

2. Any vinegar or product in imitation or semblance of cider vinegar, which is not cider vinegar.

3. As or for cider vinegar, any vinegar or product which is not cider vinegar.

Formerly L. 1893, ch. 338, § 51.

**§ 72. Packages containing cider vinegar to be branded.** Every manufacturer or producer of cider vinegar shall plainly brand on the head of each cask, barrel, keg or other package containing such vinegar, his name and place of business and the words "cider vinegar." And no person shall mark or

brand as or for cider vinegar any package containing that which is not cider vinegar.

Formerly L. 1893, ch. 338, § 52.

**§ 73. Penalties.** Every person violating the provisions of this article shall forfeit and pay to the people of the state the sum of one hundred dollars for each violation.

Formerly L. 1893, ch. 338, § 53.

## ARTICLE 5

### Diseases of Domestic Animals

Section 90. Suppression of infectious and contagious disease.

91. Commissioner to issue notice.
92. Farms to be quarantined; inspection of premises.
93. Detention and destruction of animals.
94. Care of diseased animals; experiments.
95. Employment of veterinary surgeons.
96. Regulations and the enforcement thereof.
97. Penalties.
98. Bureau of veterinary service; chief veterinarian; appraisers.
99. Appraisal of diseased animals.
100. Certificate of appraisal.
101. Post-mortem examination of slaughtered animals.
102. Compensation of owners of animals destroyed.
103. Expenses.
104. Federal regulations.
105. Rights of federal inspectors.
106. Shipping, slaughtering and selling veal for food.
107. Shipping veal.
108. Receiving veal for shipment by common carriers.

**§ 90. Suppression of infectious and contagious disease.** Whenever any infectious or contagious disease affecting domestic animals shall exist, be brought into or break out in this state the commissioner of agriculture shall take measures to promptly suppress the same, and to prevent such disease from spreading. The local boards of health shall notify the commissioner of the existence of infectious or contagious disease affecting domestic animals in the districts subject to their jurisdiction. Any person importing or bringing into this state neat cattle for dairy or breeding purposes shall report immediately upon bringing such cattle into

the state to the commissioner of agriculture in writing, giving a statement of the number of cattle thus brought in, the place where they were procured, the lines over which they were brought and their point of destination within the state, stating when they will arrive at such point of destination, and upon the filing with the commissioner of agriculture at the time of making the said report, a certificate issued by a duly authorized veterinary practitioner, to the effect that he has duly examined said animals and that said animals are free from any infectious or contagious disease, the commissioner of agriculture may issue a permit to said person to remove said cattle immediately. Otherwise, said person shall hold or detain such animals at least forty-eight hours at such point of destination for inspection and examination, provided they are not sooner examined or inspected, by the commissioner of agriculture or his duly authorized agent. Each animal brought into the state in violation of the above provisions shall constitute a separate and distinct violation of this chapter. The provisions of this section, relating to the importation of neat cattle for dairy or breeding purposes, shall not apply to cattle imported into this state at a point where there is federal inspection, so far as the same shall relate to making advance reports to the commissioner of agriculture. But parties importing or receiving such cattle at such places shall give such information to the commissioner of agriculture as he may from time to time request relative to such cattle so imported or brought in. *Am'd by L. 1909, ch. 240, § 1.*

Formerly L. 1893, ch. 338, § 60, as am'd by L. 1900, ch. 118, § 1; L. 1901, ch. 321, § 1; L. 1903, ch. 214, § 1, and L. 1907, ch. 281, § 1.

**§ 91. Commissioner to issue notice.** He shall issue and publish a notice, stating that a specified infectious or contagious disease exists in any designated county or other geographical district of the state, and warning all persons to seclude in the premises where they may be at the time, all animals within such county or district, that are of a kind susceptible to contract such disease, and ordering all persons to take such precaution against the spreading of the disease, as the nature thereof may in his judgment render necessary or expedient, and which he may specify in such notice. Such notice shall be published in such newspapers, and be posted in such manner as the commissioner may designate, and as, in his judgment, are most likely to give notice thereof.

Formerly L. 1893, ch. 338, § 61, as am'd by L. 1901, ch. 321, § 1.

**§ 92. Farms to be quarantined; inspection of premises.** The commissioner or an assistant commissioner, shall order

any premises, farm or farms where such disease exists, or recently existed, to be put in quarantine, so that no domestic animal be removed from or brought to the premises or places quarantined, and shall prescribe such regulations as he may judge necessary or expedient to prevent the communication of the disease by infection or contagion, in any way from the places so quarantined. The commissioner may adopt and enforce rules regulating the sanitation of stables and other buildings used for the stabling of cattle for the purpose of preventing the existence and spread of infection and contagion among cattle. He may provide for the inspection and examination of all such stables and buildings.

Formerly L. 1893, ch. 338, § 62, as am'd by L. 1901, ch. 321, § 1.

**§ 93. Detention and destruction of animals.** The commissioner or an assistant commissioner may order all or any animals coming into the state to be detained at any place or places for the purpose of inspection and examination. He may prescribe regulations for the destruction of animals affected with infectious or contagious disease, and for the proper disposal of their hides and carcasses, and of all objects which might carry infection and contagion. Whenever in his judgment necessary for the more speedy and economical suppression or prevention of the spread of any such disease, he may cause to be slaughtered, and to be afterwards disposed of, in such manner as he may deem expedient, any animal or animals, which, by contact or association with diseased animals, or by other exposure to infection or contagion, may be considered or suspected to be liable to contract or communicate the disease sought to be suppressed or prevented. The commissioner may direct that an animal shall be condemned, quarantined or slaughtered as tuberculous, under the provisions of this article, if it shall be found to be tuberculous by a physical examination. If the owner of animals suspected of being tuberculous desires to have such animals tested with tuberculin and enters into a written agreement with the state in the manner prescribed by the commissioner of agriculture, before such test is made, to the effect that he will disinfect his premises and either consent to the slaughter of the animals responding to such test, or hold them and their products in strict quarantine, pursuant to the directions of the commissioner of agriculture, such test shall be made by a medical or veterinary practitioner designated by the commissioner. The commissioner may also in his discretion order such tuberculin test to be made, and if the animal responds to such test, he may cause such animal to be slaughtered or held in strict quarantine.

Formerly L. 1893, ch. 338, § 63, as am'd by L. 1901, ch. 321, § 1.

**§ 94. Care of diseased animals; experiments.** If after examination an animal is, in the judgment of the person making the examination, suffering from tuberculosis, such animal shall be slaughtered under the provisions of this article, or, if the commissioner deems that a due regard for the public health warrants it, he may enter into a written agreement with the owner, subject to such conditions as the commissioner of agriculture may prescribe, for the separation and quarantine of such diseased animal or animals. Subject to the regulations of the department of agriculture, such diseased animal or animals may continue to be used for breeding purposes and its or their milk, after pasteurization at one hundred and eighty-five degrees Fahrenheit, may be used for the manufacture of butter or cheese or for sale. The young of any such diseased animal or animals shall, immediately after birth, be separated from their mothers, but may be fed the milk drawn from such affected animal or animals so separated and quarantined after such milk has been pasteurized as herein provided. The owner of a herd of cattle, within the state, may apply to the commissioner of agriculture for examination of his herd by the tuberculin test; said application to be in writing upon a blank form provided by the commissioner of agriculture and to include an agreement on the part of the owner or owners of the herd to improve faulty sanitary conditions; to disinfect his premises, should diseased cattle be found, and to follow instructions of the commissioner of agriculture designed to prevent the reinfection of the herd and to suppress the disease or prevent the spread thereof. The commissioner of agriculture shall, as soon as practicable, cause such cattle to be examined accordingly, subject to the provisions of this chapter. When the commissioner deems that the conditions warrant it he may make and issue to such owner a certificate that upon such examination such herd was found free from tuberculosis or that the owner has complied with the provisions of this section by causing all affected animals to be separated from the herd and quarantined as provided herein subject to the regulations of the department of agriculture. The commissioner of agriculture may determine the place of slaughter of an animal to be killed under the provisions of this chapter. The commissioner may experiment or cause such experiments to be made or performed as he may deem necessary to ascertain or determine the best methods or means for the control, suppression or eradication of communicable or infectious disease or diseases affecting domestic animals. No person shall sell any animal known to have a communicable or infectious disease except for immediate slaughter unless such sale be made under a written



contract signed by both parties specifying the disease with which such animal is infected, a copy of which shall be filed in the office of the commissioner of agriculture. No person shall knowingly inject into any bovine animal as and for tuberculin any substance which is not tuberculin.

Formerly L. 1893, ch. 338, § 63-a, as added by L. 1908, ch. 518, § 1.

**§ 95. Employment of veterinary surgeons.** The commissioner may employ such and so many medical and veterinary practitioners and such other persons as he may, from time to time, deem necessary to assist him in discharging the duties imposed upon him by this article, and may fix their compensation, to the amount appropriated therefor. No animal shall be destroyed by the commissioner or by his order on the ground that it is a diseased animal, unless first examined by a medical or veterinary practitioner in the employ of the commissioner, nor until such practitioner renders a certificate to the effect that he has made such examination, that in his judgment such animal is affected with a specified infectious or contagious disease, or that its destruction is necessary in order to suppress or aid in suppressing such disease, or to prevent such disease, or to prevent the spread thereof, specifying the reasons for such necessity.

Formerly L. 1893, ch. 338, § 64, as am'd by L. 1901, ch. 321, § 1.

**§ 96. Regulations and the enforcement thereof.** The commissioner may prescribe such regulations as in his judgment may be thought suited for the suppression or prevention of the spread of any such disease, and for the disinfection of all premises, buildings, railway cars, vessels, and other objects from or by means of which infection or contagion may take place or be conveyed. He may alter or modify, from time to time, as he may deem expedient, the terms of all notices, orders and regulations issued or made by him, and may at any time cancel or withdraw the same. He may call upon the sheriff or deputy sheriff, to carry out and enforce the provisions of any notice, order or regulation which he may make, and all such sheriffs and deputy sheriffs shall obey and observe all orders and instructions which they may receive from him in the premises. If the commissioner shall quarantine any particular district or territory for the purpose of stopping or preventing the spread of the disease known as rabies, and if any dog be found loose within the said quarantine district in violation of said quarantine or regulation, any person may kill or cause to be killed such dog and shall not be held liable for damages for such killing.

Formerly L. 1893, ch. 338, § 65, as am'd by L. 1900, ch. 118, § 2, and L. 1901, ch. 321, § 1.

**§ 97. Penalties.** Any person violating, disobeying or disregarding the terms of any notice, order or regulation, issued or prescribed by the commissioner under this article, shall forfeit to the people of the state the sum of one hundred dollars for every such violation.

Formerly L. 1893, ch. 338, § 66, as am'd by L. 1901, ch. 321, § 1.

**§ 98. Bureau of veterinary service; chief veterinarian; appraisers.** There is hereby established in the department of agriculture a bureau of veterinary service. The bureau shall be in charge of a chief veterinarian, who shall be an experienced veterinarian appointed by the commissioner of agriculture. He shall receive an annual salary of three thousand dollars and all necessary traveling and other expenses incurred in the performance of his duties. Such chief veterinarian or other veterinarians employed by the commissioner shall have all the powers of an appraiser of condemned animals under this article. The chief veterinarian shall, under the direction of the commissioner of agriculture, have general charge of the enforcement of the provisions of this article, and shall collect and disseminate through farmers' institutes or otherwise, as the commissioner may direct, information and statistics in relation to the diseases of domestic animals, the proper care and sanitation of stables and other buildings used for the stabling of farm animals for the purpose of preventing the existence and spread of infectious and contagious diseases, the methods of feeding, the methods of improving the breed or milking qualities of cattle, and such other matters as the commissioner may direct. All veterinarians in the state shall immediately report to the commissioner of agriculture the existence among animals of any infectious or communicable disease coming to their knowledge. The report shall be made in writing and shall include a description of the diseased animal or animals, the name and address of the owner or person in charge of the animal, if known, and a statement as to the location of the animal. No person shall conceal or attempt to conceal any animal suffering from an infectious or communicable disease so that the same shall not come to the knowledge of the commissioner of agriculture. The commissioner of agriculture may appoint and at pleasure remove two confidential agents at salaries not to exceed eighteen hundred dollars, to be fixed by the commissioner, to assist in carrying out the provisions of this article. He may appoint and at pleasure remove one state appraiser of condemned animals, who shall be a person of experience and well acquainted with the value of farm animals; and shall receive

an annual salary of fifteen hundred dollars, and all necessary traveling and other expenses incurred in the performance of his duties. The commissioner of agriculture may employ from time to time such additional appraisers of condemned animals as the work of his department may necessitate, who shall receive compensation at the rate of five dollars per diem and all traveling and other expenses necessarily incurred while engaged in the performance of their duties.

Formerly L. 1893, ch. 338, § 67, as am'd by L. 1901, ch. 321, § 1; L. 1904, ch. 253, § 1, and L. 1908, ch. 518, § 2.

**§ 99. Appraisal of diseased animals.** An appraiser shall determine the value of each animal directed to be slaughtered. Such value shall be the market value of such animal at the time of making the appraisal, but the appraisal value of each animal shall not exceed the sum of seventy-five dollars. If the value of the condemned animals determined by the appraiser is not satisfactory to the owner of such animals, the value shall be determined by arbitrators, one to be appointed by the state appraiser and one by the owner of the animals. If such arbitrators are not able to agree as to the value of the animals, a third arbitrator shall be appointed by them. The value determined by such arbitrator shall not exceed the limits established by this article and, after approval by the commissioner of agriculture, shall be final. The arbitrators selected by the owner of the animals shall be paid by the said owner, the other arbitrator or arbitrators shall be paid by the state at a rate of compensation not to exceed five dollars per day and necessary expenses. Such appraiser of condemned animals and the arbitrators appointed under this section may administer oaths to and examine witnesses.

Formerly L. 1893, ch. 338, § 68, as am'd by L. 1901, ch. 321, § 1, and L. 1908, ch. 518, § 3.

**§ 100. Certificate of appraisal.** The appraiser shall execute and deliver to the owner of the condemned animals a certificate verified by him stating the appraised value of such animals; if such value was determined by arbitrators, there shall be attached to such certificate a statement of the value so determined, signed and verified by at least two of the arbitrators. The form and contents of such certificates shall be prescribed by the commissioner of agriculture.

Formerly L. 1893, ch. 338, § 69, as am'd by L. 1901, ch. 321, § 1.

**§ 101. Post-mortem examination of slaughtered animals.** All animals suspected of being tuberculous, and slaughtered therefor, shall be examined by a medical or veteri-

nary practitioner designated by the commissioner for the purpose of determining whether or not such disease existed in such animals. There shall be attached to the certificate of appraisal, a statement of the result of such examination, describing the animals found to be tuberculous and those which were found not to be tuberculous. The form of such statement shall be prescribed by the commissioner of agriculture. Such statement shall be verified by the veterinary or medical practitioner making the examination.

Formerly L. 1893, ch. 338, § 70, as am'd by L. 1901, ch. 321, § 1.

**§ 102. Compensation of owners of animals destroyed.** The actual appraised value at the time they are killed of all animals slaughtered under the provisions of this article, which shall be found upon a post-mortem examination not to have had the disease for which they were slaughtered, unless the same were killed on account of the violation of quarantine regulations, shall be paid to the owners of such animals. If such animals are found upon post-mortem examination to have been suffering from tuberculosis, then they shall be paid for in the manner following, to wit: If an animal has localized tuberculosis, the owner thereof shall be paid eighty per centum of the appraised value. If the animal has generalized tuberculosis, the owner thereof shall be paid therefor fifty per centum of the appraised value, but no animal slaughtered under the provisions of this article shall be paid for as herein provided, unless the said animal shall have been within the state for a period of at least six months. If the meat of the slaughtered animal shall be passed for use as food, under official regulations, the commissioner of agriculture is hereby authorized to sell the same and the proceeds from the sale of the meat, hide and other marketable parts of the said animal shall be paid into the state treasury. For each and every day the owner or custodian of the animals condemned is obliged to keep them, in excess of seven days from the date of the condemnation, he shall be allowed and paid the sum of twenty-five cents per day per head. The certificate of appraisal, and the statement of the result of the post-mortem examination, shall be presented by the owner or his legal representatives or assigns, to the commissioner of agriculture. The commissioner of agriculture shall issue his order for the amount due as shown by such certificate and statement, after he has found them to be correct, which shall be paid by the state treasurer on the warrant of the comptroller out of moneys appropriated therefor. No compensation shall be made to any person who has wilfully concealed the existence of disease among his animals or upon his premises, or who

in any way by act or by wilful neglect has contributed to spread the disease sought to be suppressed or prevented, nor for any animal which upon a post-mortem examination is found to have the disease on account of which it was slaughtered or any dangerously contagious or infectious disease that would warrant the destruction of such animal, except as herein provided.

Formerly L. 1893, ch. 338, § 70-a, as added by L. 1901, ch. 321, § 1, and am'd by L. 1905, ch. 167, § 1, and L. 1908, ch. 518, § 4.

**§ 103. Expenses.** All expenses incurred by the commissioner in carrying out the provisions of this article and in performing the duties herein devolved upon him shall be audited by the comptroller as extraordinary expenses of the department of agriculture, and paid out of any moneys in the treasury appropriated for such purposes.

Formerly L. 1893, ch. 338, § 70-b, as added by L. 1901, ch. 321, § 1.

**§ 104. Federal regulations.** The commissioner of agriculture may accept, in behalf of the state, the rules and regulations prepared and adopted by the commissioner of agriculture or the secretary or department of agriculture of the United States, under any act of congress for the establishment of a bureau of animal industry or to prevent the exportation of diseased cattle or to provide means for the extirpation and suppression of pleuro-pneumonia and other contagious diseases among domestic animals and shall co-operate with the authorities of the United States in the enforcement of the provisions of any such act.

Formerly L. 1893, ch. 338, § 70-c, as added by L. 1901, ch. 321, § 1.

**§ 105. Rights of federal inspectors.** The inspectors of the bureau of animal industry of the United States shall have the right of inspection, quarantine and condemnation of animals affected with any contagious, infectious or communicable disease, or suspected to be so affected or that may have been exposed to any such disease, and for such purposes they may enter upon any ground or premises; they may call the sheriffs, constables and peace officers to assist them in discharge of their duties in carrying out the provisions of any such act; and all sheriffs, constables and peace officers shall assist such inspectors when so requested, and such inspectors shall have the same powers and protection as peace officers, while engaged in the discharge of their duties. This state shall not be liable for any damages or expenses caused or made by such inspectors.

Formerly L. 1893, ch. 338, § 70-d, as added by L. 1901, ch. 321, § 1, and am'd by L. 1907, ch. 281, § 2.

**§ 106. Shipping, slaughtering and selling veal for food.** No person shall slaughter or expose for sale, or sell any calf or carcass of the same or any part thereof, unless it is in good healthy condition. No person shall sell or expose for sale any such calf or carcass of the same or any part thereof, except the hide, unless it was, if killed, at least four weeks of age at the time of killing. No person or persons shall bring or cause to be brought into any city, town or village any calf or carcass of the same or any part thereof for the purposes of selling, offering or exposing the same for sale, unless it is in a good healthy condition, and no person or persons shall bring any such calf or carcass of the same or any part thereof except the hide into any city, town or village for the purpose of selling, offering or exposing the same for sale, unless the calf is four weeks of age, or, if killed, was four weeks of age at the time of killing, provided however that the provisions of this section shall not apply to any calf or carcass of the same or any part thereof, which is slaughtered, sold, offered or exposed for sale, for any other purpose than for food. Any person or persons exposing for sale, selling or shipping any calf or carcass of the same will be presumed to be so exposing, selling or shipping the said calf or carcass of the same for food. Any person or persons shipping any calf for the purpose of being raised, if the said calf is under four weeks of age, shall ship it in a crate, unless said calf is accompanied by its dam. Any person shipping calves under four weeks of age for fertilizer purposes must slaughter the said calves before so shipping. Any person or persons duly authorized by the commissioner of agriculture may examine any calf or veal offered or exposed for sale or kept with any stock of goods apparently exposed for sale and if such calf is under four weeks of age, or the veal is from a calf killed under four weeks of age, or from a calf in an unhealthy condition when killed, he may seize the same and cause it to be destroyed and disposed of in such manner as to make it impossible to be thereafter used for food.

Formerly L. 1893, ch. 338, § 70-e, as added by L. 1902, ch. 30, § 1, and am'd by L. 1905, ch. 171, § 1, and L. 1906, ch. 372, § 1.

**§ 107. Shipping veal.** It shall be unlawful for any corporation, partnership, person or persons to ship to or from any part of this state any carcass or carcasses of a calf or calves or any part of such carcass except the hide, unless they shall attach to every carcass or part thereof so shipped, in a conspicuous place, a tag, that shall stay thereon during such transportation, stating the name or names of the person or persons who raised the calf, the

---

Art. 6      Prevention of Fraud in Sale of Paris Green, Etc.    §§ 108, 140

---

name of the shipper, the points of shipping and the destination and the age of the calf.

Formerly L. 1893, ch. 338, § 70-f, as added by L. 1902, ch. 30, § 1.

**§ 108. Receiving veal for shipment by common carriers.** No railroad company, express company, steamboat company or other common carrier, shall carry or receive for transportation any carcass or carcasses of calves, or any part of the same except the hide, unless the said carcass or carcasses or parts thereof shall be tagged as herein provided.

Formerly L. 1893, ch. 338, § 70-g, as added by L. 1902, ch. 30, § 1.

## ARTICLE 6

### Prevention of Fraud in Sale of Paris Green and Other Substances

Section 140. State manufacturer and the dealer in original packages to file certificate with commissioner of agriculture.

141. Certificate to be given by the commissioner of agriculture to state manufacturer and dealer in original packages.

142. Composition of paris green or analogous products.

143. Paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral and vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof to be analyzed.

144. Definitions.

**§ 140. State manufacturer and the dealer in original packages to file certificate with commissioner of agriculture.** It shall be the duty of each and every manufacturer of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral or vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof used for the control of insects or fungus diseases or any other purpose within this state, and of every dealer in original packages of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral or vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof manufactured outside of this state before the said paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations

of mineral or vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof is offered or exposed for sale or sold within this state, to submit to the commissioner of agriculture a written or printed statement setting forth: first, the brands of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral or vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof, to be sold, the number of pounds contained in each package in which it is put upon the market for sale, the name or names of the manufacturers and the place of manufacturing the same; second, the statement shall set forth so near as may be the percentages and chemical compositions of all essential substances or ingredients of said insecticides or fungicides or combinations of the same contained in said commodities. All packages of preparations containing arsenic free or in combination shall bear a statement giving in plain print the percentage of arsenious oxide or its equivalent soluble or insoluble in distilled water, and the statement so furnished shall be considered as constituting a guaranty to the purchaser of the contents of every package. Each and every package of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral or vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof sold, offered or exposed for sale shall bear a label upon which shall be a statement showing all the facts as set forth in the statement filed with the commissioner of agriculture as provided herein and the said commissioner shall designate the size and character of the printing thereon.

Formerly L. 1893, ch. 338, § 110, as added by L. 1898, ch. 113, § 1, and am'd by L. 1908, ch. 279, § 1.

**§ 141. Certificate to be given by the commissioner of agriculture to state manufacturer and dealer in original packages.** Every purchaser of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral or vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof, in original packages, which is manufactured outside of this state, who intends to sell or expose the same for sale, and every manufacturer of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral or vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof, within this state shall,



**Art. 6**      **Prevention of Fraud in Sale of Paris Green, Etc.**      §§ 142-144

after filing the statement above provided for, with the commissioner of agriculture, receive from the said commissioner of agriculture, a certificate stating that he has complied with the foregoing statement, which certificate shall be furnished without any charge therefor; said certificate when furnished shall authorize the party receiving the same to deal in this state in paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral and vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof. Any person who fails to file the statement aforesaid shall not be entitled to such certificate and shall not be entitled to deal in such articles or commodities within this state; nothing in this section shall be construed as applying to retail dealers who are selling only the goods manufactured by any person or persons, firm, association or corporation holding the certificate herein provided for from the commissioner of agriculture.

Formerly L. 1893, ch. 338, § 111, as added by L. 1898, ch. 113, § 1, and am'd by L. 1908, ch. 279, § 1.

**§ 142. Composition of paris green or analogous products.** Paris green, or any product analogous to it, when sold, offered or exposed for sale, as such, in this state, shall contain at least fifty per centum of arsenious oxide.

Formerly L. 1893, ch. 338, § 112, as added by L. 1898, ch. 113, § 1.

**§ 143. Paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral and vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof to be analyzed.** The commissioner of agriculture shall cause to have taken samples of the different brands of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral and vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof, and submit same to the director of the New York state agricultural experiment station, who shall analyze or cause to be analyzed such samples so delivered to him, and shall report the result of the analysis forthwith to the commissioner of agriculture.

Formerly L. 1893, ch. 338, § 113, as added by L. 1898, ch. 113, § 1, and am'd by L. 1908, ch. 279, § 1.

**§ 144. Definitions.** The term "insecticide" as used in this article shall include all substances or mixtures of sub-

stances intended to be used for destroying, repelling or mitigating any and all insects which may infest vegetation, man or other animal, or be present in any environment whatsoever. The term "fungicide" as used in this article shall include any substance or mixture of substances intended to be used for destroying, repelling or mitigating any or all fungi or fungus diseases affecting any form of vegetation or vegetable products or existing in any environment whatsoever, providing that nothing herein shall be construed as contravening the provisions of the national pure food and drug law.

Formerly L. 1893, ch. 338, § 113-a, as added by L. 1908, ch. 279, § 2.

### ARTICLE 7

#### **Sale and Analysis of Concentrated Commercial Feeding Stuffs**

Section 160. Term "concentrated commercial feeding stuffs" defined.

161. Statements to be attached to packages; contents; analysis.
162. Statements to be filed with commissioner of agriculture; to be accompanied by sample.
163. License fee.
164. Commissioner of agriculture to take samples for analysis; analysis to be made by director of experiment station.
165. Sale of adulterated meal or ground grains.

**§ 160. Term "concentrated commercial feeding stuffs" defined.** The term "concentrated commercial feeding stuffs" as used in this article, shall include linsced meals, cotton seed meals, pea meals, bean meals, peanut meals, cocoanut meals, gluten meals, gluten feeds, maize feeds, starch feeds, sugar feeds, dried distiller's grains, dried brewer's grains, malt sprouts, hominy feeds, cerealine feeds, rice meals, dried beet refuse, oat feeds, corn and oat chops, ground beef or fish scraps, meat and bone meals, mixed feeds, clover meals, condimental stock and poultry foods, patented, proprietary or trade-marked stock and poultry foods, and all other materials of similar nature; but shall not include hays and straws, the whole seeds nor the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat and broom corn. Neither shall it include wheat, rye and buckwheat brans or middlings, not mixed with other substances, but sold separately, as distinct articles of com-

---

**Art. 7**      **Sale and Analysis of Concentrated Feeding Stuffs. §§ 161, 162**

---

merce, nor pure grains ground together, nor wheat bran and middlings mixed together not mixed with any other substances and known in the trade as "mixed feed."

Formerly L. 1893, ch. 338, § 120, as added by L. 1899, ch. 510, § 1, and am'd by L. 1904, ch. 558, § 1.

**§ 161. Statements to be attached to packages; contents; analysis.** No manufacturer, firm, association, corporation or person shall sell, offer or expose for sale or for distribution in this state any concentrated commercial feeding stuff used for feeding live stock, unless each car or other amount shipped in bulk shall have affixed to it or be accompanied by a plainly printed statement clearly and truly certifying the name or trade mark under which the article is sold, the name of the manufacturer, the place of manufacture, the shipper and the place of business and a statement of the constituents of such concentrated feeding stuff as shown by a chemical analysis. Such statement shall show the percentage it contains of crude protein and of crude fat. If such concentrated feeding stuff is in packages such statement shall be affixed to the package, and shall also state the number of pounds in such package. Whenever any feeding stuff is sold at retail in bulk or in packages belonging to the purchaser, the agent or dealer, upon request of the purchaser, shall furnish to him the certified statement named in this section.

Formerly L. 1893, ch. 338, § 121, as added by L. 1899, ch. 510, § 1, and am'd by L. 1904, ch. 558, § 1.

**§ 162. Statements to be filed with commissioner of agriculture; to be accompanied by sample.** Before any manufacturer, company or person shall sell, offer or expose for sale in this state any concentrated commercial feeding stuffs, he or they shall for each and every feeding stuff bearing a distinguishing name or trade mark, file annually during the month of December with the commissioner of agriculture a certified copy of the statement specified in section one hundred and sixty-one, said certified copy to be accompanied, when the said commissioner shall so request, by a sealed glass jar or bottle containing at least one pound of the feeding stuff to be sold or offered for sale, and the company or person furnishing said sample shall thereupon make affidavit that said sample corresponds to the feeding stuff which it represents, in the percentage of protein and fat which it contains.

Formerly L. 1893, ch. 338, § 122, as added by L. 1899, ch. 510, § 1, and am'd by L. 1904, ch. 558, § 1.

**§ 163. License fee.** Every manufacturer, importer, agent or seller of any concentrated commercial feeding stuffs, shall pay annually during the month of December to the treasurer of the state of New York a license fee of twenty-five dollars for each and every brand sold or offered for sale. Whenever a manufacturer, importer, agent or seller of concentrated commercial feeding stuffs desires at any time to sell such material and has not paid the license fee therefor in the preceding month of December, as required by this section, he shall pay the license fee prescribed herein before making any such sale. Said treasurer shall in each case at once certify to the commissioner of agriculture the payment of such license fee. Each manufacturer, importer or person who has complied with the provisions of this article shall be entitled to receive a certificate from the commissioner of agriculture setting forth said facts. The treasurer of the state of New York shall pay from the amount of such license fees, when duly appropriated, the moneys required for the expense incurred in enforcing the provisions of this article. Whenever the manufacturer, importer or shipper of concentrated commercial feeding stuffs shall have filed the statement required by section one hundred and sixty-one of this article and paid the license fee as prescribed in this section, no agent or seller of such manufacturer, importer or shipper shall be required to file such statement or pay such fee.

Formerly L. 1893, ch. 338, § 123, as added by L. 1899, ch. 510, § 1, and am'd by L. 1900, ch. 79, § 1, and L. 1904, ch. 558, § 1.

**§ 164. Commissioner of agriculture to take samples for analysis; analysis to be made by director of experiment station.** The commissioner of agriculture shall at least once in each year transmit to the New York agricultural experiment station for analysis at least one sample to be taken in the manner hereinafter prescribed, of the different concentrated commercial feeding stuffs sold or offered for sale under the provisions of this article. The said commissioner of agriculture or his duly authorized representative in taking samples shall take them in duplicate in the presence of at least one witness, and in the presence of such witness shall seal such samples and shall at the time of taking tender, and if accepted, deliver to the person apparently in charge one of such samples; the other sample the commissioner of agriculture shall cause to be analyzed. The director of said experiment station shall continue to analyze or cause to be analyzed such samples of concentrated commercial feeding stuffs taken under the provisions of this article as shall be submitted to him for that purpose by the commissioner of agriculture and shall report such

**Art. 8                      Sale, Adulteration or Misbranding of Food. §§ 165, 200, 201**

analyses to the commissioner of agriculture, and for this purpose the New York agricultural experiment station may continue to employ chemists and incur such expenses as may be necessary to comply with the requirements of this article. The result of the analysis of the sample or samples so procured, together with such additional information as circumstances advise, shall be published in reports or bulletins from time to time.

Formerly L. 1893, ch. 338, § 124, as added by L. 1899, ch. 510, § 1, and am'd by L. 1904, ch. 558, § 1.

**§ 165. Sale of adulterated meal or ground grains.**

No person shall adulterate any kind of meal or ground grain or other cattle food with milling or manufacturing offals, or any substance whatever, for the purpose of sale, unless the true composition, mixture or adulteration thereof is plainly marked or indicated upon the package containing the same or in which it is offered for sale; no person shall knowingly sell or offer for sale any meal or ground grain or other cattle food which has been so adulterated unless the true composition, mixture or adulteration is plainly marked or indicated upon the package containing the same, or in which it is offered for sale, but there shall be no prosecution for violation of this article in relation to the quality of any concentrated commercial feeding stuff if the same shall be found substantially equivalent to the certified statement named in section one hundred and sixty-two of this article.

Formerly L. 1893, ch. 338, § 126, as added by L. 1899, ch. 510, § 1, and am'd by L. 1904, ch. 558, § 1.

**ARTICLE 8****Sale, Adulteration or Misbranding of Food and Food Products**

Section 200. Prohibition as to adulterated or misbranded food.

201. Definition of adulterated or misbranded food.

**§ 200. Prohibition as to adulterated or misbranded food.** No person or persons, firm, association or corporation shall within this state, manufacture, produce, sell, offer or expose for sale any article of food which is adulterated or misbranded within the meaning of this article. The term "food" as used herein shall include all articles used for food, confectionery or condiments by man, whether simple, mixed or compound.

Formerly L. 1893, ch. 338, § 164, as added by L. 1903, ch. 524, § 1.

**§ 201. Definition of adulterated or misbranded food.** In the case of confectionery, an article shall be deemed

to be adulterated if it contain terra alba, barytes, talc, chrome yellow, or other mineral substances or poisonous colors or flavors, or other ingredients deleterious or detrimental to health. In the case of food an article shall be deemed to be adulterated:

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

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

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

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

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

6. If it contains methyl or wood alcohol, in any of its forms, or any methylated preparation made from it.

An article of food shall be deemed to be misbranded:

1. If it be an imitation of or offered for sale under the distinctive name of another article.

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

3. If the package containing it or its label shall bear any statement regarding the ingredients or the substances contained therein, which statement shall be false or misleading in any particular, or if the same is falsely branded as to the state or territory in which it is manufactured or produced: provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not included in definition first of misbranded articles of food in this section.

Second. In the case of articles labeled, branded or tagged so as to plainly indicate that they are mixtures, compounds, combinations, imitations or blends: provided, that the same shall be labeled, branded or tagged so as to show the character and constituents thereof: and provided further, that nothing in this article shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this article may require to secure freedom from adulteration or imitation.

Formerly L. 1893, ch. 338, § 165, as added by L. 1903, ch. 524, § 1, and am'd by L. 1905, ch. 100, § 1.

## ARTICLE 9

### Sale and Analysis of Commercial Fertilizers

Section 220. Statements to be attached to packages of fertilizers.

221. Variation in composition constituting violation of article.

222. Statement filed with commissioner of agriculture; license fees.

223. Presence of inert nitrogenous matter to be stated.

224. Enforcement of provisions of article; selection and analysis of samples.

**§ 220. Statements to be attached to packages of fertilizers.** No person, firm, association or corporation shall sell, offer or expose for sale any commercial fertilizers or any material to be used as a fertilizer, the selling price of which exceeds five dollars per ton, unless such fertilizer or material shall be accompanied by or shall have affixed to each and every package in a conspicuous place on the outside thereof, a plainly printed statement which shall certify as follows:

1. The number of net pounds of fertilizer in the package sold or offered for sale.

2. The name, brand or trade mark under which the fertilizer is sold.

3. The name and address of the manufacturer of the fertilizer.

4. The chemical composition of the fertilizer expressed in the following terms:

(a) Per centum of nitrogen.

(b) Per centum of available phosphoric acid, or in case of undissolved bone the per centum of total phosphoric acid.

(c) Per centum of potash soluble in distilled water.

---

§§ 221, 222      Sale and Analysis of Commercial Fertilizers.      Art. 9

---

If any such fertilizer be sold, offered or exposed for sale in bulk such printed statement shall accompany every lot and parcel so sold, offered or exposed for sale.

Formerly L. 1893, ch. 338, § 175, as added by L. 1904, ch. 567, § 1.

**§ 221. Variation in composition constituting violation of article.** It shall be a violation of the provisions of this article if the statement required by section two hundred and twenty of this article shall be false in regard to the number of net pounds of fertilizer in the package sold, offered or exposed for sale, or in the name, brand or trade mark under which the fertilizer is sold, or in the name and address of the manufacturer of the fertilizer. It shall also be a violation of the provisions of this article if any commercial fertilizer or material to be used as a fertilizer shall contain a smaller percentage of nitrogen, phosphoric acid or potash than is certified in said statement to be contained therein, when such deficiency shall be greater than one-third of one per centum of nitrogen, or one-half of one per centum of available phosphoric acid or one per centum of total phosphoric acid in the case of undissolved bone or one-half of one per centum of potash soluble in distilled water.

Formerly L. 1893, ch. 338, § 176, as added by L. 1904, ch. 567, § 1.

**§ 222. Statement filed with commissioner of agriculture; license fees.** Before any commercial fertilizer or any material to be used as a fertilizer is sold, offered or exposed for sale in this state, the manufacturer, importer or person who causes the same to be sold, offered or exposed for sale shall file with the commissioner of agriculture a certified copy of the statement prescribed in section two hundred and twenty of this article and, in addition, such statement shall be filed thereafter annually during the month of December. Each manufacturer, importer or person, before selling, offering or exposing for sale in this state any brand of commercial fertilizer, or any material to be used as fertilizer the selling price of which exceeds five dollars per ton shall annually during the month of December, pay to the treasurer of the state of New York a license fee of twenty dollars for each and every brand of fertilizer, or material to be used as fertilizer the selling price of which exceeds five dollars per ton bearing a distinctive name, brand or trade mark, which said manufacturer, importer or person is to sell, offer or expose for sale in this state during the calendar year next succeeding said payment, provided always that the placing of any new brand upon the market at any time during said calendar year shall be preceded by such payment. Said treasurer shall in each



---

**Art. 9**      **Sale and Analysis of Commercial Fertilizers.**      §§ 223, 224

---

case at once certify to the commissioner of agriculture the payment of such license fee. Each manufacturer, importer or person who has complied with the provisions of this article relative to filing the aforesaid certified statement and to the payment of the aforesaid license fee shall be entitled to receive a certificate from the commissioner of agriculture setting forth said facts. All money received from license fees, as aforesaid, when so appropriated shall be used, or so much thereof as may be necessary, in maintaining the expenses of enforcing the provisions of this article.

Formerly L. 1893, ch. 338, § 177, as added by L. 1904, ch. 567, § 1, and am'd by L. 1907, ch. 493, § 1.

**§ 223. Presence of inert nitrogenous matter to be stated.** No person shall sell, offer or expose for sale in this state leather or its products or other inert nitrogenous material in any form, as a fertilizer or as an ingredient of any fertilizer, unless an explicit statement of the facts shall be conspicuously affixed to every package of such fertilizer, and shall accompany every parcel or lot of the same.

Formerly L. 1893, ch. 338, § 178, as added by L. 1904, ch. 567, § 1.

**§ 224. Enforcement of provisions of article; selection and analysis of samples.** The commissioner of agriculture may for the purpose of the enforcement of this article employ such experts and agents as may be necessary. He shall from time to time and at least once in each year collect or cause to be collected samples of commercial fertilizers sold, offered or exposed for sale within this state. In taking samples of such fertilizers for the purpose of analysis he shall take them or cause them to be taken in duplicate and at the time of such taking he shall tender, and if accepted, shall deliver to the person apparently in charge one of said duplicate samples, the other he shall cause to be analyzed. The result of the analysis of samples so taken together with such other information as the commissioner of agriculture may deem advisable shall be published in bulletins from time to time and at least once in each year. The director of the New York agricultural experiment station at Geneva, shall analyze or cause to be analyzed such samples of such fertilizers so taken as may be submitted to him for that purpose by the commissioner of agriculture, and shall report such analysis to the said commissioner as soon as completed. For this purpose the New York agricultural experiment station may continue to employ chemists and incur such expenses as may be necessary to comply with the requirements of this article.

Formerly L. 1893, ch. 338, § 179, as added by L. 1904, ch. 567, § 1, and am'd by L. 1907, ch. 484, § 1.

**ARTICLE 10****Turpentine, Linseed or Flaxseed Oil**

Section 240. Adulteration and sale; package to be marked.

241. Violation a misdemeanor; fine.

242. Powers and duties of commissioner of agriculture.

243. Penalty; action to recover.

**§ 240. Adulteration and sale; package to be marked.** No person, firm or corporation shall manufacture, mix for sale, sell or offer for sale under the name of spirits of turpentine, any article which is not wholly distilled from rosin, turpentine gum, or scrape from pine trees, and unmixed and unadulterated with oil, benzine or any other substance of any kind whatever, unless the package containing the same shall be stenciled or marked, with letters not less than two inches high, "adulterated spirits of turpentine." No person, firm or corporation shall manufacture or mix for sale, sell or offer for sale, under the name of raw linseed oil, any article which is not wholly the product of commercially pure linseed or flaxseed. Nor shall any person, firm or corporation manufacture or mix for sale, sell or offer for sale, under the name of boiled linseed oil, any article, unless the oil from which said article is made be wholly the product of commercially pure linseed or flaxseed, and unless the same has been heated to at least two hundred and twenty-five degrees Fahrenheit. No person shall sell such adulterated linseed or flaxseed oil, or spirits of turpentine, without notifying the purchaser that the same is adulterated. Nothing herein contained shall be construed as prohibiting the manufacture or sale of any such compound or imitation providing the container shall be plainly marked, and the purchaser notified, as aforesaid.

Formerly L. 1893, ch. 338, § 200, as added by L. 1906, ch. 584, § 1.

**§ 241. Violation a misdemeanor; fine.** Violation of any of the provisions of this article shall be a misdemeanor, punishable by a fine of not less than fifty dollars or more than five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

Formerly L. 1893, ch. 338, § 201, as added by L. 1906, ch. 584, § 1.

**§ 242. Powers and duties of commissioner of agriculture.** It shall be the duty of the commissioner of agriculture to enforce the provisions of this article. The said commissioner and his assistants, experts and chemists, and official

Art. 11 Apples; Pears; Peaches; Quinces. §§ 243, 260, 261

agents appointed by him, shall have access, ingress and egress to and from all places of business and buildings where turpentine or linseed or flaxseed oil is kept for sale or stored. They shall have power and authority to open any tank, barrel, can or other vessel containing or supposed to contain turpentine or linseed or flaxseed oil and inspect the contents thereof, and take samples therefrom for analysis.

Formerly L. 1893, ch. 338, § 202, as added by L. 1906, ch. 584, § 1.

**§ 243. Penalty; action to recover.** Any person, firm or corporation who shall violate any of the provisions of this article shall, in addition to the fine or imprisonment previously described, for each offense forfeit and pay a fixed penalty of one hundred dollars. Such penalty shall be recovered, with costs, in any court of the state having jurisdiction thereof, in an action to be prosecuted in the name of the people, by the commissioner of agriculture.

Formerly L. 1893, ch. 338, § 203, as added by L. 1906, ch. 584, § 1, and am'd by L. 1907, ch. 226, § 2.

## ARTICLE 11

### Apples; Pears; Peaches; Quinces

Section 260. \*Evaporated apples.

261. \*Moisture in evaporated apples.

262. Sale of apples, pears and peaches.

263. Barrels; apples, pears and quinces.

**§ 260. Sale of other than standard evaporated apples.** No person shall buy for resale, sell, expose or offer for sale as and for evaporated apples any evaporated apples intended to be used for food, or for consumption by any person, other than standard evaporated apples.

Formerly L. 1893, ch. 338, § 185, as added by L. 1904, ch. 391, § 1, and am'd by L. 1907, ch. 483, § 1, and L. 1908, ch. 486, § 1.

**§ 261. Definition of standard evaporated apples.** Evaporated apples containing not more than twenty-seven per centum of water or fluids as determined by drying for four hours at the temperature of boiling water shall be considered standard evaporated apples for the purposes of this article.

Formerly L. 1893, ch. 338, § 186, as added by L. 1904, ch. 391, § 1, and am'd by L. 1908, ch. 486, § 1.

\* So in original.

**§ 262. Sale of apples, pears and peaches.** No person or persons shall sell, offer or expose for sale apples, pears or peaches as and for New York state grown apples, pears or peaches if they were not grown or produced within the state of New York; nor shall they brand or label the package or barrel containing such apples, pears or peaches as New York state apples, pears or peaches if they were not grown or produced within the state of New York. Any person or persons packing or repacking or causing apples or pears to be packed or repacked, to be sold upon the markets, shall pack or repack or cause them to be packed or repacked in such a manner that each separate package or barrel shall be packed substantially uniform without intent to deceive the purchaser. Any person, persons or corporation buying from a grower apples or pears which are packed in packages or barrels, marked or labeled with the name of the grower, who causes such apples or pears to be repacked in the same packages or barrels or who uses the same packages or barrels for the packing of other fruit or apples or pears, shall erase from such package or barrel the name of the grower or packer first or originally placed thereon. But the facing of such package or barrel is not prohibited by this section.

Formerly L. 1893, ch. 338, § 187, as added by L. 1907, ch. 684, § 1, and am'd by L. 1908, ch. 486, § 1.

**§ 263. Barrels; apples, pears and quinces.** The term "barrel" when used in transactions of purchase or sale of apples, pears or quinces shall represent a quantity equal to one hundred quarts of grain or dry measure, and such barrels shall be of the following dimensions: head diameter, seventeen and one-eighth inches; length of stave, twenty-eight and one-half inches; bulge, not less than sixty-four inches outside measurement. If the barrel shall be made straight, or without a bulge, it shall contain the same number of cubic inches as the barrel above described. Any person or persons making, manufacturing or causing to be made or manufactured barrels for use in the purchase or sale of apples, pears or quinces, or any person or persons packing apples, pears or quinces in barrels for sale or selling apples, pears or quinces in barrels containing a less quantity than the barrel herein specified shall brand said barrels upon each end and upon the outside, conspicuously, in letters one and one-half inches in length with the words, "short barrel."

Formerly L. 1893, ch. 338, § 188, as added by L. 1908, ch. 486, § 1.

**ARTICLE 12****Agricultural Statistics**

Section 280. Collection and dissemination of statistics.

281. Information to be furnished by supervisors.

**§ 280. Collection and dissemination of statistics.**

The commissioner of agriculture may collect and disseminate such information relative to agriculture, and agricultural labor within the state, as he may deem wise for the purpose of promoting agricultural production within this state.

Formerly L. 1893, ch. 338, § 190, as added by L. 1905, ch. 243, § 1.

**§ 281. Information to be furnished by supervisors.**

Supervisors of the different towns and wards in this state shall furnish to the commissioner of agriculture upon request from him, upon blanks to be furnished by the said commissioner, such information as may be in their possession or may be obtained by them relative to agriculture, agricultural production and agricultural labor within their respective towns or wards. Such information shall be furnished to said commissioner within thirty days from the time it is asked for. The expense incurred by the several supervisors in furnishing such information shall be a town charge to be paid in the manner now provided by law for the payment of services and disbursements by such supervisor.

Formerly L. 1893, ch. 338, § 191, as added by L. 1905, ch. 243, § 1.

**ARTICLE 13****State Fair**

Section 290. Property in town of Geddes, Onondaga county, New York.

291. State fair commission.

292. State fair.

293. Superintendent of state fair; assistants and employees.

294. Receipts and disbursements.

**§ 290. Property in town of Geddes, Onondaga county, New York.** The conveyance to the state by the New York state agricultural society of its property in the town of Geddes, Onondaga county, New York, by deed dated July twenty-eighth, eighteen hundred and ninety-nine, and recorded in the office of the comptroller, is hereby accepted, ratified and confirmed.

Such property and any other property hereafter acquired by the state for state fair purposes shall be under the management and control of the state fair commission as hereinafter provided, and they may, from time to time, make rules and provide for the care, preservation and improvement thereof.

Formerly L. 1893, ch. 338, § 140, as added by L. 1900, ch. 346, § 1.

**§ 291. State fair commission.** The state fair commission shall consist of seven members, of whom the lieutenant-governor and the commissioner of agriculture shall *ex officio* constitute two. The remaining five members of such commission shall be appointed by the governor, by and with the advice and consent of the senate for the term of three years each. The lieutenant-governor shall be the presiding officer of the commission. The appointed members of the commission shall receive an annual salary of three thousand dollars, and all the members of such commission shall receive their actual and necessary expenses in the discharge of their official duties, to be paid on the certificate of the commissioner of agriculture and the audit and warrant of the comptroller.

Formerly L. 1893, ch. 338, § 141, as added by L. 1900, ch. 346, § 1, and am'd by L. 1908, ch. 31, § 1.

**§ 292. State fair.** It shall be the duty of the said commission to hold a state fair at such times as they may deem proper, except that said state fair shall not be held on the first Monday in September, known as Labor day, and between January first and February fifteenth in each calendar year to publish the time of holding said fair in such year. It shall not be lawful for any corporation, association or individual to hold or conduct any trotting or pacing race or races during the week in which the state fair is held, except upon half-mile tracks, and except at the fairs held by agricultural societies which have received moneys from the state, and no corporation, association or individual holding such races during said week shall be entitled to any of the benefits conferred by article twenty of the membership corporations law, or by any general or special law. Such commission may make, alter, suspend or repeal needed rules relating to such fair, including the times and duration thereof, the terms and conditions of entries and admissions, exhibits, sale of privileges, payments of premiums, and any other matters which they may deem proper in connection with such fair. They shall furnish to each person who, on the seventeenth day of January, nineteen hundred, was a life member of the state agricultural society, a free admission to the

fair ground during the fair of each year during the life of such member.

Formerly L. 1893, ch. 338, § 142, as added by L. 1900, ch. 346, § 1, and am'd by L. 1901, ch. 224, § 1; L. 1902, ch. 263, § 1, and L. 1904, ch. 447, § 1.

**§ 293. Superintendent of state fair; assistants and employees.** The state fair commission may appoint a superintendent of the state fair and such other assistants and employees as they may deem necessary. They may prescribe their duties and fix their compensation. Such superintendent, assistants and employees shall be subject to removal at the pleasure of such commission.

Formerly L. 1893, ch. 338, § 143, as added by L. 1900, ch. 346, § 1.

**§ 294. Receipts and disbursements.** The commission shall receive all moneys payable to the state on account of said fair, and make all disbursements therefrom and also from any appropriation made for that purpose by the legislature as may be needed, from time to time, in carrying on the work of the commission. The provisions of section thirty-seven of the state finance law requiring that money received for or on behalf of the state shall be paid monthly into the state treasury shall not apply to the state fair commission, and such commission may pay from the race and other entry fees, gate admissions and other receipts of such fair such expenses as shall be necessary for the proper conduct of the fair and the purposes of the commission. On or before the first day of January of each year the commission shall pay to the state treasurer any balance remaining in their hands received in connection with the state fair, and at the same time file with the comptroller an itemized verified report showing all receipts and disbursements for state fair purposes since the last report, together with the vouchers therefor approved by said commission.

Formerly L. 1893, ch. 338, § 144, as added by L. 1900, ch. 346, § 1, and am'd by L. 1908, ch. 31, § 2.

## ARTICLE 14

### Miscellaneous Provisions

Section 300. The prevention of disease among bees.

301. Defining honey.

302. Relative to selling a commodity in imitation or semblance of honey.

303. Duties of the commissioner.

- Section 304. The prevention of disease in fruit trees and the extirpation of insect pests that infest the same.
305. Appointment and duties of the agent of the commissioner of agriculture.
306. The New York agricultural experiment station.
307. The director of the New York agricultural experiment station to publish bulletins.
308. The state weather bureau.
309. Institutions designated to receive United States moneys.
310. Receipt and apportionment of moneys for the promotion of agriculture.
311. Distribution of moneys appropriated for certain agricultural societies.
312. Annual report to the commissioner of agriculture and state society.
313. Lease of grounds of agricultural societies and corporations.
314. Manufacture and sale of imitation maple sugar and syrup prohibited.
315. Branding and labeling of maple sugar and syrup mixtures.
316. Association of farmers; powers of.
317. County judge may appoint policemen or constables.
318. Registration of rural residences.

**§ 300. The prevention of disease among bees.** No person shall keep in his apiary any colony of bees affected with a contagious malady known as foul brood or black brood; and every beekeeper when he becomes aware of the existence of either of such diseases among his bees, shall immediately notify the commissioner of agriculture of the existence of such disease.

Formerly L. 1893, ch. 338, § 80, as am'd by L. 1899, ch. 223, § 1, and L. 1902, ch. 214, § 1.

**§ 301. Defining honey.** The terms "honey," "liquid or extracted honey," "strained honey," or "pure honey," as used in this article, shall mean the nectar of flowers that has been transformed by, and is the natural product of the honey-bee, taken from the honeycomb and marketed in a liquid, candied or granulated condition.

Formerly L. 1893, ch. 338, § 80-a, as added by L. 1902, ch. 214, § 2.

**§ 302. Relative to selling a commodity in imitation or semblance of honey.** No person or persons shall



sell, keep for sale, expose or offer for sale, any article or product in imitation or semblance of honey branded as "honey," "liquid or extracted honey," "strained honey" or "pure honey" which is not pure honey. No person or persons, firm, association, company or corporation, shall manufacture, sell, expose or offer for sale, any compound or mixture branded or labeled as and for honey which shall be made up of honey mixed with any other substance or ingredient. There may be printed on the package containing such compound or mixture a statement giving the ingredients of which it is made; if honey is one of such ingredients it shall be so stated in the same size type as are the other ingredients, but it shall not be sold, exposed for sale, or offered for sale as honey; nor shall such compound or mixture be branded or labeled with the word "honey" in any form other than as herein provided; nor shall any product in semblance of honey, whether a mixture or not, be sold, exposed or offered for sale as honey, or branded or labeled with the word "honey," unless such article is pure honey.

Formerly L. 1893, ch. 338, § 80-b, as added by L. 1902, ch. 214, § 2.

**§ 303. Duties of the commissioner.** The commissioner of agriculture shall immediately upon receiving notice of the existence of foul brood or black brood among the bees in any locality, send some competent person or persons to examine the apiary or apiaries reported to him as being affected, and all the other apiaries in the immediate locality of the apiary or apiaries so reported; if foul brood or black brood is found to exist in them, the person or persons so sent by the commissioner of agriculture shall give the owners or caretakers of the diseased apiary or apiaries full instructions how to treat said cases. The commissioner of agriculture shall cause said apiary or apiaries to be visited from time to time as he may deem best and if, after proper treatment, the said bees shall not be cured of the diseases known as foul brood or black brood then he may cause the same to be destroyed in such manner as may be necessary to prevent the spread of the said diseases. For the purpose of enforcing this article, the commissioner of agriculture, his agents, employees, appointees or counsel, shall have access, ingress and egress to all places where bees or honey or appliances used in apiaries may be, which it is believed are in any way affected with the said disease of foul brood or black brood or where it is believed any commodity is offered or exposed for sale in violation of the provisions of this article. No owner or caretaker of a diseased apiary, honey or appliances shall sell, barter or give away any bees,

honey or appliances from said diseased apiary, which shall expose other bees to the danger of said diseases, nor refuse to allow the said commissioner of agriculture, or the person or persons appointed by him to inspect said apiary, honey or appliances, and do such things as the said commissioner of agriculture or the person or persons appointed by him shall deem necessary for the eradication of said diseases. Any person who disregards or violates any of the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not less than thirty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than one month nor more than two months, or by both fine and imprisonment.

Formerly L. 1893, ch. 338, § 81, as am'd by L. 1899, ch. 223, § 2, and L. 1902, ch. 214, § 3.

**§ 304. The prevention of disease in fruit trees and the extirpation of insect pests that infest the same.** No person shall knowingly or wilfully keep any peach, almond, apricot or nectarine trees affected with the contagious disease known as yellows. No persons shall knowingly or wilfully keep any peach tree affected with the disease known as little peach. Nor shall any person knowingly or wilfully keep any plum, cherry or other trees affected with the contagious disease or fungus known as black knot nor any tree, shrub or plant infested with or by the San Jose scale or other insect pest dangerously injurious to or destructive of the trees, shrubs or other plants; every such tree, shrub or plant shall be a public nuisance, and as such shall be abated and no damage shall be awarded for entering upon premises upon which there are trees, shrubs or plants infested with yellows, little peach or black knot or infested with San Jose scale, for the purpose of legally inspecting the same, nor shall any damage be awarded for the destruction by the commissioner of agriculture, or his duly authorized agents, or representatives, of such trees, shrubs or plants, if necessary to suppress such disease, if done in accordance with the provisions of this article, except as otherwise herein provided. Every person, when he becomes aware of the existence of such disease or insect pest in any tree owned by him, shall forthwith report the same to the commissioner of agriculture at Albany, New York, and the said commissioner shall take such action as the law provides. If in the judgment of said commissioner of agriculture or the person or persons representing him, the trees, shrubs or other plants so infested, infested or diseased should be destroyed, then such destruction shall be carried on and completed

under the supervision of the commissioner of agriculture or the person or persons duly appointed by him and authorized so to do, without unnecessary delay, but the owner of the trees, shrubs or plants shall be notified immediately upon its being determined that such trees, shrubs or plants should be destroyed, by a notice in writing signed by said commissioner or the person or persons representing him, which said notice in writing shall be delivered in person to the owner of such trees, shrubs or plants, or left at the usual place of residence of such owner, or if such owner be not a resident of the town, by leaving such notice with the person in charge of the premises, trees, shrubs or plants or in whose possession they may be; such notice shall contain a brief statement of the facts found to exist whereby it is deemed necessary to destroy such trees, shrubs or plants, and shall call attention to the law under which it is proposed to destroy them, and the owner shall within ten days from the date upon which such notice shall have been received, remove and burn all such diseased or infested trees, shrubs or plants. If, however, in the judgment of the commissioner of agriculture, any trees, shrubs or plants infested with any disease or infested with dangerously injurious insects can be treated with sufficient remedies, he may direct such treatment to be carried out by the owner under the direction of the commissioner's agent or agents; any person refusing or failing to comply with the directions of the commissioner of agriculture or his duly authorized agents in carrying on the work of extirpating dangerously injurious insect pests and fungus or other diseases, shall be guilty of a misdemeanor. In case of objections to the findings of the inspector or agent of the commissioner of agriculture, an appeal shall be made to the commissioner of agriculture, whose decision shall be final. An appeal must be taken within three days from service of said notice, and shall act as a stay of proceedings until it is heard and decided. When the commissioner of agriculture, or the person or persons appointed by him, shall determine that any tree or trees, shrubs or other plants must be treated or destroyed forthwith, he may employ all necessary assistants for that purpose, and such person or persons, agent or agents, employee or employees, may enter upon any or all premises in any city or town necessary for the purposes of such treatment, removal or destruction.

Formerly L. 1893, ch. 338, § 82, as am'd by L. 1898, ch. 482, § 1; L. 1902, ch. 27, § 1; L. 1902, ch. 519, § 1, and L. 1903, ch. 20, § 1.

**§ 305. Appointment and duties of the agent of the commissioner of agriculture.** When the commissioner of agriculture knows or has reason to believe that any

such contagious disease exists, or that there is good reason to believe that it exists, or danger is justly apprehended of its introduction in any town or city in the state, or that any dangerously injurious insect pest exists within this state, and has reason to believe that danger may be justly apprehended from its existence, he shall forthwith send some competent person and such agent or agents as he may deem necessary to assist in extirpating said pest or pests, disease or diseases, and the said commissioner of agriculture is hereby authorized and empowered to take such steps and do whatever may be deemed necessary to so control or prevent the spread or extirpate said pest or pests, disease or diseases, and he shall cause an examination to be made at least once each year, prior to September first, of each and every nursery or other place where trees, shrubs or plants, commonly known as nursery stock, are grown for sale, for the purpose of ascertaining whether the trees, shrubs or plants therein kept or propagated for sale are infected with any such contagious disease or diseases, or infested with such pest or pests. If after such examination it is found that the said trees, shrubs or other plants so examined are free in all respects from any such contagious or infectious disease or diseases, dangerously injurious pest or pests, the said commissioner or his duly authorized agent or other person designated to make such examination, shall thereupon issue to the owner or proprietor of the said stock thus examined a certificate setting forth the fact that the stock so examined is apparently free from any and all such disease or diseases, pest or pests. Should any nurseryman, agent, dealer or broker, send out or deliver within the state, trees, vines, shrubs, plants, buds or cuttings, commonly known as nursery stock, and which are subject to the attacks of insects and diseases above provided for, unless he has in his possession a copy of said certificate, dated within a year thereof, deface or destroy such certificate, or wrongfully be in possession of such certificate, he shall be guilty of a misdemeanor. All nursery stock consigned for shipment, or shipped by freight, express or other means of transportation, shall be accompanied by a copy of said certificate attached to each car, box, bale, bundle or package. Any person consigning for shipment or shipping nursery stock as above without such certificate attached shall be guilty of a misdemeanor. All transportation companies within this state receiving or carrying nursery stock from any point without the state to any point within the state shall immediately, upon receiving such consignments, notify the commissioner of agriculture of the fact that such consignment is in their possession, giving the name of the consignor and consignee, and the point of destination of such con-

signment. All trees, plants, shrubs, buds or cuttings, commonly called nursery stock, grown in any nursery in this state, in which San Jose scale has been found within two years of the date of the dissemination of said nursery stock or grown in said nursery within one-half mile of where said scale was found, and also all nursery stock from outside of this state, disseminated or planted in this state, after the first day of July, nineteen hundred and two, must be fumigated with hydrocyanic gas, in such manner as may be directed by the commissioner of agriculture of this state. Such fumigation must be done by the grower, consignor or consignee of such stock before planting, dissemination or reshipment, except such trees, shrubs, plants, buds or cuttings grown in this state as are planted by the grower or propagator for himself, or such as from its nature or state of growth would be exempt; in such cases the said commissioner shall declare such trees, shrubs, plants, buds or cuttings free from such treatment. All nursery stock brought into this state from outside of this state must be accompanied by a certificate from the consignor that it has been fumigated as aforesaid. Should any such stock arrive without such certificate, the transportation company delivering it shall at once notify the said commissioner to that effect. The consignee shall also at once notify him of that fact, and shall proceed to fumigate said stock, as directed by the commissioner of agriculture without delay. Should any nursery stock purchased within one year be found infested with San Jose scale on the premises of any nurseryman, it shall not be considered such an infestation as to require the fumigation of other stock not so purchased. The words "nursery stock" wherever used in this article shall apply to and include all trees, shrubs, plants, buds, willow grown for nursery, baskets, or other commercial purposes or cuttings, whether grown in a nursery or elsewhere, so far as it relates to fumigation. The provisions of this and the preceding section shall not apply to florists' greenhouse plants, flowers or cuttings commonly known as greenhouse stock, and no certificate shall be required for shipment of native stock collected in the United States, not grown in nurseries, nor to stock so shipped into the state that its sale and shipment become either interstate commerce traffic or commerce with foreign nations.

Formerly L. 1893, ch. 338, § 83, as am'd by L. 1895, ch. 134, § 1; L. 1898, ch. 482, § 2; L. 1901, ch. 417, § 1; L. 1902, ch. 27, § 1, and L. 1902, ch. 519, § 1.

**§ 306. The New York agricultural experiment station.** The institution known as the New York agricultural experiment station, located in the city of Geneva, for the purpose

of promoting agriculture in its various branches by scientific investigation and experiment, shall continue under the control and management of a board of trustees. Such board of trustees shall be known as the board of control of the New York agricultural experiment station and shall consist of nine members, except as hereinafter provided. The governor and commissioner of agriculture shall be members of the board by virtue of their offices. The governor shall appoint the other seven members of such board, whose term of office shall be three years, provided, however, that the present members of the board of control shall continue in office until the expiration of the terms to which they were appointed. Such board of control, of which five members shall constitute a quorum, shall hold an annual meeting and such other meetings from time to time as they may deem necessary and shall annually elect a president from their own number, and appoint a secretary and treasurer, to hold their offices during the pleasure of the board. Such board of control shall have general management of the station and shall appoint a director to have oversight and management of the experiments and investigations and other scientific and expert work which shall be deemed necessary to accomplish the objects of said institution, and such board may employ competent and suitable chemists and other experts and persons necessary for carrying on the work of the station, and shall fix the compensation of all persons connected with the work of said station. Said station shall, besides conducting experiments and investigations for the promotion of agricultural science, perform and report to the commissioner of agriculture such analyses and other expert scientific work as said commissioner may request as necessary for the administration of the provisions of this chapter and the salaries and other expenses incurred by reason of such analyses and other expert scientific service shall be paid from fund provided to said station for the express purpose of aiding in enforcing the provisions of this chapter. Said board of control shall publish or cause to be published, from time to time, bulletins and reports giving the results of the experiments and investigations conducted by said station for the promotion of agriculture in its various branches, together with such other information as may promote the purposes and welfare of said institution. Such board shall have direction of the expenditure of all moneys appropriated to said station; the director shall annually on or before the fifteenth day of December make a full report to the board of the work accomplished by said station, which report, together with a statement of the receipts and expenditures for the year ending the

thirtieth day of September then next preceding, and such other statements as may seem desirable, the board shall transmit to the commissioner of agriculture on or before the first day of January next succeeding, and said report shall constitute part of the annual report of the commissioner of agriculture. No member of said board shall receive any compensation for his services as such, but shall be paid his necessary traveling expenses and those expenses incurred by him by an actual attendance upon the meetings of such board. The board shall make such rules and regulations as may from time to time become necessary to carry out the objects of the station.

Formerly L. 1893, ch. 338, § 85, as am'd by L. 1894, ch. 675, § 1, and L. 1904, ch. 439, § 1.

**§ 307. The director of the New York agricultural experiment station to publish bulletins.** The director of the New York agricultural experiment station is hereby authorized and empowered to publish from time to time bulletins giving information as to results of analyses made by him or under his authority or direction at the New York agricultural experiment station, situate in the city of Geneva and state of New York, of any commodity or substance analyzed in pursuance of or under the provisions of the statutes of this state. He may also publish bulletins containing results of analyses made of such substances or commodities, which analyses were made prior to the passage of this section and which have not heretofore been published.

Formerly L. 1904, ch. 570, § 1.

**§ 308. The state weather bureau.** The state meteorological bureau and weather service, shall hereafter be known as the state weather bureau, and shall be under the control and management of the commissioner of agriculture. Such commissioner may appoint the director of such bureau but such director shall not receive any compensation for his services. The commissioner may continue the central office and station for meteorological observation and experiment upon the grounds of Cornell university, and shall, if practicable, establish and supervise one or more volunteer weather stations in each congressional district of the state, in co-operation with the chief of the United States weather bureau, for the purpose of increasing the usefulness of the weather service of the state and of the United States. The sum of four thousand five hundred dollars, or so much thereof as the commissioner deems necessary, shall be annually appropriated to be paid to the commissioner by the treas-

urer, upon the warrant of the comptroller, issued upon the vouchers of the commissioner, for necessary clerical services at such central office, for printing and distributing reports of the results and operations of such bureau, in such manner as shall be most serviceable to the people of the state, and for the purchase, preservation and repair of proper and necessary instruments for the work of such bureau and for the reasonably necessary traveling and incidental expenses of such commissioner and director in the performance of their duties, and for such other expenses as such commissioner shall deem necessary for the efficient administration of such bureau.

Formerly L. 1893, ch. 338, § 86.

**§ 309. Institutions designated to receive United States moneys.** The Cornell university and the agricultural experiment station at Geneva established by the laws of the state are hereby designated as the institutions within this state, entitled to receive such portion as the legislature shall determine of the benefits of the act of the congress of the United States, approved March second, eighteen hundred and eighty-seven, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto." Such benefits of such acts which this state is authorized thereby to apply to any college, institution or agricultural experiment station within this state, are applied to the agricultural experiment station established under the direction of Cornell university and the agricultural experiment station at Geneva, and this state consents that such appropriation, money or benefits to or for the use of this state, or of any institution within this state, payable under or in pursuance of such act of congress, shall be paid nine-tenths thereof to the treasurer of Cornell university, the officer designated to receive the same, and one-tenth thereof to the officers of the agricultural experiment station at Geneva designated to receive the same, to be expended as provided in such act of congress. Such experiment station shall, annually, on or before the first day of December, make, to the commissioner of agriculture, a full and detailed report of its operations, including a statement of its receipts and expenditures for the year ending with the thirtieth day of September then next preceding. Such experiment station may, with the consent and approval of the commissioner of agriculture, appoint horticultural experts to assist such experiment station, in the fifth judicial de-



partment, in conducting investigations and experiments in horticulture; in discovering and remedying the diseases of plants, vines and fruit trees; in ascertaining the best means of fertilizing vineyard, fruit and garden plantations, and of making orchards, vineyards and gardens prolific; in disseminating horticultural knowledge by means of lectures or otherwise; and in preparing and printing, for free distribution, the results of such investigations and experiments, and such other information as may be deemed desirable and profitable in promoting the horticultural interests of the state. Such experts may be removed by such experiment station, in its discretion, and may be paid for their services such sums as it may deem reasonable and proper, and as shall be approved by the commissioner of agriculture. All of such work by such experiment station and by such experts shall be under the general supervision and direction of the commissioner of agriculture. The treasurer of this state shall keep the account of all moneys hereafter received by him in pursuance of such act of congress, in a separate fund, to the credit of the Cornell university and the agricultural experiment station at Geneva, in the proportion stated in this section, and shall pay all such moneys immediately upon receipt thereof by him to the officers respectively designated therein to receive the same, upon the warrant of the comptroller, issued upon the order of the trustees of Cornell university and the board of control of the agricultural experiment station at Geneva, in pursuance of said act of congress, which said moneys are hereby appropriated for the purposes herein stated.

Formerly L. 1893, ch. 338, § 87, as am'd by L. 1894, ch. 376, § 1, and L. 1894, ch. 675, § 1. L. 1894, ch. 675, § 2, incorporated.

**§ 310. Receipt and apportionment of moneys for the promotion of agriculture.** All the moneys already appropriated, or hereafter appropriated, for the promotion of agriculture in any one year, and all the revenues which have been, or shall be received by the comptroller, and all the moneys received by him from the tax collected from racing associations pursuant to article twenty of the membership corporations law, or hereafter otherwise collected from racing associations, corporations or clubs, shall constitute a fund, which shall be annually disbursed on behalf of the state for the promotion of agriculture and domestic arts, for the promotion of education along agricultural lines and for the promotion of the improvement of the breeding of cattle, sheep, horses and other domestic animals at the various fairs throughout the state, and shall be apportioned

and distributed as hereinafter prescribed, among all the various county agricultural societies, the American institute of the city of New York, and among the other various town or other agricultural societies, or agricultural fair associations, or agricultural expositions, or agricultural clubs which have received moneys from the state and disbursed moneys for the state for such promotion, during either one of the three years, nineteen hundred and five, nineteen hundred and six, or nineteen hundred and seven, under and by virtue of section eighty-eight or eighty-nine of the agricultural law as it then existed. Such apportionment and distribution shall be made by the commissioner of agriculture in the following manner: Of such moneys already appropriated, or hereafter appropriated, there shall be apportioned and distributed to such county agricultural societies, American institute of the city of New York, and such various town or other agricultural societies, or agricultural club, or agricultural fair associations, or agricultural expositions, hereinbefore mentioned, in proportion to the actual premiums paid during the previous year by such agricultural societies, agricultural fair associations, agricultural expositions, agricultural club, and the American institute of the city of New York, exclusive of the premiums paid for trials and tests of speed, skill and endurance of man or beast. No such American institute of the city of New York, or such county agricultural society, or such town or other agricultural society, or such agricultural fair associations, or such agricultural exposition, or such agricultural club shall receive any more moneys under the provisions of this article in any one year, than it actually paid out in premiums the next preceding year, exclusive of the premiums paid for trials, or tests of speed, skill \*endurance of man or beast, and in no event shall any such American institute of the city of New York, or such county agricultural society, or such town or other agricultural society, or such agricultural fair association, or such agricultural exposition, or such agricultural club receive under the provisions of this article, in any one year for premiums hereafter to be paid by any society, association, club or exposition, any sums of money exceeding four thousand dollars. Any such county agricultural society, town or other agricultural society, or agricultural club or fair association, or agricultural exposition, organized under the laws of the state of New York, which shall fail or neglect to hold an annual fair, and file its annual report as provided by this article, with the commissioner of agriculture, as herein provided, for two

\* So in original.

consecutive years, shall forfeit all of its chartered rights, including any privileges or moneys it might thereafter otherwise be entitled to under the provisions of this article. All agricultural clubs, societies, agricultural fair associations, agricultural expositions, or the American institute of the city of New York, entitled to receive any portion of the moneys appropriated by the state, must hereafter on or before the fifteenth day of December, in each year, file a statement, duly verified by the president and treasurer or secretary, showing the amount of premiums paid at the last annual fair, exclusive of premiums paid for trials or tests of speed, skill or endurance of man or beast, which statement together with vouchers for moneys paid as premiums shall be filed in the office of the commissioner of agriculture, otherwise such society, fair association, exposition, club, or the American institute of the city of New York, shall forfeit its right to participate in the distribution of such moneys for premiums paid for such year. No other agricultural society now or hereafter organized which is not entitled to receive moneys under this section, except a county agricultural society, shall be entitled to receive any moneys under the provisions of this article, until it shall have first filed annual reports in the office of the commissioner of agriculture, as hereinbefore provided, and paid in actual cash premiums for agricultural, mechanical and domestic products at least fifteen hundred dollars a year for three successive years, exclusive of the premiums paid for trials, or tests of speed, skill or endurance of man or beast. When any such other agricultural society has filed such annual reports and paid such premiums for three successive years as herein provided and to the satisfaction of the commissioner of agriculture, then the said commissioner of agriculture may thereafter allow such society to draw moneys under and by virtue of the provisions of this article. All such county agricultural societier, town or other agricultural societies, or fair associations, or agricultural expositions organized under the laws of the state of New York which have received moneys from the state for premiums paid for the promotion of agriculture and domestic arts, for the promotion of education along agricultural lines, or for the promotion of the improvement of the breeding of cattle, sheep, horses and other domestic animals, shall be deemed as agents for the state in disbursing such moneys and shall be entitled to be reimbursed for such moneys paid as provided in this article, from an annual appropriation which shall not be less than two hundred and fifty thousand dollars. Any agricultural society, agricultural club or agricultural exposition which shall knowingly permit any immoral, lewd,

obscene or indecent show or exhibition, use, or knowingly permit the use of, any gambling device, device, instrument or contrivance in the operation of which bets are laid or wagers made, wheel of fortune, or the playing or carrying on of any game of chance, upon the grounds used by it for, or during, an annual meeting, fair or exhibition, shall thereupon forfeit its rights to any moneys it would or might be entitled to receive under the provisions of this article; and it shall be the duty of the president and secretary or treasurer of every agricultural society, agricultural club, or agricultural exposition entitled to receive money under the provisions of this article, to certify, in its annual report to the commissioner of agriculture, executed under oath, on or before the fifteenth day of December, in each year, that at the last annual meeting, fair or exhibition held by or under the direction of such society, club or exposition, it did not knowingly permit any immoral, lewd, obscene or indecent show or exhibition by whatever name known, or use or knowingly permit the use of, any gambling device, device, instrument or contrivance in the operation of which bets were laid, or wagers made, any wheel of fortune, or the playing or carrying on of any game of chance, upon the grounds used by it for, or during such last annual meeting, fair or exhibition, which report shall be filed in the office of the commissioner of agriculture. If the president and secretary or treasurer of any agricultural society, agricultural club or agricultural exposition, entitled to receive moneys under the provisions of this article, shall neglect or refuse to make and file such certificates, such society, club or exposition shall thereupon be deemed to have forfeited all its rights to any moneys it might otherwise be entitled to receive under this article for such year, but this shall not be construed to prohibit horse racing, or tests or trials of skill.

Formerly L. 1893, ch. 338, § 88, as am'd by L. 1894, ch. 241, § 1; L. 1895, ch. 820, § 1; L. 1896, ch. 221, § 1; L. 1897, ch. 589, § 1; L. 1898, ch. 494, § 1; L. 1900, ch. 87, § 1; L. 1900, ch. 339, § 1; L. 1901, ch. 144, § 1; L. 1903, ch. 142, § 1, and L. 1908, ch. 283, § 1.

**§ 311. Distribution of moneys appropriated for certain agricultural societies.** Of all moneys appropriated in the regular appropriation bill during any one year by the legislature for distribution among the agricultural societies by the commissioner of agriculture, the said commissioner may distribute to the agricultural societies entitled to partake thereof an amount to each one, on or after the first day of October, in the said year, from the moneys due said society not to exceed fifty per centum of the amount of premiums paid by the said society at its

annual fair held during said year. Any balance or balances shall be distributed as provided by section three hundred and ten of this chapter.

Formerly L. 1893, ch. 338, § 89, as added by L. 1895, ch. 587, § 1, and am'd by L. 1903, ch. 142, § 3.

**§ 312. Annual report to the commissioner of agriculture and state society.** The president and treasurer of any agricultural society which receives any money of the state or acts as the agent of the state in the distribution of money of the state as premiums, shall annually before the fifteenth day of December, transmit to the commissioner of agriculture a detailed account of the expenditure or distribution of all such moneys as shall have come into their hands during the preceding year, and of such other moneys as they may have received from voluntary contributions for distribution as premiums, stating to whom, and for what purpose paid, with the vouchers therefor. The presidents of the several county societies and of the American institute shall annually transmit in the month of December, to the executive committee of the New York state agricultural society, all such reports or returns as they are required to demand from applicants, for premiums, together with an abstract of their proceedings during the year, which shall be examined by such executive committee, and they shall condense, arrange and report the same, with a statement of their own proceedings, to the legislature on or before the first day of March in each year.

Formerly L. 1893, ch. 338, § 90.

**§ 313. Lease of grounds of agricultural societies and corporations.** Any agricultural society or corporation, owning or possessing grounds in a county of this state having a population of more than three hundred thousand and less than six hundred thousand may lease such grounds for any lawful purpose except running races not inconsistent with the use thereof for the purposes of the society or corporation, for such time or times as said grounds may not be needed by any such agricultural society or corporation for its own purposes.

Formerly L. 1893, ch. 338, § 91, as am'd by L. 1894, ch. 640, § 1.

**§ 314. Manufacture and sale of imitation maple sugar and syrup prohibited.** 1. No person shall manufacture for sale, keep for sale, or offer or expose for sale, any sugar in imitation or semblance of maple sugar which is not pure maple sugar, nor any syrup in imitation or semblance of

maple syrup, which is not pure maple syrup, nor shall any person manufacture, offer or expose for sale any sugar as and for maple sugar which is not pure maple sugar, nor any syrup as and for maple syrup which is not pure maple syrup.

2. For the purpose of this article the term "maple sugar" shall be deemed to mean sugar made from pure maple sap or pure maple syrup, and the term "maple syrup" shall be deemed to mean syrup made from pure maple sap.

Formerly L. 1893, ch. 338, § 91, as added by L. 1898, ch. 194, § 1.

**§ 315. Branding and labeling of maple sugar and syrup mixtures.** No person shall manufacture, sell or expose for sale, any compound or mixture as and for sugar which shall be made up of maple sugar mixed with any other sugar or any other substance without branding or labeling the said sugar with a statement giving the ingredients of which it is made up. No person shall manufacture, sell, expose for sale or offer for sale any compound or mixture as syrup which shall be made up of maple syrup mixed with any other syrup or ingredient without branding or labeling said syrup with a statement giving the ingredients of which it is made up. This shall not be construed to apply to a syrup or syrups manufactured and sold for medicinal purposes only.

Formerly L. 1893, ch. 338, § 92, as added by L. 1898, ch. 194, § 2.

**§ 316. Association of farmers; powers of.** Any association of farmers, residing in any neighborhood, town or county in this state, now, or hereafter to be organized, and acting under a constitution and by-laws adopted by themselves for their guidance, which shall be filed in the clerk's office of such town or county and which are not inconsistent with the laws of this state, is hereby authorized to lease and maintain grounds and structures for the exhibition and sale of the products of their farms or their skill, and for the instruction and recreation of its members and visitors. Any such association shall have authority to let, for rent, locations on their leased grounds to shopmen and persons wishing to furnish suitable refreshments for victualing members and visitors; to license peddlers to sell on their grounds articles of merchandise, not forbidden to be sold by any law of this state without license from the state; and in the name of such association and upon the action and direction of its officers, to sue for and collect the stipulated sums for such rentals and licenses, and to enforce the observance of its rules and regulations by the several members of its association. And such association is hereby

empowered to issue certificates of indebtedness in amounts of five dollars each, providing that the whole amount shall not exceed the sum of one thousand dollars, which they may sell at a price not below the par value thereof, for the purpose of raising money for the erection of buildings, or for such other improvements as may be deemed necessary by a majority of the members of such association.

Formerly L. 1881, ch. 657, § 1.

**§ 317. County judge may appoint policemen or constables.** The county judge of any county in this state wherein such a voluntary association of farmers may exist is hereby authorized, upon the nomination of the presiding officer, or the executive committee of such association, to appoint any number of reputable persons, citizens of such neighborhood, town or county, as special policemen or constables, who shall have authority to preserve the peace at any meeting of such association on its grounds or in the neighborhood thereof; and to protect the property of such association or of any of its members, visitors, lessees or licensees while on such grounds or on the way to or from such grounds. But such special policemen or constables shall have no authority, from such appointment, to act as policemen or constables, other than as herein authorized, except that they may arrest any person committing unlawful depredation on such grounds, or unlawfully injuring persons or property thereon, or on the way to or from such grounds, or otherwise committing breaches of the peace, and may take such persons so offending, when arrested, before some proper magistrate, to be dealt with according to law.

Formerly L. 1881, ch. 657, § 2.

**§ 318. Registration of rural residences.** The owner, or owners, if husband and wife, in fee of a parcel of land having a dwelling house thereon and containing over one hundred acres, wholly situate outside of the limits of an incorporated village or city, may cause such premises to be registered under a designation approved by the secretary of state, with which designation may be associated, if desired, a device, likewise approved, by filing in the office of the secretary of state such approved designation with a description of the premises, by metes and bounds, together with a map upon a scale established in said office and paying a fee of ten dollars besides the payment for recording the description and for copying the map, upon the reduced scale, in the book of registration.

Formerly L. 1904, ch. 702, § 1.

**ARTICLE 15****Laws Repealed; When to Take Effect**

Section 340. Laws repealed.

341. When to take effect.

§ 340. **Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 341. **When to take effect.** This chapter shall take effect immediately.

## SCHEDULE OF LAWS REPEALED

Laws of	Chapter	Section
1785.....	68.....	1-4
1788.....	54.....	All
1791.....	54.....	4
1792.....	64.....	All
1808.....	187.....	All
1819.....	107.....	All
1820.....	97.....	All
1822.....	236.....	All
1824.....	265.....	All
1841.....	169.....	1, 2, 4, 5, 7, 8
1841.....	340.....	All
1842.....	176.....	All
1844.....	336.....	All
1845.....	60.....	All
1848.....	299.....	1, 2, 4, 5, 7
1854.....	230.....	All
1862.....	293.....	All
1862.....	467.....	All
1864.....	518.....	All
1864.....	544.....	All
1865.....	361.....	All
1865.....	559.....	All
1866.....	740.....	All
1867.....	453.....	All
1869.....	167.....	All
1869.....	210.....	All
1869.....	271.....	All
1869.....	563.....	All
1876.....	161.....	All



# AGRICULTURAL LAW

Art. 15	Laws Repealed.	§ 340
Laws of	Chapter	Section
1877.....	415.....	All
1878.....	134.....	All
1878.....	220.....	All
1878.....	237.....	All
1879.....	306.....	All
1880.....	439.....	All
1880.....	592.....	All
1881.....	300.....	All
1881.....	657.....	All
1881.....	702.....	All
1882.....	214.....	All
1882.....	215.....	All
1882.....	238.....	All
1882.....	246.....	All
1883.....	243.....	1, pt. affecting L. 1879, Ch. 306
1884.....	202.....	All
1884.....	418.....	All
1884.....	474.....	All
1885.....	183.....	All
1885.....	193.....	All
1885.....	427.....	All
1885.....	458.....	All
1886.....	577.....	All except that part of § 6 designated as L. 1885, Ch. 183, § 24
1886.....	606.....	All
1887.....	155.....	All
1887.....	223.....	All
1887.....	403.....	All
1887.....	430.....	All
1887.....	583.....	1, pt. adding § 27 to L. 1885, Ch. 183; 2-4
1887.....	634.....	All
1888.....	286.....	All
1888.....	298.....	All
1888.....	550.....	All
1889.....	148.....	All
1889.....	515.....	All
1889.....	538.....	All
1891.....	140.....	All
1891.....	354.....	All
1892.....	501.....	All
1893.....	338.....	All

Laws of	Chapter	Section
1893.....	364.....	All
1893.....	564.....	All
1893.....	726.....	1, pt. constituting fourth ¶ on page 1840
1894.....	143.....	All
1894.....	241.....	All
1894.....	376.....	All
1894.....	426.....	1
1894.....	617.....	All
1894.....	640.....	All
1894.....	675.....	All
1895.....	134.....	All
1895.....	587.....	All
1895.....	763.....	All
1895.....	820.....	All
1896.....	221.....	All
1896.....	955.....	All
1897.....	500.....	All
1897.....	554.....	1
1897.....	589.....	All
1897.....	768.....	All
1898.....	113.....	All
1898.....	153.....	All
1898.....	194.....	All
1898.....	412.....	All
1898.....	482.....	All
1898.....	491.....	All
1898.....	494.....	All
1898.....	557.....	All
1898.....	558.....	All
1898.....	559.....	All
1899.....	101.....	All
1899.....	149.....	All
1899.....	223.....	All
1899.....	303.....	All
1899.....	435.....	All
1899.....	510.....	All
1899.....	518.....	All
1899.....	687.....	All
1900.....	76.....	All
1900.....	79.....	All
1900.....	87.....	All
1900.....	101.....	All

# AGRICULTURAL LAW

71

Art. 15	Laws Repealed.	§ 240
Laws of	Chapter	Section
1900.....	118.....	All
1900.....	339.....	All
1900.....	346.....	All
1900.....	534.....	All
1900.....	544.....	All
1900.....	559.....	All
1901.....	144.....	All
1901.....	224.....	All
1901.....	308.....	All
1901.....	321.....	1, 3, 4
1901.....	375.....	All
1901.....	417.....	All
1901.....	429.....	All
1901.....	656.....	All
1902.....	27.....	All
1902.....	30.....	All
1902.....	31.....	All
1902.....	214.....	All
1902.....	240.....	All
1902.....	263.....	All
1902.....	385.....	All
1902.....	519.....	All
1902.....	521.....	All
1903.....	20.....	All
1903.....	142.....	All
1903.....	214.....	All
1903.....	524.....	All
1904.....	27.....	All
1904.....	168.....	All
1904.....	253.....	All
1904.....	391.....	All
1904.....	439.....	All
1904.....	447.....	All
1904.....	480.....	All
1904.....	558.....	All
1904.....	566.....	All
1904.....	567.....	All
1904.....	570.....	All
1904.....	702.....	All
1905.....	100.....	All
1905.....	167.....	All
1905.....	171.....	All
1905.....	243.....	All

§ 340	Laws Repealed.		Art. 15
Laws of	Chapter	Section	
1905.....	601.....	All	
1905.....	602.....	All	
1905.....	603.....	All	
1905.....	759.....	All	
1906.....	372.....	All	
1906.....	584.....	All	
1906.....	605.....	All	
1907.....	137.....	All	
1907.....	178.....	All	
1907.....	226.....	All	
1907.....	241.....	All	
1907.....	281.....	All	
1907.....	322.....	All	
1907.....	406.....	All	
1907.....	483.....	All	
1907.....	484.....	All	
1907.....	493.....	All	
1907.....	610.....	All	
1907.....	684.....	All	
1907.....	713.....	All	
1908.....	31.....	All	
1908.....	215.....	All	
1908.....	279.....	All	
1908.....	283.....	All	
1908.....	486.....	All	
1908.....	518.....	All	

# BANKING LAW

---

**L. 1909, Ch. 100. "AN ACT in relation to banks, individual bankers and corporations, under the supervision of the Banking Department, constituting chapter two of the Consolidated Laws."**

(In effect February 17, 1909.)

## CHAPTER 2 OF THE CONSOLIDATED LAWS

[Formerly L. 1892, Ch. 689, being chapter 37 of the General Laws.]

- Article 1. Short title; definitions (§§ 1, 2).
2. General provisions (§§ 3-45).
  3. Banks (§§ 60-117).
  4. Savings banks (§§ 130-164).
  5. Trust companies (§§ 180-198).
  6. Co-operative savings and loan associations (§§ 210-245).
  7. Building and lot associations (§§ 260-267).
  8. Mortgage, loan and investment corporations (§§ 280-288).
  9. Safe deposit companies (§§ 300-304).
  10. Personal loan associations (§§ 310-314).
  11. Laws repealed; when to take effect (§§ 330, 331).

## ARTICLE 1

### Short Title; Definitions

- Section 1. Short title.  
2. Definitions.

**§ 1. Short title.** This chapter shall be known as the "Banking Law," and shall be applicable to all corporations and individuals specified in the next section.

Formerly L. 1892, ch. 689, § 1.

**§ 2. Definitions.** Bank.— The term "bank," when used in this chapter, means any moneyed corporation authorized by law to

**Explanation.**— For location and disposition of former sections of the Banking Law see L. 1892, Ch. 689, in "Consolidated Schedule of Repeals," Vol. 7.

issue bills, notes or other evidences of debt for circulation as money, to receive deposits of money and commercial paper and to make loans thereon, to discount bills, notes or other commercial paper, and to buy and sell gold and silver bullion, foreign coins, or bills of exchange.

**Individual Banker.**—The term “individual banker,” when used in this chapter, means a person who has complied with the requirements of law, and is authorized by the banking department to engage in the business of banking, and is subject to the banking law and the supervision of the superintendent of banks.

**Savings Bank.**—The term “savings bank,” when used in this chapter, means a corporation, authorized by the laws of this state, only to receive money on deposit and pay such rates of interest thereon, and to invest the same in such securities and obligations, as may be prescribed by law.

**Trust Company.**—The term “trust company,” when used in this chapter, means any domestic corporation formed for the purpose of taking, accepting and executing such trusts as may be lawfully committed to it, acting as trustee in the cases prescribed by law, receiving deposits of moneys and other personal property, and issuing its obligations therefor, and loaning money on real or personal securities.

**Co-operative Savings and Loan Association.**—The term “co-operative savings and loan association,” when used in this chapter, means a corporation formed for the purpose of encouraging industry, frugality, home-building and the saving of money by its members, the accumulation of savings, the loaning of such accumulations to its members, and the repayment to each member of his savings when they have accumulated to a certain sum, or at any time when he shall desire the same, or the association shall desire to repay the same.

**Building and Lot Association.**—The term “building and lot association,” when used in this chapter, means any association or corporation organized for the purpose of accumulating a fund for the purchase of real property, to pay off incumbrances thereon, to aid its members in acquiring a building lot or lots, and making improvements thereon in the manner and form specified in the certificate of incorporation, or for all or any of such purposes.

**Mortgage, Loan or Investment Corporation.**—The term “mortgage, loan or investment corporation,” when used in this chapter, means any corporation other than an insurance corporation formed under the laws of this state or of any other state, and doing business in this state for the purpose of selling, offering for sale, or negotiating bonds or notes secured by deed of trust or

mortgages on real property or choses in action, owned, issued, negotiated or guaranteed by it, or for the purpose of receiving any money or property, either from its own members or from other persons, and entering into any contract, engagement or undertaking with them for the withdrawal of such money or property at any time with any increase thereof, or for the payment to them or to any person of any sum of money at any time, either fixed or uncertain; and when applied to any foreign corporation doing business in this state shall include any association, copartnership, joint-stock company, individuals or firms organized or existing under the laws of any other state or country, and engaged within this state in any such business.

**Safe Deposit Company.**—The term “safe deposit company,” when used in this chapter, means every domestic corporation formed for the purpose of taking and receiving as bailee for safe-keeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, securities and valuable papers of any kind, and other valuable personal property, on deposit and guaranteeing their safety upon such terms and for such compensation as may be agreed upon by the company and the respective bailors thereof, and to rent vaults and safes and other receptacles for the purpose of such safe-keeping and storage.

**Personal Loan Association.**—The term “personal loan association,” when used in this chapter, means any association or corporation organized under chapter three hundred and twenty-six of the laws of eighteen hundred and ninety-five, as amended by chapter seven hundred and six of the laws of eighteen hundred and ninety-five, chapter two hundred and six of the laws of eighteen hundred and ninety-six, chapter seventy-eight of the laws of nineteen hundred and two and chapter three hundred and thirty-three of the laws of nineteen hundred and five, or under article ten of this chapter, for the purpose of aiding persons deemed in need of pecuniary assistance by loans not exceeding two hundred dollars of money at interest upon pledges or mortgage of personal property, in the manner provided in said laws and said article.

**Stockholder.**—The term “stockholder,” when used in this chapter, shall apply not only to such persons as appear by the books of the corporation to be stockholders, but also to every owner of stock, legal or equitable, although the same may be on such books in the name of another person, but not to a person who may hold the stock as collateral for security for the payment of a debt.

Formerly L. 1892, ch. 689, § 2, with L. 1892, ch. 689, § 52 pt. as am'd by L. 1897, ch. 441, § 1, incorporated.

**ARTICLE 2****General Provisions**

- Section 3. The banking department; superintendent.
4. Official seal of superintendent of banks.
  5. Deputies, clerks and examiners of the banking department.
  6. Rooms and furniture.
  7. Expenses, how defrayed.
  8. Powers of superintendent.
  9. Examination of securities deposited.
  10. Unclaimed balances.
  11. Examiners.
  12. Examination and certificate as to payment of capital.
  13. Affidavit to be made before commencing business.
  14. Deposit of bonds or mortgages with superintendent.
  15. Exchange of securities.
  16. Publication of report of examiners.
  17. Impairment of capital.
  18. Causes for dissolution.
  19. Proceedings against and liquidation of delinquent corporations and individual bankers.
  20. Examination by order of court.
  21. Reports.
  22. Penalties for failure to report.
  23. Books, papers and affairs to be examined.
  24. Publication of reports.
  25. Annual report of superintendent.
  26. Reports presumptive evidence.
  27. Restrictions.
  28. Calculation of profits.
  29. Losses in excess of profits.
  30. Publication of unclaimed dividends and deposits.
  31. Change of location.
  32. Approval and certificate of superintendent upon incorporation.
  33. Permission and certificate of superintendent in case of foreign corporations.
  34. Appointment of superintendent as attorney for service of process.
  35. Appointment of receiver.
  36. Merger.
  37. Submission of merger agreement to stockholders.



- Section 38. Rights of dissenting stockholders.
39. Effect of merger.
40. Rights of creditors and others having relations with merged corporations.
41. Communications from banking department.
42. Meetings of directors or trustees and reports thereto.
43. Official acts of superintendent and details of department business to be made public.
44. Banks designated as depositaries of court funds to give bonds and pay interest.
45. Banks designated as depositaries of court funds to keep books of account.

**§ 3. The banking department; superintendent.**

There shall continue to be a banking department charged with the execution of the laws relating to the corporations and individuals to which this chapter is applicable. The chief officer of such department shall continue to be the superintendent thereof, to be known as the superintendent of banks, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold his office for the term of three years. He shall not either directly or indirectly be interested in any such corporation, or as an individual banker. He shall receive an annual salary of seven thousand dollars, to be paid monthly in the first instance out of the treasury on the warrant of the comptroller. He shall, within fifteen days from the time of notice of his appointment, take and subscribe the constitutional oath of office and file the same in the office of the secretary of state, and execute to the people of the state a bond in the penalty of fifty thousand dollars, with two or more sureties to be approved by the comptroller and treasurer of the state, conditioned for the faithful discharge of the duties of his office.

Formerly L. 1892, ch. 689, § 3 as am'd by L. 1897, ch. 134, § 1.

**§ 4. Official seal of superintendent of banks.** The secretary of state shall provide the superintendent of banks with an official seal. Every paper executed by him as such superintendent in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the same effect as a deed regularly acknowledged or proven.

Formerly L. 1892, ch. 689, § 4.

**§ 5. Deputies, clerks and examiners of the banking department.** The superintendent of banks shall employ from time to time such clerks and examiners as

he may need to discharge in a proper manner the duties imposed upon him by law. They shall perform such duties as he shall assign to them. He shall fix their compensation, which shall be paid monthly on his certificate and upon the warrant of the comptroller in the first instance out of the treasury. He may appoint a first, a second, and a third deputy, each of whom shall within fifteen days from the time of notice of his appointment take and subscribe the constitutional oath of office, and file the same in the office of the secretary of state. In case of a vacancy in the office of superintendent, or in his absence or inability to act, for thirty successive days, none of his deputies shall thereafter act as superintendent, until the first deputy, or if there be a vacancy in the office of first deputy, or he be absent or unable to act, the second deputy or, if there be a vacancy in the office of second deputy, or he be absent or unable to act, the third deputy, shall have executed to the people of the state a bond in the penalty of fifty thousand dollars, with two sureties to be approved by the comptroller and treasurer of the state, conditioned for the faithful discharge of the duties of the office of superintendent while such deputy acts as such superintendent.

Formerly L. 1892, ch. 689, § 5, as am'd by L. 1902, ch. 54, § 1, and L. 1908, ch. 57, § 1.

**§ 6. Rooms and furniture.** The trustees or other officers having by law the custody of the public buildings at the state capital, shall assign to the superintendent suitable rooms therein for conducting the business of the banking department.

The superintendent shall, from time to time, furnish the necessary furniture, stationery, fuel, lights and other proper conveniences for the transaction of such business, the expenses of which shall be paid on the certificate of the superintendent and the warrant of the comptroller in the first instance out of the treasury.

Formerly L. 1892, ch. 689, § 6.

**§ 7. Expenses, how defrayed.** All the expenses incurred in and about the conduct of the business of the department, including the salary of the superintendent and clerks, shall be charged to and paid by the corporations and individuals required to report to the superintendent under the provisions of this chapter in such proportions as the superintendent shall deem just and reasonable.

The expenses incurred and services performed on account of any such corporation or individual or on account of any foreign corporation or its agency shall be charged to and paid by the corporation, individual or agency for whom they were incurred or

performed. If any corporation, individual or agency shall not, after due notice, pay any such charges, the superintendent may apply the proceeds of the sale of or the dividends on any stock or the interest on any bonds and mortgages in his hands deposited by such corporation or individual to the payment of such charges, with interest at the rate of six per centum.

The moneys so applied, and all moneys received by him in payment of such charges, shall be deposited and paid by him into the treasury of the state, to reimburse all sums advanced from the treasury for such expenses, except moneys received from any corporation or individual banker for expenses incurred or services performed on account of any such corporation or individual, which moneys shall be applied by the superintendent in payment of such expenses and a verified account thereof included in his annual report.

If any such corporation or individual or any foreign corporation or its agency shall fail to pay such charges as herein required, and there are no stocks, bonds or mortgages in the department, the dividends or interest on which can be applied in payment thereof, the superintendent shall report to the attorney-general the failure of any such corporation or individual or any such foreign corporation or its agency to pay such charges, and the attorney-general shall thereupon bring an action in the name of the people for the recovery of such charges.

Formerly L. 1892, ch. 689, § 7, as am'd by L. 1901, ch. 472, § 1.

**§ 8. Powers of superintendent.** Every corporation and individual banker specified in section two of this chapter shall be subject to the inspection and supervision of the superintendent of banks. He shall, either personally or by some competent person or persons to be appointed by him, to be known as examiners, visit and examine every bank, trust company and individual banker at least twice in each year, and every savings bank at least once in two years, and every other corporation specified in section two of this chapter at least once in each year.

On every such examination inquiry shall be made as to the condition and resources of the corporation, the mode of conducting and managing its affairs, the action of its directors, the investment of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held, and whether the requirements of its charter and of law have been complied with in the administration of its affairs, and as to such other matters as the superintendent may prescribe. He shall have power in like manner to examine every corporation and individual banker specified in section two, whenever, in his judgment, its

condition and management is such as to render an examination of its affairs necessary and expedient.

He shall also have power to examine or cause to be examined every agency located in this state of any foreign bank or banking corporation for the purpose of ascertaining whether it has violated any law of the state, and for such other purposes and as to such other matters as the superintendent may prescribe.

The superintendent and every such examiner shall have power to administer an oath to any person whose testimony may be required on the examination of any corporation or individual banker specified in section two of this chapter, or on the examination of any such agency of any foreign bank or banking corporation, and to compel the appearance and attendance of any such person for the purpose of any such examination.

If the examination shall be made by the superintendent, or by one or more of the regular clerks in the department, no charge shall be made except for necessary traveling and other actual expenses.

The result of such examination of a savings bank shall be certified by the examiners, or one of them, upon the records of the corporation examined.

Formerly L. 1892, ch. 689, § 8, as am'd by L. 1901, ch. 253, § 1, and L. 1905, ch. 394, § 1.

**§ 9. Examination of securities deposited.** The president or cashier of every such corporation, and every individual banker, shall once or more during each fiscal year, and at such time or times during ordinary business hours as he may select, examine and compare all securities deposited by such corporation or banker in the office of the superintendent with the books of the department, and, if found correct, execute to the superintendent a receipt stating the different kinds of such securities and the amounts thereof, and that they are in the custody and possession of the superintendent at the date of the receipt. Any individual banker unable to make such examination in person may, by written appointment, authorize an agent to make the same in his behalf, whose receipt shall have the same force and effect as if executed by the banker in person.

If any such corporation or individual banker shall refuse or neglect to make such examination during any fiscal year, the comptroller, secretary of state and superintendent shall appoint some suitable and discreet person as agent for such corporation or individual banker, who shall make such examination, and if the securities so held by the superintendent shall be found to agree with the books of the department, such agent shall execute the

receipt before mentioned, and it shall be of like force and effect as if executed by the president or cashier of any such corporation, or by any such individual banker, or by an agent appointed by him. Such corporation or individual banker shall pay on demand to the person so appointed and making such examination and executing such receipt, such compensation for his services and expenses in making such examination as the superintendent shall certify to be just and reasonable.

Formerly L. 1892, ch. 689, § 9.

**§ 10. Unclaimed balances.** The superintendent shall pay into the treasury of the state all balances of money remaining in his hands unclaimed for six years from the date of the deposit with him, to be applied to the current expenses of the banking department, except the moneys required by this chapter to be kept on deposit with him and the moneys deposited with him by receivers of insolvent savings banks.

Formerly L. 1892, ch. 689, § 10.

**§ 11. Examiners.** Every examiner appointed by the superintendent shall, before entering upon the duties of his appointment, take and file in the office of the clerk of the county where he resides, the constitutional oath of office. And when commissioned by the superintendent he shall forthwith examine fully into the books, papers and affairs of the corporation or individual banker specified in his commission, and report on oath to the superintendent the result of such examination. No such examiner shall be appointed receiver of any corporation or individual banker whose books, papers and affairs he shall have examined pursuant to such appointment.

Formerly L. 1892, ch. 689, § 11.

**§ 12. Examination and certificate as to payment of capital.** When any such corporation or individual banker shall have filed with the superintendent the requisite certificate prior to commencing business under the laws of this state, and shall have made the deposit, if any, required by law, the superintendent shall, before such corporation or individual banker shall be authorized to commence business, examine or cause an examination to be made in order to ascertain whether the requisite capital of such corporation or banker has been paid in, in cash. The superintendent shall not authorize such corporation or individual banker to commence business unless it appears to his satisfaction from such examination or other evidence satisfactory to him that the requisite capital has been in good faith subscribed and paid in cash.

Formerly L. 1892, ch. 689, § 12.

**§ 13. Affidavit to be made before commencing business.** No such corporation shall commence its corporate business until its president and cashier or treasurer or secretary, or its two principal officers, by whatever name known, shall have made and subscribed an affidavit stating that the whole of its capital stock, or such portion thereof as by law shall be required to be paid or secured before the commencement of its operations, has been actually paid or secured to be paid, according to law. Such affidavit may be made before any officer authorized to administer oaths in the county where the corporation has its principal place of business, and shall be filed in the clerk's office of such county. Every such corporation shall cease to be a corporation if the affidavit above required shall not be made and filed within one year from the time its charter shall be granted.

Formerly L. 1892, ch. 689, § 13.

**§ 14. Deposit of bonds or mortgages with superintendent.** Every such corporation, except banks, savings banks and domestic corporations specified in articles six, and eight of this chapter, engaged in receiving deposits of money in trust in this state, and required to make a report of its affairs to the superintendent of banks, shall, before engaging in such business, transfer and assign to the superintendent registered public stocks or bonds of the United States or of this state, or of any city, county, town, village or free school district in this state, authorized by the legislature to be issued, to the amount in value, and to be at all times so maintained by the corporation, of ten per centum on its paid up capital stock, but not less in any case than one hundred thousand dollars in cities the population of which exceeds five hundred thousand inhabitants, and not less than fifty thousand dollars in cities containing more than one hundred thousand inhabitants and less than five hundred thousand inhabitants, and not less than thirty thousand dollars in cities containing more than twenty-five thousand inhabitants and less than one hundred thousand inhabitants, and not less than twenty thousand dollars in cities or towns of less than twenty-five thousand inhabitants, the number of inhabitants in each city or town to be ascertained by the last federal census or state enumeration. Such stocks must be registered in the name of the superintendent officially as held in trust under and pursuant to this chapter, and the same shall be held by the superintendent in trust, as security for the depositors with and the creditors of such corporation, and subject to sale and transfer, and to the disposal of the proceeds thereof by the superintendent,

only on the order of a court of competent jurisdiction. Until the order of such court, authorizing such sale or transfer or other disposition thereof, the superintendent shall pay over to such corporation the interest which may be received on such securities. Should any corporation, at any time, have deposited with the superintendent more than the amount hereby required, the excess may be refunded. With the approval of the superintendent, such a deposit may be made by the corporation, either wholly or in part, in bonds or mortgages satisfactory to the superintendent, on improved, unincumbered productive real property in this state worth at least seventy-five per centum more than the amount loaned thereon. In the case of any foreign corporation, including cooperative savings and loan associations organized or incorporated in any state or country outside of this state, as defined in section two of this chapter, doing business in this state, it shall deposit with the superintendent in trust as security for the depositors with and creditors of said corporation in this state one hundred thousand dollars in securities enumerated in this section. If any foreign corporation doing business in this state shall refuse or neglect to make the deposit herein required with the superintendent, the fact shall be reported by the superintendent to the attorney-general, who shall forthwith take such proceeding as may be necessary to enjoin and restrain such corporation from transacting any business in this state, and the court to which such application shall be made shall be authorized to make such order or decree, and to issue such process in the premises to enforce compliance by the corporation with the provisions of this chapter, or to restrain the transaction of business by it in this state, as it may deem proper.

Formerly L. 1892, ch. 689, § 14, as am'd by L. 1893, ch. 315, § 1, and L. 1896, ch. 452, § 1.

**§ 15. Exchange of securities.** The securities deposited by any corporation pursuant to the provisions of this chapter with the superintendent of banks in trust for any purpose, may be exchanged from time to time for other securities receivable as provided in this chapter; and so long as the corporation so depositing shall continue solvent and comply with the laws of the state, it may be permitted by the superintendent to collect the interest or dividends on such deposits, and from time to time to withdraw any of such securities on depositing with the superintendent other like securities, the par and market value of which shall be equal to the par and market value of those withdrawn.

When any such deposit consists of bonds and mortgages, the president or authorized agent of the corporation deposit-

ing the same shall annex to every such mortgage his affidavit that the mortgage was made and taken in good faith for money loaned by the corporation which he represents, to the amount therein named, and that no part thereof has been since paid or returned; or if any part has been paid, the amount unpaid, and that he has reason to believe and does believe that the premises thereby mortgaged are worth at least seventy-five per centum more than the amount of the mortgage thereon; and the superintendent shall prescribe such regulations for ascertaining the title and value of the real property mortgaged as he may deem necessary.

Formerly L. 1892, ch. 689, § 15.

**§ 16. Publication of report of examiners.** Whenever the superintendent shall deem it proper, a copy of any report made by any examiner shall be published in the state paper and in at least one daily newspaper in the city of New York, and in one newspaper published in the county where the principal place of business of such corporation or individual is located.

Formerly L. 1892, ch. 689, § 16.

**§ 17. Impairment of capital.** Whenever the superintendent shall have reason to believe that the capital stock of any corporation or individual banker, to which this chapter is applicable, is reduced by impairment or otherwise below the amount required by law, or by its certificate or articles of association, he may require such corporation or individual banker to make good the deficiency within sixty days after the date of such requisition. He may examine or cause to be examined any such corporation to ascertain the amount of such impairment or reduction of capital, and whether the deficiency has been made good as required by him. The directors of every such corporation upon which such requisition shall have been made shall immediately give notice of such requisition to each stockholder of the corporation, and of the amount of the assessment which he must pay for the purpose of making good such deficiency, by a written or printed notice mailed to such stockholder at his place of residence, or served personally upon him. If any stockholder shall refuse or neglect to pay the assessment specified in such notice within sixty days from the date thereof, the directors of such corporation shall have the right to sell to the highest bidder at public auction the stock of such stockholder, after giving previous notice of such sale for two weeks in a newspaper of general circulation published in the county where the principal office of such corporation is located; or such stock may be sold at private sale, and without such published notice, provided.



however, that before making a private sale thereof an offer in writing to purchase such stock shall first be obtained, and a copy thereof served upon the owner of record of the stock sought to be sold either personally or by mailing a copy of such offer to such owner at his place of residence or the address furnished by him to the corporation; and if, after service of such offer, such owner shall still refuse or neglect to pay such assessment within two weeks from the time of service of such offer, the said directors may accept such offer and sell such stock to the person or persons making such offer, or to any other person or persons, making a larger offer than the amount named in the offer submitted to such stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the superintendent in his determination and certificate, which valuation shall not be less than the amount of the assessment called for and the necessary costs of sale. Out of the avails of the stock sold the directors shall pay the necessary costs of sale, and the amount of the assessment called for thereon. The balance, if any, shall be paid to the person or persons whose stock has been thus sold. A sale of stock as herein provided shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold, and shall make the same null and void, and a new certificate or new certificates shall be issued to the purchaser or purchasers of said stock. If it shall appear to the superintendent that any such corporation or individual banker has violated its charter or any law binding upon it, he may by an order under his hand and official seal addressed to such corporation or individual banker direct the discontinuance of such violation, or, if it shall appear to the superintendent that any such corporation or individual banker is conducting business in an unsafe or unauthorized manner, he may in like manner direct the discontinuance of such unsafe or unauthorized practices. Such order shall require such corporation or individual banker to show cause before the superintendent at a time and place to be fixed by him, why said order should not be observed.

Formerly L. 1892, ch. 689, § 17, as am'd by L. 1905, ch. 649, § 1; L. 1907, ch. 522 § 1, and L. 1908, ch. 143, § 1.

**§ 18. Causes for dissolution.** If the capital of any corporation to which this chapter is applicable shall be impaired, or if any such corporation shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of such corporation, or if it shall violate its charter, or any law of the state, or if such corporation shall suspend payment

of its obligations, or if such corporation shall conduct its business in an unsafe or unauthorized manner, or if from any examination or report provided for by this chapter the superintendent shall conclude that such corporation is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, and the superintendent shall communicate the facts to the attorney-general, an action to procure a judgment dissolving such corporation may be maintained.

Formerly L. 1892, ch. 689, § 17-a, as added by L. 1908, ch. 143, § 2.

**§ 19. Proceedings against and liquidation of delinquent corporations and individual bankers.**

Whenever it shall appear to the superintendent that any corporation or individual banker to which this chapter is applicable has violated its charter or any law of the state, or is conducting its business in an unsafe or unauthorized manner, or if the capital of any such corporation or individual banker is impaired, or if any such corporation or individual banker shall refuse to submit its books, papers and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of any such corporation or individual banker, or if any such corporation or individual banker shall suspend payment of its obligations, or if from any examination or report provided for by this chapter the superintendent shall have reason to conclude that such corporation or individual banker is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any such corporation or individual banker shall neglect or refuse to observe an order of the superintendent specified in section seventeen of this chapter, the superintendent may forthwith take possession of the property and business of such corporation or individual banker, and retain such possession until such corporation or individual banker shall resume business, or its affairs be finally liquidated as herein provided. On taking possession of the property and business of any such corporation or individual banker the superintendent shall forthwith give notice of such fact to any and all banks, trust companies, associations and individuals, holding or in possession of any assets of such corporation or individual banker. No bank, trust company, association or individual knowing of such taking possession by the superintendent, or notified as aforesaid, shall have a lien or charge for any payment, advance or clearance thereafter made, or liability thereafter incurred against any of the assets of the cor-

poration or individual banker of whose property and business the superintendent shall have taken possession as aforesaid. Such corporation or individual banker may, with the consent of the superintendent, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of such corporation or individual banker the superintendent is authorized to collect moneys due to such corporation or individual banker, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The superintendent shall collect all debts due and claims belonging to it, and upon the order of the supreme court may sell or compound all bad or doubtful debts, and on like order may sell all the real and personal property of such corporation or individual banker on such terms as the court shall direct; and may, if necessary to pay the debts of such corporation, enforce the individual liability of the stockholders. The superintendent may, under his hand and official seal, appoint one or more special deputy superintendents of banks, as agent or agents, to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the superintendent, and a certified copy in the office of the clerk of the county in which the principal office of such corporation or individual banker was located. The superintendent may from time to time authorize a special deputy superintendent to perform such duties connected with such liquidation and distribution as the superintendent may deem proper. The superintendent may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such corporation or individual banker, and may retain such of the officers or employees of such corporation or individual banker as he may deem necessary. The superintendent shall require from a special deputy superintendent and from such assistants such security for the faithful discharge of their duties as he may deem proper. The superintendent shall cause notice to be given by advertisement, in such newspapers as he may direct, weekly for three consecutive months, calling on all persons who may have claims against such corporation or individual banker to present the same to the superintendent, and make legal proof thereof at a place and within a time, not earlier than the last day of publication, to be therein specified. The superintendent shall mail a similar notice to all persons whose names appear as creditors upon the books of the corporation or individual banker. If the superintendent doubts the justice and validity of any claim, he may reject the same, and serve notice of such rejection upon the claimant

either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the superintendent. An action upon a claim so rejected must be brought within six months after such service. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets in the hands of the superintendent equitably applicable thereto. Upon taking possession of the property and assets of such corporation or individual banker the superintendent shall make an inventory of the assets of such corporation or individual banker in duplicate, one to be filed in the office of the superintendent, and one in the office of the clerk of the county in which the principal office of such corporation or individual banker was located; upon the expiration of the time fixed for the presentation of claims the superintendent shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the superintendent, and one in the office of the clerk of the county in which the principal office of such corporation or individual banker was located. Such inventory and list of claims shall be open at all reasonable times to inspection. The compensation of the special deputy superintendents, counsel and employees and assistants, and all expenses of supervision and liquidation, shall be fixed by the superintendent subject to the approval of the supreme court in the judicial district in which the principal office of such corporation or individual banker is located on notice to such corporation or individual banker, and shall upon the certificate of the superintendent be paid out of the funds of such corporation or individual banker in the hands of the superintendent. The moneys collected by the superintendent shall be from time to time deposited in one or more state banks of deposit, savings banks or trust companies, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits. At any time after the expiration of the date fixed for the presentation of claims the superintendent may out of the funds remaining in his hands after the payment of expenses declare one or more dividends, and after the expiration of one year from the first publication of notice to creditors he may declare a final dividend, such dividends to be paid to such persons, and in such amounts, and upon such notice, as may be directed by the supreme court in the judicial district in which the principal office of such corporation or individual banker is located. Objections to any claim not rejected by the superintendent may be made by any party interested by filing a copy of such objec-

tions with the superintendent, who shall present the same to the supreme court at the time of the next application to declare a dividend. The court may make proper provision for unproved or unclaimed deposits. Whenever any such corporation or individual banker, of whose property and business the superintendent has taken possession as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after such taking possession, apply to the supreme court in the judicial district in which the principal office of such corporation or individual banker is located to enjoin further proceedings; and said court, after citing the superintendent to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts may, upon the merits, dismiss such application or enjoin the superintendent from further proceedings, and direct him to surrender such business and property to such corporation or individual banker. Whenever the superintendent shall have paid to each and every depositor and creditor of such corporation (not including stockholders), whose claim or claims as such creditor or depositor shall have been duly proved and allowed, the full amount of such claims, and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the superintendent shall call a meeting of the stockholders of such corporation by giving notice thereof for thirty days in one or more newspapers published in the county where the principal office of such corporation was located. At such meeting the stockholders shall determine whether the superintendent shall be continued a liquidator and shall wind up the affairs of such corporation, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the superintendent, he shall complete the liquidation of the affairs of such corporation, and after paying the expenses thereof, shall distribute the proceeds among the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the supreme court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the superintendent a bond to the people of the state in such amount, with such sureties

and in such form as shall be approved by the superintendent, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the superintendent shall transfer and deliver to such agent or agents all the undivided or uncollected or other assets of such corporation then remaining in his hands; and upon such transfer and delivery, the said superintendent shall be discharged from any and all further liability to such corporation or individual banker and its or his creditors. Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said corporation as is herein provided in the case of distribution by the superintendent, except that the expenses thereof shall be subject to the direction and control of a court of record of competent jurisdiction. In case of the death, removal or refusal to act of any such agent or agents, the stockholders, on the same notice, to be given by the superintendent upon proof of such death, removal or refusal to act being filed with him, and by the same vote hereinbefore provided, may elect a successor, who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected. Dividends and unclaimed deposits remaining unpaid in the hands of the superintendent for six months after the order for final distribution shall be by him deposited in one or more state banks of deposit, savings banks or trust companies, to the credit of the superintendent of banks in his name of office, in trust for the several depositors with and creditors of the liquidated corporation from which they were received entitled thereto. The superintendent shall report to the legislature annually in his report the names of corporations so taken possession of and liquidated and the sums of unclaimed and unpaid deposits or dividends with respect to each of them respectively. The superintendent may pay over the moneys so held by him to the persons respectively entitled thereto upon being furnished satisfactory evidence of their right to the same. In cases of doubt or conflicting claims he may require an order of the supreme court authorizing and directing the payment thereof. He may apply the interest earned by the moneys so held by him towards defraying the expenses in the payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and he shall include, in his annual report to the legislature, a statement of the amount of interest earned by such unclaimed dividends.

Formerly L. 1892, ch. 689, § 18, as am'd by L. 1908, ch. 143, § 3.

**§ 20. Examination by order of court.** The creditors and shareholders of any such corporation whose debts or shares

shall amount to one thousand dollars may make application to the supreme court by a verified petition setting forth facts showing that an examination of the affairs of the corporation should be made, and the court may thereupon, in its discretion, order such an examination to be made by a referee for the purpose of ascertaining the safety of the investments and the prudence of the management of the corporation. The result of every such examination, together with the opinion of the referee thereon, shall be published in such manner as the court shall direct. The court shall make such order in respect to the expenses of the examination and publication as it may deem proper.

Formerly L. 1892, ch. 689, § 19.

**§ 21. Reports.** Every corporation and individual banker subject to the provisions of this chapter shall make a written report to the superintendent of banks, in such form and containing such matters as he shall prescribe. In the case of a bank, trust company or individual banker, the superintendent shall, at least once in every three months, designate some day therein in respect to which the report shall be made. In case of a bank, individual banker or trust company each such report shall state, in addition to the matters prescribed by the superintendent of banks, the amount of deposits the payment of which, in case of insolvency, is preferred by law or otherwise over other deposits. The superintendent of banks shall prescribe the manner and form of making such statement. If a savings bank, or safe deposit company, such report shall be made semi-annually on or before the first day of February and August in each year, and shall contain a statement of its condition on the mornings of the first days of January and July preceding. If a savings bank, such report shall state the amount loaned upon bond and mortgage, together with a list of such bonds and mortgages and the location of the mortgaged premises, as have not been previously reported, and also a list of such previously reported as have been since paid wholly or in part, or have been foreclosed, and the amount of such payments respectively; the original cost, date of purchase, date of maturity, stated rate of interest, par value and estimated investment value of all stock or bond investments, designating each particular kind of stock or bond; the amount loaned upon the pledge of securities, with a statement of the securities held as collateral for such loans; the amount invested in real estate, giving the cost of the same, the amount of cash on hand and on deposit in banks or trust companies, and the amount deposited in each; and such other information as the

superintendent may require. The estimate of investment value of stock and bond investments shall be made by each savings bank in the manner prescribed by the superintendent of banks, provided that no stock or bond shall be estimated at a higher price or value than its investment value by amortization as provided in section one hundred fifty-three of this chapter; or, if the interest upon said security has been in default for more than thirty days prior to the date of such report, or if said security shall cease to be a legal investment for savings banks, at a higher value than the market value thereof. Such report shall also state all the liabilities of such savings corporation on the morning of the said first day of January and July; the amount due to depositors, which shall include any dividend to be credited to them for the six months ending on that day, and any other debts or claims against such corporation which are or may be a charge upon its assets. Such report shall also state the amount deposited during the year previous, and the amount withdrawn during the same period; the whole amount of interest or profits received or earned and the amount of dividends credited to depositors, together with the amount of each semi-annual credit of interest, and the amount of interest that may have been credited at other than semi-annual periods, the number of accounts opened or reopened, the number closed during the year, and the number of open accounts at the end of the year, and such other information as may be required by the superintendent. If a safe deposit company, such report shall contain such particulars as the superintendent may prescribe. If a co-operative savings and loan association, or a mortgage, loan or investment corporation, such report shall be made annually on or before February first in each year, and shall contain a statement of its condition on the first day of January preceding. The superintendent may, for good cause shown, extend the time for making any such report not exceeding thirty days. Every such report shall be verified by the oath of the president and cashier or treasurer of such corporation or by such individual banker, to the effect that the same is true and correct in all respects to the best of his knowledge and belief, and that the usual business of such corporation or banker has been transacted at the location required by this chapter, and not elsewhere. The superintendent shall serve a notice designating the day in each quarter when a report shall be made upon each bank, trust company and individual banker required to report to him by delivering the same to some officer or clerk thereof at their respective places of business or by depositing the same in the post-office inclosed in a post-paid wrapper and properly directed to each of



them, or some officer thereof, at their places of business respectively.

Formerly L. 1892, ch. 689, § 20, as am'd by L. 1898, ch. 333, § 1; L. 1905, ch. 297, § 1; L. 1907, ch. 408, § 1, and L. 1908, ch. 123, § 1.

**§ 22. Penalties for failure to report.** If any bank or trust company or individual banker shall fail to make such report within ten days from the day designated for the making thereof, or to include therein any matter required by the superintendent, or if any savings bank shall fail to make such report within the time required by this chapter, or to include therein any matter required by the superintendent, every such delinquent bank, banker, savings bank or trust company shall forfeit to the people of the state the sum of one hundred dollars for every day that such report shall be delayed or withheld, and for every day that it shall fail to report any such omitted matter. Every other corporation subject to the provisions of this chapter which shall fail to make such report within the time herein required, or to include therein any matter required by the superintendent to be stated, shall forfeit to the people the sum of ten dollars for every day for which such report shall be delayed or withheld, and for every day that any such omitted matter may remain unreported.

The moneys forfeited by this section, when recovered, shall be paid into the state treasury to be used to defray the miscellaneous expenses of the department.

If any corporation or individual banker shall fail to make two successive reports as herein required, every such corporation shall forfeit its charter, and every such individual banker shall forfeit his privileges as such banker; and every such corporation or individual banker may be proceeded against and the affairs of such corporation closed, and such individual banker be restrained from continuance in business, in the same manner as an insolvent corporation or individual banker may be proceeded against.

In case of the failure of any corporation or individual banker to make any report required by law, the superintendent shall immediately cause the books, papers and affairs of such corporation or banker to be examined as directed by section eight of this chapter.

Formerly L. 1892, ch. 689, § 21, as am'd by L. 1905, ch. 297, § 2.

**§ 23. Books, papers and affairs to be examined.** It shall be the duty of the board of directors of every bank and trust company in the months of April and October in each year to examine, or to cause a committee of at least three of its members to examine, fully into the books, papers and affairs of the bank or

trust company of which they are directors, and particularly into the loans and discounts thereof, with the special view of ascertaining the value and security thereof, and of the collateral security, if any, given in connection therewith, and into such other matters as the superintendent of banks may require. Such directors shall have power to employ such assistance in making such examination as they may deem necessary. Within ten days after the completion of each of such examinations a report in writing thereof, sworn to by the directors making the same, shall be made to the board of directors of such bank or trust company, be placed on file in said bank or trust company, and a duplicate thereof filed in the banking department. Such report shall particularly contain a statement of the assets and liabilities of the bank or trust company examined, as shown by the books of the bank or trust company, together with any deductions from the assets, or additions to liabilities, which such directors or committee, after such examination, may determine to make. It shall also contain a statement, in detail, of loans, if any, which in their opinion are worthless or doubtful, together with their reasons for so regarding them; also a statement of loans made on collateral security which in their opinion are insufficiently secured, giving in each case the amount of the loan, the name and market value of the collateral, if it has any market value, and, if not, a statement of that fact, and its actual value as nearly as possible. Such report shall also contain a statement of overdrafts, of the names and amounts of such as they consider worthless or doubtful, and a full statement of such other matters as affect the solvency and soundness of the institution. If the directors of any bank or trust company shall fail to make, or cause to be made, and file such report of examination in the manner, and within the time, specified, such bank or trust company shall forfeit to the people of the state one hundred dollars for every day such report shall be delayed, which penalty may be recovered through an action brought by the attorney-general against such bank or trust company, in the name of the people of the state of New York. The moneys forfeited by this section, when recovered, shall be paid into the state treasury, to be used to defray the expenses of the banking department.

Formerly L. 1892, ch. 689, § 21-a, as added by L. 1905, ch. 418, § 1, and am'd by L. 1906, ch. 481, § 1.

**§ 24. Publication of reports.** Within thirty days after any report required by section twenty-one of this chapter shall be made, the superintendent shall, with the exception of the reports made by savings banks, publish

a summary statement thereof in a paper at Albany in which notices by state officers are required by law to be published, arranging the reports of individual bankers in a separate class, and specifying the name and place of business of each, and the names and residences of the general partners respectively. Such summary statement shall contain the items of capital, circulation, if any, and deposits, specie and cash items, public securities and private securities and such other matters as may be necessary to inform the public as to the financial condition and solvency of any such corporation or banker, or which the superintendent may deem proper to include therein. The separate report required by said section of each corporation and individual banker shall be published by such corporation or individual banker in at least one newspaper of the place where its principal place of business is located, if there be one; if not, then in the newspaper published nearest where such corporation or banker is located.

Formerly L. 1892, ch. 689, § 22, as am'd by L. 1905, ch. 297, § 2.

**§ 25. Annual report of superintendent.** The superintendent shall report annually to the legislature, at the commencement of its first session :

1. A summary of the state and condition of every corporation and individual banker required to report to him and from which reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of capital returned by them, the whole amount of their debts and liabilities, specifying particularly the amount of circulating notes outstanding, if any, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to such corporations and bankers as, in his judgment, may be useful. Such corporations shall be divided into classes so as to correspond with the designations thereof in section two of this chapter.

2. A statement of all banks and individual bankers and other corporations and individuals authorized by him to do business during the previous year, with their names and locations and dates of incorporation, and particularly designating such as have commenced business during the year.

3. A statement of the banks and individual bankers whose business has been closed during the year, with the amount of their circulation redeemed and the rate per centum of such redemption, and the amount outstanding.

4. Any amendments to this chapter, which in his judgment, may be desirable.

5. The names and compensation of the clerks employed by him, and the whole amount of the expenses of the department during the year, and the amount, if any, for which the treasury shall be in advance.

Such report shall be made by or before the last day of the year, and the usual number of copies for the use of the legislature shall be printed and in readiness for distribution by the printer employed to print legislative documents, and one thousand copies shall be printed for the use of the department, the expense of which shall be charged to the general expenses of the department.

Such report may be divided into parts, and the part or parts containing the reports of corporations other than banks may be made on or before the fifteenth day of March in each year.

Formerly L. 1892, ch. 689, § 23, as am'd by L. 1907, ch. 408, § 2.

**§ 26. Reports presumptive evidence.** Every official report made by the superintendent to the attorney-general, and every report duly verified of any examination made, shall be presumptive evidence of the facts therein stated in all motions in any action or proceeding for the appointment of a temporary receiver of any corporation to which such report relates.

Formerly L. 1892, ch. 689, § 24.

**§ 27. Restrictions.** 1. No bank or trust company shall make any loans to any person, company, corporation or firm, to an amount exceeding the one-tenth part of its capital stock, actually paid in, and surplus; provided, however, that a bank or trust company having its principal place of business in a borough in any city of the state which borough had according to the last preceding state or United States census a population of eighteen hundred thousand or over may loan to any person, company, corporation or firm, a sum not exceeding twenty-five per centum of its capital stock actually paid in and surplus and a bank or trust company having its principal place of business elsewhere in the state forty per centum of its capital stock actually paid in and surplus upon security worth at least fifteen per centum more than the amount of the loans; or it may loan ten per centum of such capital and surplus as first above provided, and a bank or trust company having its principal place of business in a borough in any city in the state which borough had according to the last preceding state or United States census a population of eighteen hundred thousand or over may loan a further sum not exceeding fifteen per

centum of such capital and surplus and a bank or trust company having its principal place of business elsewhere in the state may loan thirty per centum of such capital and surplus upon security worth at least fifteen per centum more than the amount of such loan so secured; and provided further, that a bank or trust company may buy from, or discount for, any person, company, corporation or firm, or loan upon, bills of exchange drawn in good faith against actually existing values, or commercial or business paper actually owned by the person negotiating the same, a sum not exceeding twenty-five per centum of its capital stock actually paid in and surplus if its principal place of business is located in a borough in any city in the state which borough had according to the last preceding state or United States census a population of eighteen hundred thousand or over and not exceeding forty per centum of its capital stock actually paid in and surplus if its principal place of business is located elsewhere in the state; provided further, however, that with the exception of the liability of the United States, of this state, or of any county or incorporated city of this state the total liability of any person, company, corporation or firm to a bank or trust company shall not exceed twenty-five per centum of the actually paid in capital stock and surplus of any such bank or trust company having its principal place of business in a borough in any city in the state which borough had according to the last preceding state or United States census a population of eighteen hundred thousand or over and shall not exceed forty per centum of the actually paid in capital stock and surplus of any such bank or trust company having its principal place of business elsewhere in the state.

2. No loan shall be made by any bank or trust company upon the securities of one or more corporations the payment of which is undertaken in whole or in part severally, but not jointly, by two or more individuals, firms or corporations:

(a) if the borrowers or underwriters be obligated absolutely or contingently to purchase the securities or any of them collateral to such loan, unless the borrowers or underwriters shall have paid on account of the purchase of such securities an amount in cash or its equivalent equal to at least twenty-five per centum of the several amounts for which they remain obligated in completing the purchase of such securities;

(b) if the bank or trust company making such loan be liable directly, indirectly or contingently, for the repayment of such loan or any part thereof;

(c) if its term including any renewal thereof, by agreement, express or implied, exceed the period of one year;

(d) or to an amount, under any circumstances, in excess of twenty-five per centum of the capital and surplus of the bank or trust company making such loan.

3. No corporation to which this chapter is applicable except a building and mutual loan corporation or association or a co-operative savings and loan association shall hereafter make a loan, directly or indirectly, upon the security of real estate upon which there is a prior mortgage, lien or incumbrance, if the amount unpaid upon such prior mortgage, lien or incumbrance, or the aggregate amount unpaid upon all prior mortgages, liens and incumbrances exceeds ten per centum of the capital and surplus of such corporation, or if the amount so secured, including all prior mortgages, liens and incumbrances shall exceed two-thirds of the appraised value of such real estate as found by a committee of the directors or trustees of such corporation; but this provision shall not prevent the acceptance of any such real estate securities to secure the payment of a debt previously contracted in good faith. Every mortgage and every assignment of a mortgage taken or held by such corporation shall immediately be recorded in the office of the clerk of the county in which the real estate described in the mortgage is located. After the first day of November, nineteen hundred and eight, no loan shall be made, directly or indirectly, upon real estate security by a bank having its principal place of business in a borough in any city in the state which borough had according to the last preceding state or United States census a population of eighteen hundred thousand or over, if its total direct and indirect loans upon real estate security exceed, or by the making of such loan will exceed, fifteen per centum in the aggregate of the total assets of such bank, or by a bank having its principal place of business elsewhere in the state if its total direct and indirect loans upon real estate security exceed, or by the making of such loan will exceed twenty-five per centum in the aggregate of its total assets.

4. No corporation to which this chapter is applicable nor any of its directors, officers, agents or servants shall, directly or indirectly, purchase or be interested in the purchase of any promissory note or other evidence of debt issued by it for a less sum than shall appear on the face thereof to be due. Every person violating the provisions of this subdivision shall forfeit to the people of the state three times the nominal amount of the note or other evidence of debt so purchased.

5. No corporation to which this chapter is applicable shall deposit any of its funds with any other moneyed \*corporations unless

\*So in original.

such other moneyed corporation has been designated as a depository for its funds by vote of a majority of the directors or trustees of the corporation making the deposit, exclusive of any director or trustee who is an officer, director or trustee of the depository so designated.

6. No president, director, cashier, clerk or agent of any corporation to which this chapter is applicable, and no person in any way interested or concerned in the management of its affairs, shall as individuals discount, or, directly or indirectly, make any loan upon any note or other evidence of debt, which he shall know to have been offered for discount to such corporation, and to have been refused. Every person violating the provisions of this subdivision, shall, for each offense, forfeit to the people of the state twice the amount of the loan which he shall have made.

7. No officer, director, clerk or agent of any bank shall borrow, directly or indirectly, from the bank with which he is officially connected any sum of money without the consent and approval of a majority of the board of directors thereof. Every person violating this provision shall, for each offense, forfeit to the people of the state twice the amount which he shall have borrowed.

8. No corporation to which this chapter is applicable except a building and mutual loan corporation or co-operative savings and loan association, shall make any loan or discount on the security of the shares of its own capital stock nor be the purchaser or holder of any such shares unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale. Every person or corporation violating the provisions of this subdivision shall forfeit to the people of the state twice the nominal amount of such stock.

9. No corporation to which this chapter is applicable shall hereafter make a loan, secured by the stock of another moneyed corporation, if by the making of such loan the total stock of such other moneyed corporation held by it as collateral will exceed in the aggregate ten per centum of the capital stock of such other moneyed corporation. *Subd. 9 am'd by L. 1909, ch. 240, § 2.*

10. The directors of any bank may semi-annually or quarterly declare a dividend of so much of the net profits of the corporation of which they are directors as they shall judge expedient, but each such corporation shall, before the declaration of a dividend, carry

one-tenth part of its net profits earned since its last preceding dividend to its surplus fund until the same shall amount to twenty per centum of its capital. Any surplus fund already accumulated by any such corporation may be counted as part of said twenty per centum. Each corporation shall report to the superintendent of banks within ten days after declaring a dividend the amount of such dividend, and the amount of net earnings in excess of such dividend, and the amount carried to the surplus fund. Such report shall be attested by the oath of the president or cashier of the corporation. If the directors of any such corporation shall knowingly violate, or knowingly permit any of the officers, agents or servants of the corporation to violate any of the provisions of this subdivision, all the rights, privileges and franchises of the corporation shall thereby be forfeited. Such violation shall, however, be determined and adjudged by the supreme court of the state in a suit brought for that purpose by the superintendent of banks in his own name before the corporation shall be declared dissolved.

11. No savings bank hereafter incorporated shall do business or be located in the same room or in any room communicating with any bank, or national banking association.

Formerly L. 1892, ch. 689, § 25, as am'd by L. 1893, ch. 696, § 1; L. 1895, ch. 929, § 1; L. 1896, ch. 452, § 2; L. 1905, ch. 456, § 1; L. 1906, ch. 572, § 1, and L. 1908, ch. 169, § 1.

**§ 28. Calculation of profits.** Interest unpaid, although due or accrued on debts owing to the corporation or banker, shall not be included in the calculation of its profits previous to a dividend, unless such interest be accrued upon loans secured by collaterals as provided by section twenty-seven of this chapter. The surplus profits, from which alone a dividend can be made, shall be ascertained by charging in the account of profit and loss and deducting from the actual profits:

1. All expenses paid or incurred, both ordinary and extraordinary, attending the management of its affairs and the transaction of its business.

2. The interest paid, or then due and accrued, on debts owing by it.

3. All losses sustained by it. In the computation of such losses, all debts owing to it shall be included which shall have remained due, without prosecution, and upon which no interest shall have been paid for more than one year, or on which judgment shall have been recovered that shall have remained for more than two years unsatisfied, and on which no interest shall have been paid during that period.

Formerly L. 1892, ch. 689, § 26, as am'd by L. 1893, ch. 696, § 2.



**§ 29. Losses in excess of profits.** All losses sustained by any corporation or banker subject to this chapter, in excess of its undivided profits then realized and possessed, shall be charged as a reduction of its capital stock, and no dividend shall thereafter be made on its shares of stock until the deficit of capital so created shall be made good, either by the recovery of the moneys charged as lost or from the subsequently accruing profits of the corporation.

Formerly L. 1892, ch. 689, § 27.

**§ 30. Publication of unclaimed dividends and deposits.** Every bank and individual banker doing business under any law of the state shall annually, on or before September, first, cause to be published for six successive weeks in one newspaper of the county in which such bank or individual banker is located, and in a paper at Albany in which notices by state officers are required by law to be published, a true and accurate statement, verified by the oath of the cashier, treasurer or president, of all deposits made with such bank or individual banker, and of all dividends and interest declared upon any of the stock, bonds or other evidences of indebtedness of such bank or banker, which at the date of such statement shall amount to fifty dollars or over and have remained unclaimed by any person or persons authorized to receive the same for five years then next preceding. The expenses of such advertising shall be deducted from the sums unclaimed in proportion to the amount of each respectively. Such statement shall set forth the date of the deposit, its amount, the name and residence, if known, of the person making it, the name of the person in whose favor and the time when the dividend may have been declared, or interest accrued, its amount, and upon what number of shares, and on what amount of stock, bonds or other evidences of indebtedness, of any such bank or banker, it was declared or accrued.

Every savings bank or institution for savings now existing or which hereafter may be organized under and by virtue of any law of this state, shall on or before the first day of June in each year, make a report in writing to the superintendent of banks, verified by the oath of the two principal officers of the institution, concerning such accounts of depositors of amounts of five dollars or more, as have been dormant for twenty-two years and upwards, from the first day of May preceding; that is, accounts which have not been increased or diminished by deposits or withdrawals, exclusive of interest credits. The accounts of depositors whose pass-books have been presented at the bank for the entry of interest earned, within the period of

twenty-two years, shall not be deemed dormant accounts within the meaning of this chapter.

The first report of each savings bank, made in compliance with the provisions of this section, shall accurately state the full names of all depositors which the books of the savings bank show to have five dollars or more to their credit respectively, whose accounts have been dormant for twenty-two years or upwards; such report shall also state the date on which the original deposit was made, the last known place of residence of the depositor, his or her occupation, date of birth, nationality, parents' name if known, and the date when the savings bank discontinued the crediting of interest on each account, together with any additional data which may aid in determining the ownership of such dormant account. All subsequent reports in addition to dormant accounts not previously reported, shall contain a list of such previously reported accounts as have either been paid, or become active accounts since the last report, through partial payments, or the presentation of pass-books for the entry of the interest due to the account. It is expressly provided, however, that the sums to the credit of such dormant accounts are not required to be stated in the reports provided for by this section.

Any corporation or banker failing to make any report or statement required by this section shall forfeit to the people of the state the sum of one hundred dollars per day for every day such report or statement shall be so delayed or withheld, which, when collected, shall be paid into the treasury of the state and applied to the expenses of the banking department; but the superintendent may, for sufficient cause, extend the time for making such report or statement not exceeding thirty days.

The superintendent shall keep in his office an index of the names of the persons appearing from such reports or statements to be entitled to any such dividends, interest or deposit, and whenever any inquiry shall be made to him concerning the same, he may require the applicant to furnish evidence of his right thereto; and if satisfied that such applicant or his principal has a lawful claim to any part of such dividends, interest or deposits, he shall indicate to the person making such application by which of the savings banks such dividends, interest or deposits are held.

Formerly L. 1892, ch. 689, § 28.

**§ 31. Change of location.** Any corporation or banker to which this chapter is applicable may make application to the superintendent of banks for leave to change its place of business to another place in the same or another county. If the

proposed place is within the limits of the town, village or city in which the business is carried on, such change may be made upon the written approval of the superintendent; if beyond such limits, notice of intention to make such application, signed by the two principal officers of the corporation or individual banker, shall be published once a week for two weeks in a newspaper published in the city of Albany, and in a newspaper published in the county in which such place of business is located, to be designated by the superintendent of banks. The application shall state the reasons for such proposed change, and be signed by a majority of the board of directors of the corporation, and, except in the case of corporations enumerated in article six of this chapter, be accompanied by the written assent thereto of stockholders owning at least two-thirds in amount of the stock of the corporation, or by the banker. If the superintendent shall be satisfied that there is no reasonable objection to such change of location, he shall make a certificate authorizing such change, which shall be filed in the office of the superintendent, and a certified copy thereof with the clerk of the county in which the place of business of the corporation or banker is located, and with the clerk of the county to which its place of business is changed, if in another county, and published once in each week for two successive weeks in the newspapers in which the notice of application was published. When the requirements of this section shall have been fully complied with, the corporation or banker may, upon or after the day specified in the certificate, remove its property and effects to the location designated in the certificate, and thereafter its sole business location shall be the location so specified; and it shall have all the rights and powers in such new location to which it was entitled at its former location; but no such change of location shall in any manner lessen or impair any liability of the corporation or banker incurred or existing at the time such change was made.

Formerly L. 1892, ch. 689, § 29, as am'd by L. 1895, ch. 39, § 1.

**§ 32. Approval and certificate of superintendent upon incorporation.** No corporation to which this chapter is applicable shall be incorporated hereunder, or transact any business in this state other than such as relates to its formation, without the written approval of the superintendent of banks and without his written certificate stating that it has complied with the provisions of this chapter and with all the requirements of law, and that it is authorized to transact within this state the business specified therein, and that such business can be

safely intrusted to it; which certificate shall be recorded in the office of the superintendent in a book to be kept by him for that purpose and a certified copy thereof filed in the office of the clerk of the county where the corporation is to have its principal business office.

Formerly L. 1892, ch. 689, § 30.

**§ 33. Permission and certificate of superintendent in case of foreign corporations.** No foreign corporation incorporated for the purpose of carrying on the business specified in articles six and eight of this chapter shall transact business in this state without the written permission of the superintendent of banks and a written certificate from him stating that such corporation has complied with all of the provisions of this chapter applicable to it and with all the requirements of law, and that it is authorized to transact the business within this state specified therein and that such business may be safely intrusted to it. Such permission and certificate shall continue in force only for the period of one year from the date thereof, but may be renewed by the superintendent from time to time for a like period if satisfied that the corporation has complied with all of the provisions of this chapter and with the requirements of law and that such business can be safely intrusted to it.

Formerly L. 1892, ch. 689, § 31.

**§ 34. Appointment of superintendent as attorney for service of process.** No foreign corporation, company or association, to which this chapter is applicable, shall transact any business in this state until it has executed and filed with the superintendent of banks a written instrument appointing such superintendent its true and lawful attorney, upon whom all process in any action or proceeding by any resident of the state against it may be served with the same effect as if it existed in this state and had been lawfully served with process therein. Service in favor of a resident of this state upon such attorney shall be deemed a personal service upon such corporation, company or association. The superintendent of banks shall forthwith forward a copy of every process served upon him under the provisions of this section by mail, postage prepaid, and directed to the secretary of such corporation, company or association at its last known post-office address. For each copy of process the superintendent shall collect the sum of two dollars which shall be paid by the plaintiff or moving party at the time of such service to be recovered by him as a part of his taxable disbursements if

he succeeds in the suit or proceeding. The term "process" in this section includes any writ, summons, petition or order whereby any suit, action or proceeding shall be commenced by a resident of the state.

Formerly L. 1892, ch. 689, § 32.

**§ 35. Appointment of receiver.** If it is made to appear upon application of any creditor or shareholder of any such corporation, company or association residing in this state that the funds on deposit with the superintendent of banks are insufficient to pay in full the creditors and shareholders residing in this state, or that it is insolvent, or has suspended business, or that insolvency or bankruptcy proceedings have been taken against it either voluntarily or involuntarily, the supreme court may, upon due notice to the attorney-general, and upon such notice to the corporation, company or association as the court shall prescribe, appoint a receiver of such funds; and pending such application, the court or any judge thereof may enjoin the commencement or prosecution of any other action or proceeding against such corporation, company or association. Upon the qualification of such receiver, the superintendent of banks shall pay over to him the funds remaining in his hands less any charges which he may have against the same, and the receiver shall distribute such funds among the creditors and shareholders of the corporation, company or association residing in this state in the manner prescribed by law for the payment of creditors in the case of voluntary dissolution of a corporation.

Formerly L. 1892, ch. 689, § 33.

**§ 36. Merger.** Any two or more corporations, other than savings banks organized under any one article of this chapter, or organized under the laws of this state for the purposes, or either of them, mentioned in any one article of this chapter, are hereby authorized to merge one or more of said corporations into another in the manner following: The respective boards of directors of such corporations may enter into and make an agreement, under their respective corporate seals, for the merger of one or more of said corporations into another of them, prescribing the terms and conditions thereof and the mode of carrying the same into effect, which agreement shall be subject to the approval of the superintendent of banks, and may provide that such corporation upon and after such merger shall have the name of any one of the corporations merged, to be specified in said agreement, and may name the persons, not less than thirteen nor more than twenty-four, who shall constitute the board of directors of such corporation after its merger, or may provide for a meeting of stockholders within sixty

days after the merger to elect a board of directors with such temporary provision for conducting the affairs of the corporation meanwhile as shall be agreed upon; and said directors so named or elected, after qualifying shall divide themselves into classes in manner and with effect as provided in section one hundred and ninety-five of this chapter and may adopt new by-laws for said corporation.

Formerly L. 1892, ch. 689, § 34, as added by L. 1895, ch. 382, § 1, and am'd by L. 1900, ch. 199, § 1.

**§ 37. Submission of merger agreement to stockholders.** Such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof to be called upon notice of at least two weeks, specifying the time, place and object thereof, addressed to each stockholder at his last known post-office address and deposited in the post-office, postage prepaid, and published for at least two successive weeks in one of the newspapers in each of the counties of this state in which either of such corporations shall have its principal place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately by the vote or ballot of the stockholders owning at least two-thirds of the stock, the same shall be the agreement of such corporations. A sworn copy of the proceedings of such meetings, made by the secretaries thereof, respectively, shall be presumptive evidence of the holding and action of such meetings. Such agreement and verified copy of proceedings of such meetings shall be made in duplicate and filed in the office of the superintendent of banks and in the office of the clerk of the county in which the principal place of business of the corporation into which such corporation or corporations shall be merged is located, and thereupon such corporations shall be merged as specified in such agreement, and the corporation into which the other or others are merged, shall thereafter have the new name, if any, specified in such agreement pursuant to the provisions of section thirty-six of this chapter, and the provisions of such agreement shall be carried into effect as therein provided; and it shall be lawful for said corporation into which the others shall have been merged to require the return of the original certificate of stock held by each stockholder in each or either of the companies, and in lieu thereof to issue new certificates for such number of shares of its own stock as under the agreement of merger the said stockholder may be entitled to receive.

Formerly L. 1892, ch. 389, § 35, as added by L. 1895, ch. 382, § 1, and am'd by L. 1900, ch. 199, § 2.

**§ 38. Rights of dissenting stockholders.** If any stockholder not voting in favor of such agreement of merger shall, at such meeting or within twenty days thereafter, object to such merger and demand payment for his stock, or, in the case of co-operative savings and loan associations, if such stockholder be a borrower, liquidation of his indebtedness and cancellation of his stock, such stockholder, if the merger takes effect at any time thereafter may, at any time within sixty days after such merger, apply to the supreme court at any special term thereof held in the district in which the county is situated in which such corporation into which the other or others may be merged may have its principal place of business, upon at least eight days' notice to said corporation, for the appointment of three persons to appraise the value of his stock, or the amount of said indebtedness, if any, and the court shall appoint such appraisers and designate the time and place of their first meeting, with such directions in regard to their proceedings as shall be deemed proper, and also direct the time and manner in which payment of such stock to such stockholder or liquidation of such indebtedness by him and cancellation of his stock shall be made. The court may fill any vacancies in the board of appraisers occurring by refusal or neglect to hold such office. The appraisers shall meet at the time and place designated and after being duly sworn shall honestly and faithfully discharge their duties and estimate and certify the value of such stock, and the amount of such indebtedness, if any, at the time of such decision, and deliver one copy to such corporation and another to such stockholder if demanded; the charges and expenses of the appraisers shall be paid by the corporation. When the corporation shall have paid the appraised value of such stock, or if such stockholder be a borrower as aforesaid, when he shall have paid the amount of his indebtedness as fixed by such appraisal, as directed by the court, said stock shall be canceled and such stockholder shall cease to be a member of said corporation or to have any interest in such stock and in the corporate property, and such stock may be held and disposed of by the corporation for its own benefit; and if such stockholder be a borrower as aforesaid proper instruments of acquittance shall be duly executed and delivered to him by the corporation and thereupon he shall be discharged from all further liability to the corporation.

Formerly L. 1892, ch. 689, § 36, as added by L. 1895, ch. 382, § 1.

**§ 39. Effect of merger.** Upon the merger of any corporation in the manner herein provided all and singular the rights, franchises and interests of the said corporation so merged in and to every species of property, real, personal and mixed, and

things in action thereunto belonging shall be deemed to be transferred to and vested in such corporation into which it has been merged, without any other deed or transfer, and said last named corporation shall hold and enjoy the same and all rights of property, franchises and interests in the same manner and to the same extent as if the said corporation so merged should have continued to retain the title and transact the business of such corporation; and the title and real estate acquired by the said corporation so merged shall not be deemed to revert by means of such merger or anything relating thereto.

Formerly L. 1892, ch. 689, § 37, as added by L. 1895, ch. 382, § 1.

**§ 40. Rights of creditors and others having relations with merged corporations.** The rights of creditors of any corporation that shall be so merged shall not in any manner be impaired by any such merger, nor shall any liability or obligation for the payment of any money due or to become due, or any claim or demand, in any manner or for any cause existing against such corporation, or against any stockholder thereof, be in any manner released or impaired, and all the rights, obligations and relations of all the parties, creditors, depositors, trustees and beneficiaries of trusts shall remain unimpaired by the merger, but such corporation into which the other or others shall be merged shall succeed to all such relations, obligations, trusts and liabilities and be held liable to pay and discharge all such debts and liabilities, and to perform all such trusts of the merged corporation in the same manner as if such corporation into which the other shall become merged had itself incurred the obligation or liability or assumed the relation or trust, and the stockholders of the respective corporations so entering into such agreement shall continue subject to all the liabilities, claims and demands existing against them as such at or before such merger, and no suit, action or other proceeding then pending before any court or tribunal in which any corporation that may be merged is a party shall be deemed to have abated or discontinued by reason of any such merger, but the same may be prosecuted to final judgment in the same manner as if the said corporation had not entered into the said agreement, or the said last named corporation may be substituted in the place of any corporation so merged as aforesaid, by order of the court in which such action, suit or proceeding may be pending.

Formerly L. 1892, ch. 689, § 38, as added by L. 1895, ch. 382, § 1, and am'd by L. 1900, ch. 199, § 3.

**§ 41. Communications from banking department.** Each official communication directed by the banking department to a bank, savings bank, or trust company, pertaining



to an investigation or examination conducted by the department, or to the affairs of such bank, savings bank or trust company, or containing suggestions or recommendations as to the conduct of the business thereof, shall be submitted, by the officer receiving it, to the board of directors or trustees of such bank, savings bank or trust company, at the next meeting of such board.

Formerly L. 1892, ch. 689, § 39, as added by L. 1905, ch. 416, § 1.

**§ 42. Meetings of directors or trustees and reports thereto.** The directors or trustees of every corporation to which this chapter is applicable shall hold a regular meeting once in each month. They shall by resolution duly recorded in the minutes of the proceedings of such corporations designate an officer or officers whose duty it shall be to prepare and submit to each director or trustee at each regular meeting of the board, or to an executive committee of not less than five members of such board, a written statement of all purchases and sales of securities, and of every discount and loan, exclusive of discounts and loans of less than one thousand dollars, made since the last regular meeting of the board, describing the collateral to the loans so made as of the date of the meeting at which such statement is submitted. Such statement shall also contain a list giving the aggregate of loans and discounts to each individual, firm, corporation or association, whose liability to such corporation has been increased one thousand dollars or more since the last regular meeting of the board, together with a description of the collateral to such loans held by such corporation at the date of the meeting at which such statement is submitted. A copy of such statement, together with a list of the directors present at such meeting, verified by the affidavit of the officer or officers charged with the duty of preparing and submitting such statement shall be filed with the records of the corporation within one day after such meeting, and be presumptive evidence of the matters therein stated.

Formerly L. 1892, ch. 689, § 39-a, as added by L. 1908, ch. 155, § 1.

**§ 43. Official acts of superintendent and details of department business to be made public.** 1. The superintendent of banks shall keep in his office, in a place accessible to the general public, a bulletin board upon which he shall cause to be posted at noon on Friday of each week a detailed statement, signed by him or, in case of his absence from Albany or inability to act, by the deputy superintendent in charge, giving the following items of general information with regard to the work of the department since the preceding statement:

(a) The name of every corporation that has filed in the banking department a certificate of incorporation or organization, its location and the date of filing of such certificate.

(b) The name and location of every corporation or individual banker authorized by the superintendent of banks to commence business, its capital, surplus and the date of authorization.

(c) The name of every proposed corporation to which a certificate of authorization has been refused by the superintendent of banks, and the date of notice of refusal.

(d) The name of every corporation that has applied to the superintendent of banks for permission to open a branch office, the date of such application and the location of the proposed branch.

(e) The name of every corporation that has been authorized by the superintendent of banks to open a branch office, the date of approval and the location of such branch office.

(f) The name and location of every corporation designated by the superintendent of banks as a depository for the lawful money reserve of banks or trust companies, its capital, surplus and the date of designation.

(g) The name and residence of every person appointed by the superintendent of banks as a deputy, examiner or employee in the banking department, the title of the office to which appointed, the compensation paid and the date of appointment.

(h) The date on which a call for a quarterly report by banks or trust companies was issued by the superintendent of banks and the day designated as the day with reference to which such report should be made.

(i) The name and location of every corporation or individual banker of whose property and business the superintendent of banks shall have taken possession and the date of taking possession, and the name and residence of every person appointed by the superintendent as a special deputy superintendent of banks.

(j) The name and location of every corporation or individual banker which shall have been authorized by the superintendent of banks to resume business, and the date of resumption.

(k) The name and location of every corporation whose creditors or depositors have been paid in full by the superintendent of banks and a meeting of whose stockholders shall have been called, together with date of meeting and date of meeting.

(l) The name and location of every corporation subject to the banking law whose affairs and business shall have been finally liquidated and the corporation dissolved.

(m) The name and location of every corporation which has applied for approval of a change of name, and the name proposed.

2. Every such statement, after having been posted as aforesaid for one week, shall be placed on a file for such statements to be kept in the office of the superintendent of banks. All such statements shall be public documents and at all reasonable times shall be open to public inspection.

Formerly L. 1892, ch. 689, § 39-b, as added by L. 1908, ch. 158, § 1.

**§ 44. Banks designated as depositaries of court funds to give bonds and pay interest.** The depositaries designated by the comptroller to receive funds or moneys paid into court, shall pay a fair rate of interest, and before receiving any such deposit shall give to the people of the state a good and sufficient bond with two or more sureties, in such form as the attorney-general shall prescribe, such bond to be approved by the county judge of the county in which such savings bank, bank, trust company, bank association or banker shall be located, and by the comptroller of the state, and filed in the office of the comptroller.

Formerly Code Civil Procedure, § 746 part.

**§ 45. Banks designated as depositaries of court funds to keep books of account.** Every bank or trust company holding any funds or money paid into court shall keep a book or books in which it shall make an exact account thereof. Such book or books shall state the name of the court, the title of the case, the date of receipt, from whom received, the amount of money, if any, and a description of the securities or other property received, if any, and each addition of interest; also the date and description of each order for payment and the dates and amounts of payments thereunder and to whom paid; also an account of each change of investment, if any.

Formerly Code Civil Procedure, § 752 part.

## ARTICLE 3

### Banks

- Section 60. Incorporation.
61. Previous notice of intention to be given.
62. When superintendent shall file certificate.
63. Examination by and certificate of superintendent.
64. Amended certificate of incorporation.
65. Certificate of individual banker.
66. General powers.
67. Lawful money reserve.
68. Payment of capital stock.
69. Annual meeting and election of directors.

- Section** 70. Oath of directors.  
71. Individual liability of stockholders.  
72. Limitation of liability of stockholders.  
73. Powers of president and vice-president.  
74. Rate of interest.  
75. Interest permitted on advances on collateral security.  
76. Deposit of banks and individual bankers with superintendent.  
77. Prohibition against sale of business by individual banker.  
78. Change from state to national bank.  
79. When deemed to have surrendered its charter.  
80. Reduction of capital stock in such cases.  
81. Certificate of change.  
82. National bank may become state bank.  
83. Circulating notes; plates.  
84. Circulating notes of individual banker.  
85. When bank may receive interest or dividends upon securities deposited.  
86. Redemption agencies.  
87. Destruction of bank notes.  
88. Destruction of plates and counterfeit notes.  
89. Exchange of mutilated notes.  
90. Redemption in notes of other banks.  
91. Protest of notes and proceedings thereon.  
92. Appointment of agent by new corporation.  
93. Revocation of appointment.  
94. Distribution of funds of insolvent banks.  
95. Distribution of residue.  
96. Publication of notices.  
97. Redemption of notes held by banks and individual bankers.  
98. Banks closing business.  
99. Proceedings on closing bank.  
100. Proportionate amount of securities to be returned when notes are destroyed.  
101. Deposit of cash for redemption of notes.  
102. Circulation of foreign bank notes prohibited.  
103. Notes not receivable at par not to be paid out.  
104. Bills or notes must be payable on demand.  
105. When bills of exchange to be without grace.  
106. Transfers of securities by superintendent to be countersigned by treasurer.

**Section 107. Unauthorized banking prohibited.**

108. Restrictions as to foreign corporations.
109. Restrictions as to banks and their officers.
110. Bills payable otherwise than in money prohibited.
111. Certain bills declared to be promissory notes.
112. Use of sign indicating bank by unauthorized persons prohibited.
113. Lost bank certificate; application to court for order requiring payment.
114. Petition; service of.
115. Bank to furnish information.
116. Notice; order, and publishing.
117. Contents of notice.
118. Application for final order.
119. Order; filing, and service; refusal to pay.
120. Bond discharged; bank released.

**§ 60. Incorporation.** Five or more persons may form a corporation to be known as a bank. Such persons shall make, acknowledge and file in the office of the clerk of the county where such bank is to be established and in the office of the superintendent of banks, a certificate in duplicate, which shall state:

1. The name by which such bank is to be known.
2. The particular city, town or village where its operations of discount and deposit are to be carried on.
3. The amount of its capital stock, which shall not be less than twenty-five thousand dollars in any village, incorporated or unincorporated, whose population does not exceed two thousand, and not less than fifty thousand dollars in any city, village or town whose population exceeds two thousand but does not exceed thirty thousand, and not less than one hundred thousand dollars elsewhere, the population in each case to be ascertained or determined by the last federal or state enumeration; and the number of shares into which such capital stock shall be divided.
4. The names and places of residence of the stockholders and the number of shares held by each.
5. The dates at which such corporation shall commence and terminate.
6. The number of directors of the bank, which shall not be less than five, and the names of the stockholders who shall be directors for the first year of its incorporation. A duplicate of such certificate when filed shall be recorded by the county clerk in the books kept for the record of certificates of incorporation, and a duplicate by the superintendent of banks in a book to be kept by

him for that purpose. Such certificate may provide for an increase of the capital stock and of the number of persons forming the corporation, from time to time, as the stockholders may deem proper, and for the manner in which the stock of the corporation may be transferred, and for the number of directors necessary to constitute a quorum, and for the time when the annual election of directors shall be held.

Formerly L. 1892, ch. 689, § 40, as am'd by L. 1893, ch. 408, § 1, and L. 1908, ch. 125, § 1.

**§ 61. Previous notice of intention to be given.**

Before filing such organization certificate, a notice of intention to organize such bank shall be published at least once a week for four weeks in a newspaper to be designated by the superintendent of banks published in the city or town where such bank is proposed to be located. Such notice shall specify the names of the proposed corporators, the name of the proposed corporation and its location as set forth in such organization certificate. If any bank or banks are organized and doing business in such city or town a copy of such notice shall also be sent to each bank so organized and doing business at least fifteen days before the filing of the organization certificate.

Formerly L. 1892, ch. 689, § 41, as added by L. 1908, ch. 125, § 3.

**§ 62. When superintendent shall file certificate.**

Upon the receipt of any such organization certificate at the office of the superintendent, if it shall not be in form and substance, or duly and properly acknowledged, as required by this article, or shall not be accompanied by evidence satisfactory to the superintendent of the publication and service in good faith according to the intent and purpose of this chapter of the notice required by this article, the superintendent shall refuse to file such certificate until it shall be amended to conform to the provisions of this article. If such certificate is in due form and duly executed according to the provisions of this article, and is accompanied by evidence satisfactory to the superintendent of the proper publication and service in good faith of such notice, he shall forthwith indorse the same over his official signature, "filed for examination," with the date of such indorsement.

Formerly L. 1892, ch. 689, § 42, as added by L. 1908, ch. 125, § 4.

**§ 63. Examination by and certificate of superintendent.** When such certificate shall have been filed, the superintendent shall ascertain from the best sources of information at his command whether the character and general fitness of the persons named as stockholders in the certificate are such as to

command the confidence of the community in which such bank is proposed to be located, and whether the public convenience and advantage will be promoted by its establishment. If so satisfied, he shall, within sixty days after such certificate has been filed by him for examination, issue under his hand and official seal the certificate of authorization required by this chapter. The superintendent shall transmit such certificate of authorization to the county clerk of such county, who shall file the same and attach it to the organization certificate previously filed by him and record both certificates in the book of records of incorporation; the superintendent shall also file a duplicate of such certificate in his own office. If the superintendent shall not be satisfied that the establishment of the bank as proposed in any organization certificate filed by him is expedient and desirable, he shall, within sixty days after the filing of such certificate by him, give notice to the county clerk of such county that he refuses to issue a certificate of authorization for such bank, which notice shall be forthwith filed by the county clerk with the organization certificate.

Formerly L. 1892, ch. 689, § 43, as added by L. 1908, ch. 125, § 5.

**§ 64. Amended certificate of incorporation.** Whenever any bank shall, by virtue of the provisions of its certificate of incorporation or other lawful authority, make any change in any of the matters required to be stated in such certificate, such change shall not be of any force or validity until a certificate thereof, executed by its president and cashier under its corporate seal, shall have been filed and recorded in the same manner as the certificate of incorporation is by law required to be filed and recorded.

Formerly L. 1892, ch. 689, § 41, as renumbered § 44 by L. 1908, ch. 125, § 2.

**§ 65. Certificate of individual banker.** Every individual banker shall file in the office of the superintendent of banks a certificate stating the town, city or village in which he resides. No individual banker shall transact business under the provisions of this chapter in any other place than the one thus designated, except in case of a change of his residence, and a notice thereof forthwith filed in such office. Every person who neglects to comply with any requirement of this section shall, for each neglect, forfeit one thousand dollars to the people of the state. Every notice of change of residence so filed shall be published by the superintendent in the state paper, and in such other newspapers and for such period of time as he may direct, not exceeding three months, and the expense of such publication shall be paid

to the superintendent by the individual banker to whom the notice relates.

Formerly L. 1892, ch. 689, § 42, as renumbered § 45 by L. 1908, ch. 125, § 2.

**§ 66. General powers.** In addition to the powers conferred by the general and stock corporation laws every bank shall have power:

1. To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; by receiving deposits; by buying and selling exchange, coin and bullion; by loaning money on personal security; and by obtaining, issuing and circulating notes according to the provisions of this chapter.

2. To take and become the owner of any stocks or bonds or interest-bearing obligations of the United States, or of the state of New York, or of any city, county, town or village of this state, the interest on which is not in arrears.

3. To purchase, hold and convey real property for the following purposes:

a. Such as shall be necessary for its immediate accommodation in the convenient transaction of its business.

b. Such as shall be mortgaged to it in good faith, by way of security for loans made by, or moneys due to, such corporation.

c. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

d. Such as it shall purchase at sales under judgments, decrees or mortgages held by it.

No such corporation shall purchase, hold or convey real property in any other case or for any other purpose, and all conveyances of real property shall be made to it directly and by name.

All such corporations and all individual bankers shall be banks of discount and deposit as well as of circulation, and the usual business of banking of such corporations or individual bankers shall be transacted at the place where such corporations or individual bankers shall be located, agreeably to the location specified in the certificates required by law to be made by them respectively, and filed in the office of the superintendent of banks, and not elsewhere, except as otherwise provided in this chapter in relation to the redemption of circulating notes by agents.

Formerly L. 1892, ch. 689, § 43, as renumbered § 46 by L. 1908, ch. 125, § 2.



**§ 67. Lawful money reserve.** Every bank or individual banker shall at all times have on hand in lawful money of the United States, gold certificates, silver certificates, or notes or bills issued by any lawfully organized national banking association an amount equal to at least twenty-five per centum of the aggregate amount of its deposits, exclusive of deposits which are secured by outstanding unmatured bonds issued by the state of New York, if its principal place of business is located in any borough in any city of the state which borough according to the last preceding state or United States census had a population of one million eight hundred thousand or over; and an amount equal to at least twenty per centum, if its principal place of business is located in any borough, which borough according to the last preceding state or United States census had a population of one million or over, and less than one million eight hundred thousand; and an amount equal to at least fifteen per centum of the aggregate amount of its deposits, exclusive of deposits which are secured by outstanding unmatured bonds issued by the state of New York, if its principal place of business is located elsewhere in the state. The amount thus to be kept on hand shall be called its lawful money reserve. Two-fifths of such lawful money reserve of any bank or individual banker located in any borough in any city in the state which borough according to the last preceding state or United States census had a population of eighteen hundred thousand or over, one-half of such lawful money reserve of any bank or individual banker located in any borough in any city of the state which borough according to the last preceding state or United States census had a population of less than eighteen hundred thousand and which bank or individual banker does not maintain a branch office in any borough having a population according to the last preceding state or United States census of eighteen hundred thousand or over, and three-fifths of the lawful money reserve of any bank or individual banker located elsewhere in the state may consist of moneys on deposit subject to call with any bank or trust company in this state having a capital of at least two hundred thousand dollars and approved by the superintendent of banks as a depository of lawful money reserve. If the lawful money reserve of any bank or individual banker shall be less than the amount required by this section, such bank or banker shall not increase its liabilities by making any new loans or discount otherwise than by discounting bills of exchange payable on sight, or making any dividends from profits until the full amount of its lawful money reserve has been restored. The superintendent of banks may notify any bank or individual banker

whose lawful money reserve shall be below the amount herein required to make good such reserve; and if it shall fail for thirty days thereafter to make good such reserve, such bank or individual banker shall be deemed insolvent and may be proceeded against as an insolvent moneyed corporation.

Formerly L. 1892, ch. 689, § 44, as renumbered § 47 by L. 1908, ch. 125, § 2, and am'd by L. 1908, ch. 151, § 1.

**§ 68. Payment of capital stock.** All of the capital stock of every bank shall be paid in before it shall commence business.

Formerly L. 1892, ch. 689, § 49, as am'd by L. 1895, ch. 929, § 2.

**§ 69. Annual meeting and election of directors.** Every bank shall hold an annual meeting for the election of directors on the second Tuesday in January or within ten days thereafter. Notice of such meeting shall be given as required by the stock corporation law. No person shall be eligible to election as director of a bank having a capital of fifty thousand dollars or over unless he is a stockholder of the corporation owning in his own right an amount equal to at least one thousand dollars in value, nor of a bank having a capital of less than fifty thousand dollars, unless he is a stockholder in his own right in an amount equal to at least five hundred dollars; and every person elected to be a director who, after such election shall hypothecate, pledge or cease to be the owner in his own right of the amount of stock aforesaid, shall cease to be a director of the corporation, and his office shall be vacant. The directors shall hold office for one year and until their successors are elected and have qualified. Each director must be a citizen of the United States, and at least three-fourths of the directors must be residents of this state at the time of their election and during their continuance in office. All vacancies in the office of director shall be filled by election by the stockholders; but vacancies not exceeding one-third of the whole number of the board may be filled by the directors then in office, and the directors so elected may hold their offices until filled by the stockholders at a special or annual meeting. A bank, at any annual meeting for the election of directors, provided notice thereof be given in the notice of the annual meeting, may, by a majority of all of the votes of the stockholders of such bank, fix or change by resolution the number of directors, to not less than five nor more than a certain number to be named in said resolution, which number, when so fixed, shall be the lawful number of directors of such bank until again changed. Certified copies of all resolutions fixing or changing the number of directors under this section shall be immediately filed in the

banking department. One of the directors, to be chosen by the board, shall be the president of the board; and if the number of directors necessary to constitute a quorum is not prescribed in the certificate of incorporation or in the by-laws and no provision is made therein for determining the same, the directors may fix such number, which shall not be less than five, with the same effect as if such number was prescribed in the certificate of incorporation. Whenever the articles of association of any bank organized prior to the first day of January, eighteen hundred and ninety-two, or the certificate of incorporation of any bank organized after that date, shall prescribe a different qualification for directors than such as are prescribed in this section, the qualification of such directors may be changed so as to comply with the provisions of this section in the manner prescribed for a change of the number of directors under section twenty-six of the stock corporation law.

Formerly L. 1892, ch. 689, § 50, as am'd by L. 1900, ch. 89, § 1; L. 1900, ch. 240, § 1; L. 1902, ch. 145, § 1; L. 1908, ch. 119, § 1.

**§ 70. Oath of directors.** Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such corporation, and that he is the owner in good faith and in his own right, of the number of shares of stock required by this chapter, subscribed by him or standing in his name on the books of the corporation, and that the same is not hypothecated, or in any way pledged as security for any loan or debt and, in case of re-election or reappointment, that such stock was not hypothecated, or in any way pledged as security for any loan or debt during his previous term. Such oath shall be subscribed by the director making it, and certified by the officer before whom it is taken, and shall be immediately transmitted to the superintendent of banks, and filed and preserved in his office.

Formerly L. 1892, ch. 689, § 51, as am'd by L. 1908, ch. 119, § 2.

**§ 71. Individual liability of stockholders.** Except as prescribed in the stock corporation law, the stockholders of every such corporation shall be individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such corporation, to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares. In case any such corporation shall have been or shall be dissolved by final order or judgment of

a court having jurisdiction, and a permanent receiver or receivers of the said corporation shall have been or shall be appointed, all actions or proceedings to enforce the liability of stockholders under this section shall be taken and prosecuted only in the name and in behalf of such receiver or receivers, unless such receiver or receivers shall refuse to take such action or proceeding upon proper request in that behalf made by any creditor, and in that event such action or proceeding may be taken by any creditor of the corporation.

Formerly L. 1892, ch. 689, § 52, pt., as am'd by L. 1897, ch. 441, § 1.

**§ 72. Limitation of liability of stockholders.** No person who has in good faith, and without any intent to evade his liability as a stockholder, transferred his stock on the books of the corporation when solvent to any resident of this state of full age previous to any default in the payment of any debt or liability of the corporation, shall be subject to any personal liability on account of the nonpayment of such debt or liability of the corporation, but the transferee of any stock so transferred previous to such default shall be liable for any such debt or liability of the corporation to the extent of such stock in the same manner as if he had been the owner at the time the corporation contracted such debt or liability.

Formerly L. 1892, ch. 689, § 53.

**§ 73. Powers of president and vice-president.** All contracts made by any such corporation, and all notes and bills by it issued and put in circulation as money, shall be signed by the president or vice-president and cashier thereof.

Formerly L. 1892, ch. 689, § 54.

**§ 74. Rate of interest.** Every bank and private and individual banker doing business in this state may take, receive, reserve and charge on every loan and discount made, or upon any note, bill of exchange or other evidence of debt, interest at the rate of six per centum per annum; and such interest may be taken in advance, reckoning the days for which the note, bill or evidence of debt has to run.

The knowingly taking, receiving, reserving or charging a greater rate of interest shall be held and adjudged a forfeiture of the entire interest which the note, bill of exchange or other evidence of debt carries with it, or which has been agreed to be paid thereon. If a greater rate of interest has been paid, the person paying the same or his legal representatives may recover twice the amount of the interest thus paid from the bank or private

or individual banker taking or receiving the same, if such action is brought within two years from the time the excess of interest is taken. The purchase, discount or sale of a bona fide bill of exchange, note or other evidence of debt payable at another place than the place of such purchase, discount or sale at not more than the current rate of exchange for sight draft, or a reasonable charge for the collection of the same, in addition to the interest, shall not be considered as taking or receiving a greater rate of interest than six per centum per annum.

The true intent and meaning of this section is to place and continue banks and private and individual bankers on an equality in the particulars herein referred to with the national banks organized under the act of congress entitled "An act to provide a national currency secured by pledges of United States bonds, and to provide for the circulation and redemption, thereof," approved June third, eighteen hundred and sixty-four.

Formerly L. 1892, ch. 689, § 55, as am'd by L. 1900, ch. 310, § 1.

**§ 75. Interest permitted on advances on collateral security.** Upon advances of money repayable on demand to an amount not less than five thousand dollars made upon warehouse receipts, bills of lading, certificates of stock, certificates of deposit, bills of exchange, bonds or other negotiable instruments, pledged as collateral security for such repayment, any bank or individual banker may receive or contract to receive and collect as compensation for making such advances any sum to be agreed upon in writing by the parties to such transaction.

Formerly L. 1892, ch. 689, § 56.

**§ 76. Deposit of banks and individual bankers with superintendent.** Every bank and individual banker heretofore or hereafter authorized to do business, not having given notice of intention to close the business of banking, shall, before commencing or continuing such business, have and keep on deposit in the banking department in addition to the deposit required to secure circulating notes, stocks of this state or of the United States bearing interest, to the amount of one thousand dollars, which shall be held by the superintendent of banks as a pledge of good faith, and guaranty of compliance with the banking laws of the state on the part of such bank or individual banker. The proceeds of such stock or the interest thereon, or so much thereof as may be necessary, may be applied by the superintendent to the payment of any penalty incurred by, or the assessment imposed upon, the bank or individual banker, for whom such deposit is held. The superintendent may, in his discretion, maintain an

action in his name of office against any bank or individual banker for the recovery of any penalty incurred by, or lawful assessment imposed upon, such bank or individual banker.

Whenever any bank or individual banker is required by law to make a deposit of securities with the superintendent of banks in trust for such bank or individual banker, such deposit shall consist of interest-bearing stock of the state of New York or of the United States.

Formerly L. 1892, ch. 689, § 57.

**§ 77. Prohibition against sale of business by individual banker.** No individual banker having circulating notes obtained under the laws of this state, shall sell or transfer the business of banking, upon the securities deposited by him, to any person or persons; and until such business shall be closed, by the return of the circulating notes issued, and the delivery of the securities deposited, the same shall be conducted only in the name of the individual banker by whom the securities were deposited; and he shall continue individually liable for the payment of all circulating notes delivered to him. But any such individual banker may bequeath his business of banking upon the securities deposited by him to any person or persons, and such business may be continued after his death by his legatee or heir at law.

Formerly L. 1892, ch. 689, § 58.

**§ 78. Change from state to national bank.** Any bank may become a corporation for the purpose of carrying on the business of banking within this state pursuant to the provisions of the act of congress "to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved June third, eighteen hundred and sixty-four, and of title fifty-two of the revised statutes of the United States, whenever stockholders owning two-thirds of the stock of such bank shall have voted to become such corporation, or have executed a written consent authorizing its directors to make the certificate required therefor by the laws of the United States, or whenever a majority of the directors of such bank having been authorized in their discretion to make the change, shall, by a vote of such majority, decide to become such corporation; and the cashier of such bank shall publish notice thereof for thirty days in such newspaper as the directors may select, and send a like printed notice by mail or otherwise to all nonvoting or dissenting stockholders, and notify the superintendent of banks of this state that such bank has decided to become a corporation under the laws of the United States.

Formerly L. 1892, ch. 689, § 59.

**§ 79. When deemed to have surrendered its charter.** Any such bank which shall become a corporation for carrying on the business of banking under the laws of the United States shall cease to be a corporation under the laws of this state, except that for the term of three years thereafter, its corporate existence shall be deemed to continue for the purpose of prosecuting and defending suits by and against it, and of enabling it to close its concerns, and to dispose of and convey its property. The members of the board of directors last in office, when such corporation shall have become a corporation under the laws of the United States, shall continue to be the board of directors of the new corporation, with power to take all necessary measures to carry out and perfect such organization by signing the articles of association and the organization certificate, and adopting such regulations as may be just and proper and not inconsistent with the acts of congress in relation thereto.

Such change from a state to a national bank corporation shall not release any such bank from its obligations to pay and discharge all the liabilities created by law or incurred by it before becoming a national bank corporation, or any tax imposed by the laws of this state up to the date of its becoming such national bank corporation, in proportion to the time which has elapsed since the next preceding payment therefor.

Formerly L. 1892, ch. 689, § 60.

**§ 80. Reduction of capital stock in such cases.** The directors of such new corporation may reduce the capital stock of the bank to its par value by dividing the surplus among its stockholders, or may retain such portion of such surplus as they may deem necessary; and in case of an increase of the capital stock under the provisions of the acts of congress, may charge the shares of such increased capital stock with a like amount, to place the whole of such capital stock on an equality; and may award such new stock, or such proportion or fractional parts thereof, to such persons as they shall determine are entitled thereto, and as are provided in their articles of association and in the acts of congress; but new directors may be chosen at such time and in the manner provided in the articles of association and the acts of congress.

Formerly L. 1892, ch. 689, § 61.

**§ 81. Certificate of change.** When any such bank has decided to become a corporation under the laws of the United States, the directors shall immediately thereafter execute and transmit to the comptroller of the currency the proper certificate and

other instruments for its conversion into a national bank corporation under the laws of the United States. When any such bank shall have become authorized to commence the business of banking under the laws of the United States, all the property of such bank shall immediately, by act of law, and without any conveyance or transfer, be vested in and become the property of the national bank corporation, into which such bank shall have been converted; and it shall be entitled, on returning the bills of such bank to the banking department of this state, to receive the stocks pledged to secure the redemption of the same, in the same manner as the bank issuing the same is now entitled by law; and shall be subjected to the same rules as state banks in respect to the final redemption of the circulating notes of such banks so converted into national bank corporations.

The plates and dies of any such bank, in the banking department of this state, shall be forthwith so obliterated as to prevent all future use of the same.

Formerly L. 1892, ch. 689, § 62.

**§ 82. National bank may become state bank.**

Whenever any banking corporation organized and doing business under the laws of the United States shall, under the provisions of any act of congress, be authorized to dissolve its organization as such national bank corporation, and shall have taken the action required to effect such dissolution, a majority of the directors of such dissolved corporation may, upon the authority in writing of the owners of two-thirds of its capital stock, execute the certificate of incorporation required by section sixty of this chapter.

Upon the execution and proof or acknowledgment of such certificate, which shall also set forth the authority in writing of the stockholders as required by this section, and upon filing a copy thereof in the office of the superintendent of banks, with proof that the original is duly recorded in the office of the clerk of the county where any office of such corporation shall be located, such corporation shall be held and regarded as an incorporated bank under and in pursuance of the laws of this state, and shall be entitled to all the privileges and be subject to all the liabilities of banks so incorporated; and thereupon all the property of the dissolved national bank corporation shall immediately by act of law and without any conveyance or transfer be vested in and become the property of such state bank. The directors of the dissolved corporation at the time of such dissolution, shall be the directors of the bank created in pursuance hereof until the first annual election



of directors thereafter, and shall have power to take all necessary measures to perfect its organization, and to adopt such regulations concerning its business and management as may be proper and just and not inconsistent with law.

Formerly L. 1892, ch. 689, § 63.

**§ 83. Circulating notes; plates.** Any bank or individual banker may deposit with and transfer to the superintendent of banks any interest-bearing stocks or bonds of the United States or of the state of New York, or of any county or incorporated city of this state authorized to be issued by the legislature, or bonds and mortgages on improved, unincumbered real property of the state of New York worth seventy-five per centum more than the amount thereon loaned; but no such stock or bonds shall be received by the superintendent at a rate above their par value or above their current market value. The superintendent may thereupon issue to such bank circulating notes in the similitude of bank notes in blank, engraved and printed in the best manner to guard against counterfeiting, in denominations of one, two, five, ten, twenty, fifty, one hundred, five hundred and one thousand dollars, which shall be countersigned, numbered and registered in proper books to be provided and kept for that purpose in the office of the superintendent, under his direction, by such person as he shall appoint for that purpose, so that each denomination of such circulating notes shall bear the uniform signature of such register, or one of such registers. Such notes shall also have stamped on their face the words "secured by the pledge of public stocks."

The aggregate amount of notes thus issued to any bank or individual banker shall not exceed ninety per centum of the market value, nor ninety per centum of the par value, of the stock, bonds or other securities so deposited with or transferred to the superintendent by such bank or banker. Such bank or banker, after having executed and signed such circulating notes in the manner required by law to make them obligatory promissory notes payable on demand, if of a denomination less than one thousand dollars, at the place of business within this state of such bank or banker, if of a denomination of one thousand dollars, payable at such place of business or at any redemption agency of such bank or banker, may loan and circulate the same as money according to the ordinary course of banking business as regulated by the laws and usages of this state. The securities so deposited with and transferred to the superintendent shall be held by him as security for such circulating notes and exclusively for their re-

demption and until the same are paid. The plates, dies and materials procured by the superintendent for printing and making such circulating notes shall remain in his custody and under his direction.

Formerly L. 1892, ch. 689, § 64.

**§ 84. Circulating notes of individual banker.**

The circulating notes delivered to an individual banker shall express only the individual liability of the banker and shall be signed by him only and not by any attorney or agent. Any banker or person acting as his attorney or agent who shall violate any provision of this section shall forfeit to the people of the state one hundred dollars for each offense, to be collected and paid into the treasury to defray the general expenses of the banking department.

The superintendent shall not issue circulating notes to any individual banker designating such individual as a bank unless as an addition to his own proper name. If such individual shall have partners in the business of banking at the time of commencing the same, such fact shall be shown by the words "and company," to be added to his own proper name, upon every note issued to him or them from the banking department.

If it shall appear, by the return of any individual banker or by the report of any person designated by the superintendent of banks, that any other person is interested with such individual banker directly or indirectly in the securities deposited by him for the purpose of obtaining circulating notes, or in the business of circulating such notes, or in the benefits or advantages thereof, the superintendent shall withhold all interest and dividends on the securities deposited with him, by such banker, and all circulating notes from such banker, until he shall have filed in the banking department a certificate, signed and acknowledged by every person so returned or reported as interested in such securities, stating that such person is interested with such individual banker in the circulating notes obtained or to be obtained by him, and in the benefits and advantages of circulating the same. Such certificate shall be evidence that the person signing and acknowledging the same is a general partner with such banker in the business of banking, and as such is liable with him individually for all the debts and obligations created or made by such individual banker in his business.

Formerly L. 1892, ch. 689, § 65.

**§ 85. When bank may receive interest or dividends upon securities deposited.** The superintendent may give to any bank or individual banker depositing and transferring

securities to him pursuant to this chapter, a power of attorney to receive the interest or dividends thereon, and such bank or banker may thereupon receive and apply such interest or dividends to its or his own use. Such power may be revoked if such bank or banker fails to redeem the circulating notes so issued, or if, in the opinion of the superintendent, the principal of such securities shall become an insufficient security for the redemption of the circulating notes issued; and the superintendent may in his discretion, upon the application of any such bank or banker, change or transfer any securities deposited by it or him for other securities of the kinds hereinbefore specified, or he may retransfer such securities or any part thereof to the bank or banker depositing the same upon receiving and canceling a proportional amount of the circulating notes delivered by him to such bank or banker, in such manner that the circulating notes remaining outstanding shall always be secured in full.

If the securities so deposited for the redemption of circulating notes shall, in the opinion of the superintendent, become insufficient for that purpose, he may receive the dividends on all such securities and deposit the same in some safe bank in the city of Albany in his name in trust for the bank or banker to whom the same may belong, on such terms and at such rate of interest as the superintendent may deem most conducive to the interest of any such bank or banker, and to be withdrawn and paid over whenever in the opinion of the superintendent the securities of such bank or banker shall be sufficient to warrant it.

If it shall appear from any examination made by or at the instance of the superintendent that any bank or individual banker is in an unsound or unsafe condition to do business, or that the business of banking is not prosecuted by it or him at the place where such circulating notes are dated and purport to be issued, or is not transacted in the manner prescribed by law, the superintendent shall withhold and refuse to issue and deliver any registered notes to such bank or banker, and shall retain the interest on all securities held in trust for such bank or banker until such time as he shall be satisfied that such bank or banker is in a sound or safe condition to do banking business, and that the business of banking is transacted by it or him at the place where such circulating notes are dated and purport to be issued.

Formerly L. 1892, ch. 689, § 66.

**§ 86. Redemption agencies.** Every bank or individual banker issuing circulating notes, except those whose place of business is in the city of New York, Albany,

or Troy, not already having made such an appointment, shall forthwith appoint in writing an agent who shall keep an office in the city of New York, Albany or Troy, for the redemption of all circulating notes issued by it or him which shall be presented to such agent for payment or redemption; and such appointment shall be delivered to the superintendent forthwith and filed in his office. Any bank or individual banker or other person may be such agent. If any such bank or banker shall omit to appoint such agent forthwith, the superintendent shall appoint such agent for such bank or banker and file such appointment in his office.

The superintendent shall, immediately after such appointment and filing thereof in his office, publish during such time as he may deem proper, a list of such agents in the state paper and in at least two daily newspapers in the city of New York.

If the agent of any bank or banker shall neglect or refuse to redeem its notes on demand, such bank or banker shall pay to the person making such demand, interest on such notes at the rate of twenty per centum per annum. If such redemption and payment of interest is not made at such office within twenty days from the time when first demanded, such bank or individual banker may be proceeded against by the superintendent of banks in the same manner and with the like effect as though insolvent; and such bank or banker shall not issue or put in circulation any bills or notes; and the superintendent shall also proceed in the manner directed in section ninety-one of this chapter. Every bank and individual banker outside of the cities of New York, Albany, and Troy shall redeem and pay on demand all circulating notes issued by it or him presented for redemption or payment at the office of its or his such agent in the city of New York, Albany or Troy, at a rate of discount not exceeding one-quarter of one per centum.

Formerly L. 1892, ch. 689, § 67.

**§ 87. Destruction of bank notes.** When any circulating notes of any bank or individual banker shall be returned to the superintendent for destruction, the same shall be burned by or under the direction of the superintendent, and such bank or individual banker shall procure the attendance of an agent to witness the counting and destruction of such circulating notes at the department and sign a certificate thereof. If such bank or banker shall refuse or neglect to appoint or procure the attendance of such agent within ten days after the receipt of the bills at the department, the superintendent shall select and appoint some indifferent person, who shall, as the agent of such bank or indi-

vidual banker, witness and certify the counting and destruction of such notes, and such bank or individual banker shall forthwith pay on demand to the person so appointed, witnessing and certifying, such compensation therefor as the superintendent shall certify to be just and reasonable.

Formerly L. 1892, ch. 689, § 68.

**§ 88. Destruction of plates and counterfeit notes.**

The superintendent shall destroy, or cause to be destroyed, all bank-note plates in his custody of banks or individual bankers becoming insolvent, or which have given notice of closing their business, and any impressions made therefrom on hand. Hereafter when any bank or individual banker shall become insolvent or discontinue the business of banking, the superintendent shall destroy, or cause to be destroyed, all plates and impressions belonging to such bank or individual banker, and include in his next annual report a statement of the plates so destroyed. Every public officer into whose hands shall come any counterfeit bank-note plate or other device for counterfeiting bank notes, or any counterfeit or spurious bank notes, immediately after using them when necessary in evidence against the parties implicated, shall surrender the same to the superintendent, to be destroyed under his supervision, and he shall destroy all such plates, devices or notes thus surrendered to him in the same manner as in case of banks whose charters have expired, or which have become insolvent, and report the same to the legislature in his annual report.

Formerly L. 1892, ch. 689, § 69.

**§ 89. Exchange of mutilated notes.** The superintendent shall receive mutilated circulating notes issued by him and deliver in lieu thereof other circulating notes to the same amount.

Every person who shall mutilate, cut, deface, disfigure or perforate with holes, or shall unite or cement together, or to any other thing, any bank bill, draft, note or other evidence of debt issued by a bank, or shall cause or procure the same to be done with intent to render such bank bill, draft, note or other evidence of debt unfit to be reissued by such bank, shall forfeit fifty dollars to the corporation injured thereby.

Formerly L. 1892, ch. 689, § 70.

**§ 90. Redemption in notes of other banks.** When an action shall be brought against any bank or individual banker for the recovery of the amount due on any circulating notes registered in the superintendent's office, the payment of

which shall have been demanded at the banking-house or other place of business of the defendant, if it shall appear on the trial or otherwise, to the court in which such suit is brought, that at the time such demand of payment was made, the defendant offered in payment the circulating notes issued by any other bank or banker which were at the time at par in the city of New York, Albany or Troy, or a draft on any bank or banker in either of such cities, for the amount of the circulating notes so presented, with an affidavit, if required, that such draft is available to its full amount, to insure the immediate payment thereof on presentation, or in case any action shall be commenced upon such notes before the expiration of fifteen days from the time of the first demand thereof; and if such bank or banker shall be ready and prepared to redeem such notes in the lawful money of the United States at the ordinary place of business of such bank or banker, at the expiration of fifteen days from the time of the first demand thereof, with interest, then in either case the plaintiff in such action shall not recover any costs, fees or disbursements whatever against the defendant, and shall be entitled to recover no more than six per centum interest in lieu of all damages for the non-payment of such circulating notes. No interest shall be recovered upon such notes in any action unless the plaintiff or holder thereof shall have again presented the same for payment at the ordinary place of business of the defendant on or after the fifteenth day after such first demand and before the twentieth day, and the defendant shall have neglected or refused to pay the same with interest to that time.

If such bank or banker at the time of the first presentation of such notes shall have offered to pay current bank notes or drafts, or both, or either, in the manner above provided, and shall, at the time of such second presentation, pay or tender the amount of such notes in the lawful money of the United States at its ordinary place of business, then such bank or banker shall not be deemed to have suspended or refused specie payment or payment of its circulating notes, within the meaning of any statutes authorizing proceedings for the dissolution of such bank, or to restrain or enjoin such bank or banker from the transaction of its business, nor shall such bank or banker in such case be liable to any other or greater damages for the non-payment of such notes than above provided, notwithstanding any contrary provision in the charter of such bank or of any other statute.

Formerly L. 1892, ch. 689, § 71.

**§ 91. Protest of notes and proceedings thereon.**  
If the maker of any circulating notes countersigned and

registered as herein provided, shall at any time hereafter on lawful demand during the usual hours of business, between the hours of ten and three o'clock, at the place where such notes are payable, fail or refuse to redeem such notes in the lawful money of the United States, the holder thereof making such demand, may cause the same to be protested in one package for non-payment by a notary public under his seal of office in the usual manner, unless the president, cashier or teller of the bank shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign and deliver to the party making such demand, an admission in writing, stating the time of the demand, the amount demanded and the facts of the non-payment thereof. The superintendent on receiving and filing in his office such admission or protest, together with such notes, shall forthwith give notice in writing to the maker thereof to pay the same, and if such maker shall omit to do so for fifteen days after such notice, the superintendent shall immediately, unless satisfied that there is a good and legal defense to the payment of such notes, give notice in the state paper that all the circulating notes issued by such bank or banker will be redeemed out of the trust funds in his hands for that purpose; and the superintendent shall apply such funds to the payment pro rata of all circulating notes put in circulation by such bank or banker pursuant to the provisions of this chapter, and adopt such measures for the payment of such notes as will, in his opinion, most effectually prevent loss to the holders thereof.

If payment of such notes is not made for a period of ten days after the first publication of such notice, the superintendent shall sell at public auction the securities so pledged, or any of them, and out of the proceeds of such sale pay and cancel such notes, but the state shall not be deemed as under any pledge for the payment of such notes beyond the proper application of the proceeds of such securities for their redemption.

Damages for non-payment of any such notes in lieu of interest at the rate of six per centum per annum from the time of refusal of payment, shall be paid by the bank or banker refusing to pay such notes on demand.

This section shall not apply to cases where circulating notes registered in the superintendent's office shall be presented for payment to an agent of any incorporated bank or individual banker appointed according to the provisions of this chapter relating to the redemption of bank notes, nor to any bank or individual banker for whom there shall not be at the time an agent duly appointed, as prescribed in this chapter; nor to any bank or

individual banker whose place of business is in the city of New York, Albany, or Troy.

All fees for protesting any such notes shall be paid by the person procuring the service to be performed and the bank or banker issuing such notes shall be liable for the same, but no part of the securities deposited by such bank or banker shall be applied to the payment of such fees.

Formerly L. 1892, ch. 689, § 72.

**§ 92. Appointment of agent by new corporation.** Every bank and individual banker who shall hereafter commence business under the laws of this state shall, upon first receiving circulating notes from the superintendent, appoint an agent for the purpose of redemption, and be subject in all respects to the provisions of this chapter in relation thereto; and the superintendent shall not deliver any circulating notes to such bank or banker until such appointment is made and filed in his office, which shall be immediately published by the superintendent in the manner hereinbefore provided.

Formerly L. 1892, ch. 689, § 73.

**§ 93. Revocation of appointment.** Appointments of agents for the purpose of redemption may be revoked and new appointments of agents may be made from time to time by delivering such revocation of appointment to the superintendent, who shall cause the same to be published as hereinbefore provided. Several banks may appoint a common agent. Any number of banks and individual bankers may by agreement associate for raising a joint fund to be placed in the hands of their common agent for the redemption of their circulating notes in the city of New York or Albany, and also the circulating notes of other banks and individual bankers in such manner and under such regulations as may be agreed upon, and employ such agents and clerks as they may deem necessary to carry on the business of the common agency. No such agency shall redeem or purchase any circulating notes at a discount of more than one-half of one per centum, nor relieve or discharge any such bank or banker from any duty or liability required or imposed by this chapter, nor shall any bank or individual banker purchase, buy in or take up, directly or indirectly, its or his circulating notes at an amount less than what purports to be due thereon at any other place or in any other manner than is directed in or by this chapter.

Formerly L. 1892, ch. 689, § 74.

**§ 94. Distribution of funds of insolvent banks.** The superintendent shall make a final distribution of the funds



in his hands arising from the sale of securities deposited with him by banks and individual bankers, which have failed or may hereafter fail to redeem their circulating notes. At the expiration of six years after the first sale made by the superintendent of such securities, he shall issue a final notice to the holders of the circulating notes issued by such bank or banker requiring the presentation thereof within six months after the date of the notice, and any of such notes which shall not be presented within the time thus specified shall cease to be a charge or claim upon the funds of such bank or banker remaining in the hands of the superintendent. Any such notes which shall be presented within the period above limited shall be received and paid by the superintendent at the same rate which shall have been paid on like notes previously presented, and if all the notes of any bank or individual banker so presented shall have been redeemed at their par value, he shall pay to such bank or banker, the residue of such funds remaining in his hands belonging thereto. If such notes shall not have been redeemed at par, then the holder shall be entitled to a certificate showing the balance, if any, due thereon.

Formerly L. 1892, ch. 689, § 75.

**§ 95. Distribution of residue.** At the expiration of the notice required by the preceding section, the superintendent shall ascertain the amount of the residue of the fund remaining in his hands belonging to the creditors of such bank or banker and after deducting therefrom the expenses justly chargeable thereon, he shall make a pro rata distribution of the residue upon the outstanding certificates given for the balance due to the holders of the circulating notes of such bank or individual banker, which shall have been redeemed in part, and he shall issue a notice to the holders of such certificates stating the rate or amount payable thereon, and requiring them to present the same within six months after the date of such notice. Any certificate not presented within that time shall cease to be a charge or claim upon the residuary fund in the hands of the superintendent. After making the final distribution herein directed, if any portion of such fund shall remain unclaimed, it shall be deposited in the treasury and applied toward paying the ordinary expenses of the banking department.

Formerly L. 1892, ch. 689, § 76.

**§ 96. Publication of notices.** The notices required to be given by this chapter to the creditors of an insolvent bank or banker shall be published at least six weeks in one or more news-

papers which the superintendent shall deem best calculated to inform such creditors, and the cost of such publication shall be defrayed out of the fund to which such notice shall refer.

Formerly L. 1892, ch. 689, § 77.

**§ 97. Redemption of notes held by banks and individual bankers.** Any bank or individual banker receiving in the course of its business the circulating notes issued by any other bank or individual banker, may present such notes for redemption and payment in the manner and upon the terms herein provided, either to the lawful redeeming agent or at the counters of the banks or individual bankers issuing them; but every such bank or individual banker so presenting such notes for redemption, shall present all of such notes on hand at the time of such presentation either to the lawful agents or at the counters of the banks or individual bankers issuing them for redemption and payment in the manner provided by law as often at least as once in each successive week, when more than the sum of ten thousand dollars of such notes are held by the bank or banker presenting them for payment.

Any such bank or individual banker holding such circulating notes who shall elect to present the same for redemption and payment at the counters of the bank or individual banker issuing them, shall cause written or printed notice of such election, attested by the signature of the president or cashier of the bank or banker holding them, under seal, that all of such notes on hand at the time will be presented duly sealed at the counter of the bank or banker issuing them, as often at least as once in each successive week when more than the sum of ten thousand dollars is held by such bank or banker, to be redeemed and paid in the manner required by law. When such notice shall have been given and received, such notes shall thereafter be presented at such counters and not elsewhere for redemption and payment, unless a further notice of ten days shall be given in the same manner that such notes will thereafter be presented for redemption and payment to the lawful redeeming agent of the bank or individual banker issuing them within the times and upon the terms prescribed by law. Any bank or individual banker may redeem, present, hold, pledge or exchange the circulating notes of any other bank or banker in the manner, within the times and upon such terms conformable to the provisions of law as may have been agreed upon.

Every bank or individual banker who shall knowingly and wilfully neglect or refuse to comply with any provision of this

section shall forfeit and pay to the people of the state the sum of one thousand dollars.

Formerly L. 1892, ch. 689, § 78.

**§ 98. Banks closing business.** Any bank, or its receiver, trustees or legal representatives, and any individual banker or his assignee, administrator, personal representative or successor, may give notice to the superintendent of the intention of such bank or individual banker to close the business of banking, and thereupon such bank or individual banker shall be entitled to deposit with the superintendent, and he may receive a deposit of, money equal to the amount of the outstanding circulation at the time of such deposit to be placed by him in some bank in the city of Albany, in good credit, upon the receipt of which the superintendent may return and retransfer to such bank or individual banker all securities in his hands theretofore deposited with him for the redemption of circulating notes by such bank or individual banker. Upon the receipt of such deposit the superintendent shall immediately cause to be published in the state paper and in at least one newspaper in the county where such bank or banker shall have been located or doing business at least once a week for six months, a notice that the notes of such bank or banker will be redeemed by him at par at the bank where such deposit is made, and that all the outstanding circulating notes of such bank or banker must be so presented for redemption within six years from the date of such notice, and that all notes which shall not be thus presented for redemption and payment within the time specified in such notice shall cease to be a charge upon the fund in the hands of the superintendent for that purpose.

After the expiration of such notice the superintendent may surrender to such bank or banker, and such bank or banker, or any receiver, assignee, trustee or legal representative thereof, shall be entitled to receive from the superintendent, all the money remaining in his hands after such redemption, except so much thereof as may be necessary to pay the reasonable expenses chargeable against such bank or banker, including the payment for the publication of such notices.

All circulating notes of such bank or banker which shall not have been presented for payment within the period prescribed in such notice shall, at the expiration thereof, cease to be a lien or charge upon the property of such bank or banker in the hands of any such receiver, assignee, trustee or legal representative, and all liability of such receiver, assignee, trustee, bank or banker, for or on account of any circulating notes which shall not have been presented within such time shall cease.

Any such trustee, receiver, assignee, bank or banker may, after the full payment of all the circulating notes issued by them respectively which shall have been presented within the time required by such notice, and of all other lawful claims and demands against such bank or banker, divide the remaining property of the bank or banker among the stockholders thereof, their personal representatives or assigns, according to their respective shares or interest therein.

If the bank so designated shall at any time fail or refuse to redeem such notes at par when presented, they shall be protested as required by this chapter, and the superintendent shall thereupon, in the manner required in this chapter for the redemption of circulating notes, provide for the redemption of such notes.

Formerly L. 1892, ch. 689, § 79.

**§ 99. Proceedings on closing bank.** The stockholders of a bank may at any time direct that it be closed for the purpose of winding up its affairs. Such direction may be given at a stockholders' meeting by a two-thirds vote of its stock after written notice by mail to each stockholder of record, at his last known place of residence, which notice shall contain a statement of the purpose for which such meeting is called. A copy of the proceedings of the stockholders' meeting duly certified by the president and cashier of the bank must be filed in the banking department. The supreme court shall thereupon in a proper case after due notice to the superintendent of banks, make an order declaring the business of said bank closed, and prescribing the notice to be given to creditors to present their claims to the bank for payment. Upon the granting of said order, said bank shall cease to do a banking business, but may wind up its affairs, pay its debts and distribute its assets among its stockholders. Upon a petition of the bank showing that all its debts and obligations are discharged, and on notice to the attorney-general and superintendent of banks, and such further notice as the court prescribes, the court may on such terms as justice requires, make an order declaring the said bank dissolved, and the corporate existence thereof terminated. On filing a certified copy of said order in the banking department, said bank shall cease to exist as a corporation.

Formerly L. 1892, ch. 689, § 79-a, as added by L. 1900, ch. 567, § 1.

**§ 100. Proportionate amount of securities to be returned when notes are destroyed.** On the return to the superintendent and the destruction by him of any of the notes of any bank or individual banker making a deposit as herein required, such bank or individual banker, or its legal representatives,

shall be entitled to receive from him a proportionate amount of the securities so deposited. At the expiration of six years from the date of the notice given by the superintendent for the redemption of the circulating notes of banks closing business, such notes shall cease to be a lien upon the securities so deposited, and the same shall be surrendered to the lawful claimant therefor.

Formerly L. 1892, ch. 689, § 80.

**§ 101. Deposit of cash for redemption of notes.**

The superintendent may receive from any bank or banker a deposit of cash, pursuant to the provisions of this chapter relating to the deposit of cash by banks closing business, for the redemption of its circulating notes, without notice of intention to close the business of banking; but the bank or individual banker making such deposit shall continue to make the reports and statements and to publish the same as required of the banks of this state by the laws thereof, and be in all respects amenable to the banking laws of this state, as if in full operation as a bank of discount and deposit, until due notice and evidence of the discontinuance of such business of banking shall be given to the superintendent, which discontinuance shall require the concurrence of the owners of a majority of the shares of stock in the bank. This provision shall extend and apply to any bank that has heretofore made such deposit to redeem its outstanding circulation without having given notice of intention to close its business. Any bank or individual banker having given such notice and made the deposit of cash or securities as required by law, may withdraw such notice at any time within two years after making such deposit, and may thereupon resume the business of banking under its corporate name and subject to the laws of this state; but such withdrawal shall not affect the redemption of its circulating notes previously issued according to the terms advertised by the superintendent as required by law, nor shall such bank be entitled to issue any circulating notes until the time for the redemption of its previous issue shall have expired.

Formerly L. 1892, ch. 689, § 81.

**§ 102. Circulation of foreign bank notes prohibited.**

No bank or individual banker authorized to carry on the business of banking under the laws of this state shall receive, pay out, give or offer in payment, as money, to circulate or attempt to circulate as money, any bill, note or other evidence of debt issued or purporting to have been issued by any corporation or individual situated or residing without this state, and which bill, note or other evidence of debt shall, upon any part thereof, purport

to be payable or redeemable at any place, or by any person or corporation within this state.

No such bank or banker or any person whatever within the state, directly or indirectly, on any pretense whatever, shall procure or receive, or offer to receive, from any corporation or person, any bank bill or note or other evidence of debt in the similitude of a bank note, issued or purporting to have been issued by any corporation or individual situated or residing without this state, at a greater rate of discount than is or shall be at the time fixed by law for the redemption of the bills of the banks of this state at their agencies. No such bank or individual banker shall issue, utter or circulate as money, or in any way directly or indirectly aid or assist in the issuing, uttering or circulating as money within this state of any such bank bill, note or other evidence of debt issued or purporting to have been issued by any corporation or individual situated or residing without this state, or procure or receive in any manner whatever, any such bank bill, note or evidence of debt, with intent to issue, utter or circulate, or with intent to aid or assist in issuing, uttering or circulating the same as money within this state. Any bank or individual banker may receive and pay out such foreign bank bills as it shall receive at par in the ordinary course of its business, and it may receive foreign notes from its dealers and customers in the regular and usual course of its business, at a rate of discount not exceeding that which is or shall be at the time fixed by law for the redemption of the bills of the banks of this state at their agencies, and may obtain from the corporations or individuals by which such foreign notes were made the payment or redemption thereof.

Every bank and individual banker who shall offend against any of the provisions of this section or of section one hundred three of this chapter, shall forfeit for each and every offense the sum of one thousand dollars to be recovered with costs in the name and for the use of any person who shall sue for the same.

Formerly L. 1892, ch. 689, § 82.

**§ 103. Notes not receivable at par not to be paid out.** No bank or individual banker authorized to carry on the business of banking under the laws of this state shall directly or indirectly lend or pay out for paper discounted or purchased, any bank bill or note or other evidence of debt which is not received at par by such bank or banker for debts due to such bank or banker.

Formerly L. 1892, ch. 689, § 83.

**§ 104. Bills or notes must be payable on demand.** No bank or individual banker shall issue or put in circula-

tion any bill or note of such bank or banker unless the same shall be made payable on demand and without interest, except bills of exchange on foreign countries or places beyond the limits or the jurisdiction of the United States, which bills may be made payable at or within the customary usance, or at or within ninety days' sight, and, except certificates of deposit payable on presentation, with or without interest, to bearer or to the order of a person named therein; but no such certificate of deposit shall be issued except as representing money actually on deposit.

Formerly L. 1892, ch. 689, § 84.

**§ 105. When bills of exchange to be without grace.**

All checks, bills of exchange or drafts appearing on their face to have been drawn upon any bank or individual banker carrying on banking business under the laws of this state, which are on their face payable on any specified day or in any number of days after the date or sight thereof, shall be deemed due and payable on the day mentioned for the payment of the same, without any days of grace being allowed, and it shall not be necessary to protest the same for non-acceptance.

Formerly L. 1892, ch. 689, § 85.

**§ 106. Transfers of securities by superintendent to be countersigned by treasurer.** No transfer of securities now held or hereafter received by the superintendent to secure circulation shall be valid or of binding force or effect unless countersigned by the treasurer of the state, or in his absence or inability to perform the duties of his office, by his deputy. The treasurer shall keep in his office or in the office of the superintendent of banks, a book in which shall be entered the name of every bank or individual banker, from whose account such transfer of securities is made by the superintendent, and the name of the party to whom such transfer is made, unless such transfer shall be made in blank, in which case the fact shall be stated in such book; and the par value of any stock so transferred shall be entered therein, and the treasurer shall immediately upon countersigning and entering the same, advise by mail the bank or individual banker from whose accounts such transfer is made, of the kind of security and amount of the same thus transferred. The treasurer shall present in his annual report to the legislature, the total amount of such transfers or assignments countersigned by him.

The treasurer shall, during office hours, have access to the books of the superintendent of banks for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the superintendent shall, during office

hours, have access to the book above mentioned kept by the treasurer to ascertain the correctness of the entries upon the same.

Formerly L. 1892, ch. 689, § 86.

**§ 107. Unauthorized banking prohibited.** No person unauthorized by law shall subscribe to or become a member of, or be in any way interested in any association, institution or company formed or to be formed for the purpose of issuing notes or other evidences of debt to be loaned or put in circulation as money; nor shall any such person subscribe to or become in any way interested in any bank or fund created or to be created for the like purposes or either of them. No corporation, without being authorized by law, shall employ any part of its property, or be in any way interested in any fund which shall be employed for the purpose of receiving deposits, making discounts or issuing notes or other evidences of debt to be loaned or put into circulation as money. All notes and other securities for the payment of any money or the delivery of any property, made or given to any such association, institution or company, or made or given to secure the payment of any money loaned or discounted by any corporation or its officers, contrary to the provisions of this section, shall be void.

No person, association of persons or corporation, except such as are expressly authorized by law, shall keep any office for the purpose of issuing any evidences of debt, to be loaned or put in circulation as money; nor shall they issue any bills or promissory notes or other evidences of debt as private bankers, for the purpose of loaning them or putting them in circulation as money, unless thereto specially authorized by law.

Every person, and every corporation, director, agent, officer or member thereof, who shall violate any provision of this section, directly or indirectly, or assent to such violation, shall forfeit one thousand dollars to the people of the state.

Formerly L. 1892, ch. 689, § 87.

**§ 108. Restrictions as to foreign corporations.** No foreign corporation, other than a national bank, shall keep any office for the purpose of receiving deposits or discounting notes or bills, or issuing any evidence of debt to be loaned or put in circulation as money within this state.

Formerly L. 1892, ch. 689, § 88.

**§ 109. Restrictions as to banks and their officers.** No bank in this state, or any officer or director thereof, shall open or keep an office of deposit or discount other than its



principal place of business, except that any bank located in a city of over one million inhabitants, according to the last state or federal enumeration, and whose certificate of incorporation shall so provide, may open and keep one or more branch offices in such city for the receipt and payment of deposits and for making loans and discounts to the customers of such branch offices only; provided, however, that no bank shall open a branch office without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office and, provided further, that no bank, or any officer or director thereof, shall open or maintain a branch office, unless the capital of such bank actually paid in cash shall exceed the amount required by section sixty of this chapter by the sum of one hundred thousand dollars for each branch office hereafter opened and the sum of fifty thousand dollars for each branch office heretofore opened and hereafter maintained. Every bank and every such officer or director violating the provisions of this section shall forfeit to the people of the state the sum of one thousand dollars for every week during which any branch office hereafter opened shall be maintained without such written approval.

Formerly L. 1892, ch. 689, § 89, as am'd by L. 1898, ch. 410, § 1, and L. 1908, ch. 156, § 1.

**§ 110. Bills payable otherwise than in money prohibited.** No person shall give, pay or receive in payment, or in any way circulate, or attempt to circulate, any bank bill, or any promissory note, bill, check, draft or other evidence of debt, issued by any bank or individual banker, which shall be made payable otherwise than in lawful money of the United States.

Every person violating this provision shall forfeit to the people of the state the face amount or value of such bill, note or other evidence of debt so given, paid, received, circulated or offered, to any person who will sue for the same within sixty days after the commission of the offense.

Formerly L. 1892, ch. 689, § 90.

**§ 111. Certain bills declared to be promissory notes.** All bills, notes or other instruments which shall be issued by any bank or individual banker purporting to be receivable in payment of debts due to it, shall be deemed and taken to be promissory notes for the payment on demand of the sum or value

expressed in such instrument, and such sum shall be recoverable by the holder or bearer of such instrument, in like manner as if the same were a promissory note.

Formerly L. 1892, ch. 689, § 91.

**§ 112. Use of sign indicating bank by unauthorized persons prohibited.** No person engaged in the business of banking in this state, not subject to the supervision of the superintendent and not required to report to him by the provisions of this chapter, shall make use of any office sign at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank; nor shall such person or persons make use of or circulate any letter-heads, bill-heads, blank notes, blank receipts, certificates, circulars, or any written or printed or partly written and partly printed paper whatever, having thereon any artificial or corporate name, or other word or words, indicating that such business is the business of a bank.

Every person violating this provision shall forfeit the sum of one thousand dollars. But this section shall not apply to any person or persons engaged in the business of banking prior to October first, eighteen hundred and ninety-two.

Formerly L. 1892, ch. 689, § 92.

**§ 113. Lost bank certificate; application to court for order requiring payment.** Where a deposit of money has been made in any bank doing business in the state and a certificate of deposit has been issued therefor, and such certificate has been lost or destroyed, the person to whom it was issued, his or her executors or administrators, or in case of assignment the assignee thereof or his or her executor or administrator, may apply to the supreme court of this state at a special term thereof appointed to be held in the judicial district where said bank is situated, by petition, duly verified by the petitioner, in the same manner as a complaint in a civil action in the supreme court is verified, for an order requiring the payment of the money due on such certificate, or if a bond or undertaking has been given to secure the payment of such a certificate and the same has been paid to the person to whom it was issued, his or her executors, administrators or assigns, the obligors thereon, or any one of them, or the executors, administrators or assigns of such obligors, or the persons or corporation executing such bond or undertaking, or any one of them, may apply to said court on petition verified in the same said manner for an order declaring such certificate null and void and

for the release, discharge and satisfaction of any such bond or undertaking and of the obligors thereon.

Formerly L. 1899, ch. 451, § 1, as am'd by L. 1901, ch. 171, § 1.

**§ 114. Petition; service of.** Such petition shall set forth the date of such certificate, the amount for which it was issued, the name of the bank issuing it, and the place where said bank is located, the name of the person to whom it was issued, and if assigned, the name of the assignee, and if a bond or undertaking has been given to procure the payment of such certificate and the release, discharge and satisfaction thereof is sought, said petition in addition shall also state the date of the same, the time when, by whom and to whom given and the names of the obligors thereon.

A copy of such petition shall be served on said bank in the same manner as a summons in the supreme court is served on a corporation, at least eight days before the time specified therein for a hearing before the court, and if the release, discharge and satisfaction of a bond or undertaking given to procure the payment of such a certificate is sought, then such petition shall be also served at the same time and in the same manner on the obligors thereof and the persons giving the same, their executors, administrators or assigns, other than the party making said petition.

Formerly L. 1899, ch. 451, §§ 2, 3, as am'd by L. 1901, ch. 171, §§ 2, 3.

**§ 115. Bank to furnish information.** The bank issuing such certificate shall, upon application of the person who made the deposit, or his executors, administrators or assigns, furnish to such applicant the date and number of the certificate and the amount for which it was issued, and shall upon like application furnish to any obligor, on any bond or undertaking given to procure the payment of such certificate, or his executors, administrators or assigns, like information.

Formerly L. 1899, ch. 451, § 4, as am'd by L. 1901, ch. 171, § 4.

**§ 116. Notice; order, and publishing.** Upon due proof of the service of such petition on said bank, the court, if it shall be satisfied that the facts set forth in the petition are true, may make an order to the effect that a notice shall be published in two papers to be designated by the judge holding such term of court, and to be entitled "In the matter of the application of ..... (naming the petitioner) to require the bank of ..... (naming the bank) to pay over money deposited in said bank by ..... (naming the depositor)" or in case a bond or undertaking has been given to procure the payment of such a certificate and it is sought to

obtain an order from the court declaring such certificate null and void and the release, discharge and satisfaction of such bond and undertaking, then such petition is to be entitled "In the matter of the application of ..... (naming the petitioner) to obtain an order declaring a certificate of deposit issued by the ..... (naming the bank) null and void and the release, discharge and satisfaction of the bond (or the undertaking, as the case may be) given to said bank by ..... (naming the party giving such bond) to secure the payment of such certificate."

Such notice shall be published once in each week in each of such papers for thirteen consecutive weeks.

Formerly L. 1899, ch. 451, §§ 5, 6. Section 5 as am'd by L. 1901, ch. 171, § 5, and L. 1901, ch. 503, § 1.

**§ 117. Contents of notice.** Such notice shall also contain the name of the bank issuing such certificate, the date of the certificate, the number, the amount for which it was issued; and in case it is sought to have any bond or undertaking given to secure the payment of such certificate, released, discharged and satisfied, said notice shall give the date thereof, the names of the parties by whom and to whom given and the obligors thereon; and said notice shall also provide that any person having such certificate in his or her possession, or under his or her control, shall produce the same within a time named in said notice, and present the same to the bank issuing the same, and upon default thereof shall forfeit all right or claim thereto, or to the money due thereon. Such notice shall also provide that at the expiration of the time of publication, an application will be made to the said court for an order declaring said certificate null and void; and directing the payment of the money so deposited in and held by said bank to the petitioner if the same shall not have been previously paid, and if a bond or undertaking shall have been given to secure from such bank the payment of such certificate and its release, discharge and satisfaction is sought, in addition to having said certificate declared null and void, then said notice shall also state that said application will also be made at said time to said court to have such order declare such bond or undertaking released, discharged and satisfied and the obligors relieved therefrom.

Formerly L. 1899, ch. 451, § 7, as am'd by L. 1901, ch. 171, § 6.

**§ 118. Application for final order.** At the expiration of the time of the publication of such notice, the petitioner may apply to said courts, after giving said bank and each party to said bond or undertaking, his executors, administrators or assigns,

other than the petitioner, at least eight days' personal notice of such second application for a final order declaring such certificate null and void, and directing said bank to pay over the money so deposited to the petitioner if the same shall not have been previously paid, and if such bond or undertaking has been given to such bank to procure the payment of such certificate, and its release, discharge and satisfaction is sought, such notice of such second application shall give notice of an application for a final order declaring such certificate null and void and also for the release, discharge and satisfaction of such bond or undertaking and the discharge of the sureties therefrom. And if it appears on said application for said final order that the provisions of this article have been complied with the court shall grant the same.

Formerly L. 1899, ch. 451, § 8, as am'd by L. 1901, ch. 171, § 7.

**§ 119. Order; filing, and service; refusal to pay.** Such final order shall contain a recital of the first order and shall be filed and entered in the clerk's office of the county in which said bank is situated, and upon the production of a certified copy of said second order to said bank, it shall pay to such petitioner the amount due on said certificate of deposit if the same shall not have been previously paid.

After the service upon said bank of a certified copy of the said second order if said bank shall refuse or neglect to pay over the money due on said certificate, it may be recovered of said bank in the same manner as if such certificate had not been lost or destroyed.

Formerly L. 1899, ch. 451, §§ 9, 10. Section 9 as am'd by L. 1901, ch. 171, § 8.

**§ 120. Bond discharged; bank released.** No claim thereafter made by any person having such certificate in his or her possession, shall be available against such bank, and the bank shall forever thereafter be fully and entirely relieved of any liability by reason of its having issued such certificate or for the money due thereon. After the granting of any such order declaring any such certificate null and void, and any bond or undertaking given to any bank to secure the payment of such a certificate, released, discharged and satisfied, no claim made on any such bond or undertaking shall be available or be enforced against any party or corporation giving such bond or any obligor thereon but each such person and corporation shall be fully and entirely relieved from all liability on such bond or undertaking.

Formerly L. 1899, ch. 451, § 11, as am'd by L. 1901, ch. 171, § 9.

## ARTICLE 4

### Savings Banks

#### Section 130. Incorporation.

131. Notice of intention to organize.
132. Filing of certificate by superintendent.
133. Examination by superintendent.
134. Certificate of authorization.
135. When persons named in certificate become a corporation; powers.
136. Must begin business within one year.
137. Trustees and their powers.
138. By-laws.
139. Meeting of trustees; quorum.
140. Vacancies.
141. Security may be required from employees and salaries fixed.
142. Dividends, compensation and loans to trustees prohibited.
143. Repayment of deposits; regulations; limitation.
144. Deposits of minors, and trust deposits, and deposits in the names of more than one person.
145. Wife witness against husband; claimants may be interpleaded.
146. In what securities deposits may be invested.
147. Limitation as to real property.
148. Available fund for current expenses; how loaned.
149. Temporary deposits.
150. Personal security prohibited; loans on bond and mortgage.
151. Mortgaged property to be insured.
152. Restrictions on methods of doing business.
153. Rate of interest; extra dividends.
154. Per centum of surplus, how determined.
155. Compensation of officers.
156. No other report or inspection required.
157. Examination of vouchers and assets by trustees.
158. Expenses to be paid.
159. Certain debts from insolvent banks and trust companies preferred.
160. Advertisements of unauthorized savings banks prohibited.
161. Charters to be conformed to this chapter.

Section 162. Savings bank voluntarily closed.

163. When dissolution effected.

164. Deposit of unclaimed moneys.

**§ 130. Incorporation.** Thirteen or more persons, two-thirds of whom shall be residents of the county where the proposed bank shall be located, may become a savings bank by executing under their hands and seals and acknowledging a certificate in duplicate, one duplicate to be filed in the office of the clerk of such county, and the other in the office of the superintendent of banks within sixty days after its acknowledgment, which shall set forth:

1. The name by which the corporation shall be known.

2. The place where its business is to be transacted, designating the particular city, village or town, and, if in a city, the ward therein.

3. The name, residence, and, if in a city, the street and number, occupation and post-office address, of each member of the corporation.

4. A declaration that each member of the corporation will accept the responsibilities and faithfully discharge the duties of a trustee in such corporation when authorized according to the provisions of law.

Formerly L. 1892, ch. 689, § 100.

**§ 131. Notice of intention to organize.** A notice of intention to organize such savings bank shall be published at least once a week for four weeks previous to filing such certificate in at least one newspaper of the largest circulation published in the city, village or town where such savings bank is proposed to be located, or, if there is no newspaper published therein, then in some newspaper published in the county; if none in the county, in an adjoining county; which notice shall specify the names of the proposed incorporators, the name of the proposed savings bank, and the location of the same as set forth in the certificate; and if there is any savings bank organized and doing business in such county, a copy of such notice shall also be sent to every such savings bank so organized and doing business, at least fifteen days before the filing of such certificate.

Formerly L. 1892, ch. 689, § 101.

**§ 132. Filing of certificate by superintendent.** If such certificate shall not be in form and substance as required by this article and not duly and properly acknowledged, or not accompanied by evidence satisfactory to the superintendent of the publication and service in good faith according to the intent and pur-

pose of this article of the notice required by the preceding section, the superintendent shall refuse to file such certificate until it shall be amended to conform to the provisions of this article. If such certificate is in due form and duly executed according to the provisions of this article and is accompanied by evidence satisfactory to the superintendent of the proper publication and service in good faith of such notice, he shall forthwith indorse the same over his official signature "filed for examination," with the date of such indorsement.

Formerly L. 1892, ch. 689, § 102.

**§ 133. Examination by superintendent.** The superintendent shall thereupon ascertain from the best sources of information at his command:

1. Whether greater convenience of access to a savings bank will be afforded to any considerable number of depositors by opening a savings bank in the place designated in the certificate.

2. Whether the density of the population in the neighborhood designated for such savings bank, and in the surrounding country, affords a reasonable promise of adequate support to the enterprise.

3. Whether the responsibility, character and general fitness for the discharge of the duties appertaining to such a trust of the persons named in the certificate, are such as to command the confidence of the community in which such savings bank is proposed to be located.

Formerly L. 1892, ch. 689, § 103.

**§ 134. Certificate of authorization.** If the superintendent shall be satisfied from his own knowledge or from information gained concerning the several matters specified in the last section, that the organization of the savings bank as proposed in such certificate will be a public benefit, he shall, within sixty days after the same has been filed by him for examination, issue under his hand and official seal the certificate of authorization required by this chapter to the persons named in such certificate, or to a portion of them, together with such other persons as a majority of those named in such certificate shall in writing approve, which shall authorize the persons named therein to open an office for the deposit of savings as designated in the certificate, subject to the provisions of this chapter. No person shall be named in such certificate of authorization, who shall not have made and duly acknowledged the declaration prescribed in subdivision four of section one hundred and thirty of this chapter.

The superintendent shall transmit such certificate of authorization to the county clerk of the county in which the savings bank is



to be located, who shall file the same and attach it to the certificate of incorporation previously filed by him and record both certificates in the book of record of incorporations; and the superintendent shall also file a duplicate of such certificate in his own office.

If the superintendent shall not be satisfied that the establishment of a savings bank as proposed in any certificate filed by him is expedient and desirable, he shall, within sixty days after the filing thereof, give notice to the county clerk of the county in which such savings bank is proposed to be located, that he refuses to issue a certificate of authorization for such savings bank, which notice shall forthwith be filed by the county clerk with the certificate of incorporation of such savings bank.

Formerly L. 1892, ch. 689, § 104.

**§ 135. When persons named in certificate become a corporation; powers.** Upon the filing of any certificate of authorization of a savings bank as hereinbefore provided, the persons named therein, and their successors, shall thereupon become and be a corporation, and be vested with all the powers and charged with all the liabilities conferred and imposed by law upon savings banks; and in addition to the powers conferred by the general corporation law, every such corporation shall have power to receive on deposit any sum of money that may be offered for that purpose by any person, or by any corporation or society, and to invest the same, and to declare, credit and pay dividends thereon, and further, to transact the business of a savings bank as hereinafter provided and not otherwise. No such corporation shall receive deposits until it shall have transmitted to the superintendent of banks the name, residence and post-office address of each of the officers of such savings bank.

Formerly L. 1892, ch. 689, § 105.

**§ 136. Must begin business within one year.** Every such corporation which shall not organize and commence business within one year after the certificate of authorization has been filed, shall forfeit its rights and privileges as a corporation under this chapter. The superintendent of banks may, for satisfactory cause to him shown, by an order under his hand and official seal, extend the term within which such organization may be effected and such business commenced, for not more than one year. Such order shall be transmitted to the county clerk of the county in which such savings bank is to be located, who shall file the same, together with its certificate of incorporation and certificate of authorization.

Formerly L. 1892, ch. 689, § 106.

**§ 137. Trustees and their powers.** There shall be a board of not less than thirteen trustees of every such corporation, who shall have the entire management and control of all its affairs, and who shall elect from their number, or otherwise, a president and two vice-presidents, and such other officers as they may deem fit. The persons named in the certificate of authorization shall be the first trustees. A vacancy in the board shall be filled by the board, as soon as practicable, at a regular meeting after the vacancy occurs. Each trustee, whether named in the certificate of authorization or elected to fill a vacancy, shall, when such certificate of authorization has been issued or when notified of such election, take an oath that he will, so far as it devolves on him, diligently and honestly administer the affairs of such corporation, and will not knowingly violate, or willingly permit to be violated any of the provisions of law applicable to such corporation. Such oath shall be subscribed by the trustee making it and certified by the officer before whom it is taken, and shall be immediately transmitted to the superintendent of banks and filed and preserved in his office. No person who is not a resident of this state or against whom a judgment for any sum of money shall have been recovered or shall hereafter be recovered and remain unsatisfied of record, or unsecured upon appeal, for a period of more than three months, or who hereafter takes the benefit of any law of bankruptcy or insolvency, or who makes a general assignment for the benefit of creditors, shall be a trustee of any savings bank, and the office of any such trustee is hereby vacated. It shall be lawful for the board of trustees of every such corporation by a resolution to be incorporated in its by-laws, a copy of which shall also be filed with the superintendent of banks, to reduce the number of trustees named in the original charter of such corporation to a number not less than the minimum named in this article. Such reduction shall be effected gradually by the occurrence of vacancies by death, resignation, or forfeiture, until the number is reduced to thirteen, or to such greater number as shall be designated in the aforesaid resolution; or the number of trustees may be increased to any number designated in a resolution for that purpose, where reasons therefor are shown to the satisfaction of the superintendent and his consent in writing is obtained thereto. It shall not be lawful for a majority of the board of trustees of any savings bank to belong to the board of directors of any one bank or national banking association. When any trustee of a savings bank shall, by becoming a director of a bank or national banking association, cause a majority of the trustees of such savings bank to be

\*So in original.

directors of any one bank or national banking association, his term of office as trustee of the savings bank shall thereupon end. Any savings bank knowingly violating this provision shall forfeit all its rights, privileges and franchises. Such violation shall be determined in the same manner as a violation of subdivision six of section twenty-seven of article two of this chapter.

Formerly L. 1892, ch. 689, § 107, as am'd by L. 1895, ch. 415, § 1; L. 1895, ch. 929, § 3; L. 1896, ch. 453, § 1, and L. 1908, ch. 153, § 1.

**§ 138. By-laws.** The board of trustees of any such corporation may from time to time make such by-laws, rules and regulations, not inconsistent with law, as they may think proper for the election of officers, for prescribing their respective powers and duties and the manner of discharging the same, for the appointment and duties of committees, and generally for transacting, managing and directing the affairs of the corporation; and a copy of the same shall be transmitted to the superintendent of banks, who shall also be notified of any amendment or change therein.

Formerly L. 1892, ch. 689, § 108.

**§ 139. Meeting of trustees; quorum.** Regular meetings of the board of trustees shall be held as often as once a month for the purpose of receiving the reports of their officers and committees, and for the transaction of other business. A quorum at any regular or special or adjourned meeting shall consist of not less than seven, of whom the president shall be one, except when prevented from attending by sickness or other unavoidable detention, when he may be represented in forming a quorum by the vice-president, who, in case of his absence for like cause, may be represented by the second vice-president; but less than a quorum shall have power to adjourn from time to time or until the next regular meeting.

Formerly L. 1892, ch. 689, § 109.

**§ 140. Vacancies.** Whenever a trustee of any savings bank shall become a trustee, officer, clerk or employee of any other savings bank, or when he shall borrow directly or indirectly, any of the funds of the savings bank in which he is trustee, or become a surety or guarantor for any money borrowed of or any loan made by such savings bank, or when he shall fail to attend the regular meetings of the board, or perform any of the duties devolved upon him as such trustee, for six successive months, without having been previously excused by the board for such failure, the office of such trustee shall thereupon immediately become vacant; but the trustee vacating his office by failure to attend meetings, or to dis-

charge his duties, may, in the discretion of the board, be eligible to re-election.

Formerly L. 1892, ch. 689, § 110.

**§ 141. Security may be required from employees and salaries fixed.** The trustees of any such corporation shall have power to require from the officers, clerks and agents of the corporation such security for their fidelity and the faithful performance of their duties as they shall deem necessary, and to fix the salaries of such officers and agents, subject to the provisions of this chapter.

Such security may be accepted from any company authorized to furnish fidelity bonds, doing business under authority of the New York insurance department, which may be approved by the superintendent of banks and the premiums paid therefor may be paid by and shall be allowed to said corporation as a necessary disbursement.

Formerly L. 1892, ch. 689, § 111.

**§ 142. Dividends, compensation and loans to trustees prohibited.** No trustee of any such corporation shall have any interest, direct or indirect, in the gains or profits thereof, nor as such, directly or indirectly, receive any pay or emolument for his services, except as hereinafter provided; and no trustee or officer of any such corporation shall directly or indirectly, for himself or as an agent or partner of others, borrow any of its funds or deposits, or in any manner use the same except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or officer of any such corporation become an indorser or surety, or become in any manner an obligor, for moneys loaned by or borrowed of such corporation.

Formerly L. 1892, ch. 689, § 112.

**§ 143. Repayment of deposits; regulations; limitation.** The sums deposited with any savings bank, together with any dividends or interest credited thereto, shall be repaid to such depositors respectively, or to their legal representatives, after demand, in such manner and at such times, and after such previous notice, and under such regulations, as the board of trustees shall prescribe. Such regulations shall be posted in a conspicuous place in the room where the business of the corporation shall be transacted, and shall be printed in the pass-books or other evidences of deposit furnished by it, and shall be evidence between the corporation and the depositors holding the same, of

the terms upon which the deposits therein acknowledged are made. Every such corporation may limit the aggregate amount which any one person or society may deposit to such sum as it may deem expedient to receive, and may, in its discretion, refuse to receive a deposit, and may also at any time return all or any part of any deposit. The aggregate amount of deposits to the credit of any individual at any time shall not exceed three thousand dollars, exclusive of deposits arising from judicial sales or trust funds or interest; and to the credit of any society or corporation at any time, shall not exceed five thousand dollars, exclusive of accrued interest, unless such deposit was made prior to May seventeenth, eighteen hundred and seventy-five, or pursuant to an order of a court of record.

Formerly L. 1892, ch. 689, § 113.

**§ 144. Deposits of minors, and trust deposits, and deposits in the names of more than one person.** When any deposit shall be made by or in the name of any minor, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends and interest thereon, to the person in whose name the deposit shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such deposit or any part thereof to the corporation.

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 in writing to the bank, 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 deposit was made.

When a deposit shall be made by any person in the names of such depositor and another person and in form to be paid to either or the survivor of them, such deposit thereupon and any additions thereto made by either of such persons upon the making thereof shall become the property of such persons as joint tenants and the same together with all interest thereon shall be held for the exclusive use of the persons so named and may be paid to either during the lifetime of both or to the survivor after the death of one of them, and such payment and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to said bank for all payments made on account of such deposit prior to the receipt by said bank of notice

in writing not to pay such deposit in accordance with the terms thereof.

Formerly L. 1892, ch. 689, § 114, as am'd by L. 1907, ch. 247, § 1.

**§ 145. Wife witness against husband; claimants may be interpleaded.** In all actions in any court of this state against any savings bank by a husband to recover for moneys deposited by his wife in her own name, or as her own money, the wife may be examined and testify as a witness in like manner as if she were an unmarried woman.

In all actions against any savings bank to recover for moneys on deposit therewith, if there be any person or persons, not parties to the action, who claim the same fund, the court in which the action is pending, may, on the petition of such savings bank, and upon eight days' notice to the plaintiff and such claimants, make an order amending the proceedings in the action by making such claimants parties defendant thereto; and the court shall thereupon proceed to determine the rights and interests of the several parties to the action in and to such funds.

The funds on deposit which are the subject of the action may remain with such savings bank upon the same interest as other deposits of like amount to the credit of the action, until final judgment therein, and the same shall be paid by such savings bank in accordance with the order of the court; or the deposit in controversy may be paid into court to await the final determination of the action; and when so paid into court the corporation shall be stricken out as a party to any such action, and its liability for such deposit shall cease.

The costs in the actions referred to in this section shall in all cases be in the discretion of the court, and may be charged upon the fund affected by the action. The statutes limiting the time within which actions shall be commenced shall have no application to actions brought by depositors, their representatives or assigns, against savings banks for deposits made therein.

Formerly L. 1892, ch. 689, § 115.

**§ 146. In what securities deposits may be invested.** The trustees of any savings bank may invest the moneys deposited therein and the income derived therefrom only as follows:

1. In the stocks or bonds or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is pledged to provide for the payment of the interest and principal, including the bonds of the District of Columbia.

2. In the stocks or bonds or interest-bearing obligations of this state, issued pursuant to the authority of any law of the state.

3. In the stocks or bonds or interest-bearing obligations of any state of the United States which has not within ten years previous to making such investment by such corporation defaulted in the payment of any part of either principal or interest of any debt authorized by the legislature of any such state to be contracted; and in the bonds or interest-bearing obligations of any state of the United States, issued in pursuance of the authority of the legislature of such state, which have, prior to May twenty-ninth, eighteen hundred and ninety-five, been issued for the funding or settlement of any previous obligation of such state theretofore in default, and on which said funding or settlement obligation there has been no default in the payment of either principal or interest since the issuance of such funding or settlement obligation, and provided the interest on such funding or settlement obligation has been paid regularly for a period of not less than ten years next preceding such investment.

4. In the stocks or bonds of any city, county, town or village, school district bonds and union free school district bonds issued for school purposes, or in the interest-bearing obligations of any city, county, town or village of this state, issued pursuant to the authority of any law of the state for the payment of which the faith and credit of the municipality issuing them are pledged.

5. In the stocks or bonds of any incorporated city situated in one of the states of the United States which was admitted to statehood prior to January first, eighteen hundred and ninety-six, and which, since January first, eighteen hundred and sixty-one, has not repudiated or defaulted in the payment of any part of the principal or interest of any debt authorized by the legislature of any such state to be contracted, provided said city has a population, as shown by the federal census next preceding said investment, of not less than forty-five thousand inhabitants, and was incorporated as a city at least twenty-five years prior to the making of said investment, and has not, since January first, eighteen hundred and seventy-eight, defaulted for more than ninety days in the payment of any part either of principal or interest of any bond, note or other evidence of indebtedness, or effected any compromise of any kind with the holders thereof. But if, after such default on the part of any such state or city, the debt or security, in the payment of the principal or interest of which such default occurred, has been fully paid, refunded or compromised by the issue of new securities, then the date of the first failure to pay principal or interest, when due, upon such debt or security, shall be taken to be the date of such default, within the provisions of this subdivision, and subsequent failures to pay instalments of principal

or interest upon such debt or security, prior to the refunding or final payment of the same, shall not be held to continue said default or to fix the time thereof, within the meaning of this subdivision, at a date later than the date of said first failure in payment. If at any time the indebtedness of any such city, together with the indebtedness of any district, or other municipal corporation or subdivision except a county, which is wholly or in part included within the bounds or limits of said city, less its water debt and sinking funds shall exceed seven per centum of the valuation of said city for purposes of taxation, its bonds and stocks shall thereafter, and until such indebtedness shall be reduced to seven per centum of the valuation for the purposes of taxation, cease to be an authorized investment for the moneys of savings banks, but the superintendent of banks may, in his discretion, require any savings bank to sell such bonds or stock of said city as may have been purchased prior to said increase of debt.

6. In bonds and mortgages on unincumbered real property situated in this state, to the extent of sixty per centum of the value thereof. Not more than sixty-five per centum of the whole amount of deposits shall be so loaned or invested. If the loan is on unimproved and unproductive real property, the amount loaned thereon shall not be more than forty per centum of its actual value. No investment in any bonds and mortgages shall be made by any savings bank except upon the report of a committee of its trustees charged with the duty of investigating the same, who shall certify to the value of the premises mortgaged or to be mortgaged, according to their best judgment, and such report shall be filed and preserved among the records of the corporation. Also in the following securities:

(a) The first mortgage bonds of any railroad corporation of this state, the principal part of whose railroad is located within this state, or of any railroad corporation of this or any other state or states connecting with and controlled and operated as a part of the system of any such railroad corporation of this state, and of which connecting railroad at least a majority of its capital stock is owned by such a railroad corporation of this state, or in the mortgage bonds of any such railroad corporation of an issue to retire all prior mortgage debt of such railroad companies respectively; provided that at no time within five years next preceding the date of any such investment, such railroad corporation of this state or such connecting railroad corporation respectively shall have failed regularly and punctually to pay the matured principal and interest of all its mortgage indebtedness, and in addition thereto regularly and punctually to have paid in dividends to its stock-



holders during each of said five years an amount at least equal to four per centum upon all its outstanding capital stock; and provided, further, that at the date of every such dividend the outstanding capital stock of such railroad corporation, or such connecting railroad company respectively, shall have been equal to at least one-third of the total mortgage indebtedness of such railroad corporations respectively, including all bonds issued or to be issued under any mortgage securing any bonds in which such investment shall be made.

(b) The mortgage bonds of the following railroad corporations: The Chicago and Northwestern railroad company, Chicago, Burlington and Quincy railroad company, Michigan Central railroad company, Illinois Central railroad company, Pennsylvania railroad company, Delaware and Hudson company, Delaware, Lackawanna and Western railroad company, New York, New Haven and Hartford railroad company, Boston and Maine railroad company, Maine Central railroad company, the Chicago and Alton railroad company, Morris and Essex railroad company, Central railroad of New Jersey, United New Jersey railroad and canal company, also in the mortgage bonds of railroad companies whose lines are leased or operated or controlled by any railroad company specified in this paragraph if said bonds be guaranteed both as to principal and interest by the railroad company to which said lines are leased or by which they are operated or controlled. Provided that at the time of making investments authorized by this paragraph the said railroad corporations issuing such bonds shall have earned and paid regular dividends of not less than four per centum per annum in cash on all their issues of capital stock for the ten years next preceding such investment, and provided the capital stock of any said railroad corporations shall equal or exceed in amount one-third of the par value of all its bonded indebtedness; and further provided that all bonds authorized for investment by this paragraph shall be secured by a mortgage which is a first mortgage on either the whole or some part of the railroad and railroad property of the company issuing such bonds. or that such bonds shall be mortgage bonds of an issue to retire all prior mortgage debts of such railroad company; provided, further, that the mortgage which secures the bonds authorized by this paragraph is dated, executed and recorded prior to January first, nineteen hundred and five.

(c) The mortgage bonds of the Chicago, Milwaukee and Saint Paul railway company, and the Chicago, Rock Island and Pacific railway company, so long as they shall continue to earn and pay at least four per centum dividends per annum on their outstanding

division, except for the fact that the railroad corporation issuing said bonds actually owns in fee less than five hundred miles of road, provided the payment of principal and interest of said bonds is guaranteed by indorsement thereon by, or provided said bonds have been assumed by, a corporation whose first mortgage is, or refunding mortgage bonds are, a legal investment under the provisions of paragraph (e) or (f) of this subdivision. But no one of the bonds so guaranteed or assumed shall be a legal investment in case the mortgage securing the same shall authorize a total issue of bonds which, together with all the outstanding prior debts of the corporation making such guaranty or so assuming said bonds, including therein the authorized amount of all previously guaranteed or assumed bond issues, shall exceed three times the capital stock of said corporation, at the time of making said investment.

(i) The first mortgage bonds of a railroad the entire capital stock of which, except shares necessary to qualify directors, is owned by, and which is operated by a railroad whose last issued refunding bonds are a legal investment under the provisions of paragraph (a), (e) or (f) of this subdivision, provided the payment of principal and interest of said bonds is guaranteed by indorsement thereon by the company so owning and operating said road, and further provided the mortgage securing said bonds does not authorize an issue of more than twenty thousand dollars in bonds for each mile of road covered thereby. But no one of the bonds so guaranteed shall be a legal investment in case the mortgage securing the same shall authorize a total issue of bonds which together with all the outstanding prior debts of the company making said guaranty, including therein the authorized amount of all previously guaranteed bond issues, shall exceed three times the capital stock of said company, at the time of making said investment.

Bonds which have been or shall become legal investments for savings banks under any of the provisions of this section shall not be rendered illegal as investments, though the property upon which they are secured has been or shall be conveyed to another corporation, and though the railroad corporation which issued or assumed said bond has been or shall be consolidated with another railroad corporation, if the consolidated or purchasing corporation shall assume the payment of said bonds and shall continue to pay regularly interest or dividend or both upon the securities issued against, in exchange for or to acquire the stock of the company consolidated or the property purchased, or upon securities subsequently issued in exchange or substitution therefor, to an amount at least equal to four per centum per annum upon

the capital stock outstanding at the time of such consolidation or purchase of said corporation which has issued or assumed said bonds.

Not more than twenty-five per centum of the assets of any savings bank shall be loaned or invested in railroad bonds, and not more than ten per centum of the assets of any savings bank shall be invested in the bonds of any one railroad corporation described in paragraph (a) of this subdivision, and not more than five per centum of such assets in the bonds of any other railroad corporation. In determining the amount of the assets of any savings bank under the provisions of this subdivision its securities shall be estimated in the manner prescribed for determining the per centum of surplus by section one hundred and fifty-four of this chapter. Street railroad corporations shall not be considered railroad corporations within the meaning of this subdivision.

7. In real property subject to the provisions of section one hundred and forty-seven.

Formerly L. 1892, ch. 689, § 116, as am'd by L. 1893, ch. 440, § 1; L. 1895, ch. 813, § 1; L. 1896, ch. 454, § 1; L. 1897, ch. 386, § 1; L. 1898, ch. 236, § 1; L. 1899, ch. 386, § 1; L. 1900, ch. 42, § 1; L. 1902, ch. 440, § 1; L. 1902, ch. 598, § 1; L. 1903, ch. 328, § 1; L. 1903, ch. 640, § 1; L. 1905, ch. 401, § 1, and L. 1906, ch. 581, §§ 1, 2.

**§ 147. Limitation as to real property.** Every such corporation may purchase, hold or convey real property only as follows:

1. A plot whereon is erected or may be erected a building or buildings requisite for the convenient transaction of its business, and from portions of which not required for its own use a revenue may be derived. The cost of such building or buildings and lot shall in no case exceed twenty-five per centum of the net surplus of the corporation, except by written permission of the superintendent of banks. The estimate of the cost of said building and lot, and the plans of the building to be erected, shall first be submitted to the superintendent of banks for his approval, before the purchase of the lot is made or before the erection of the building is commenced.

2. Such as shall have been purchased by it at sales upon the foreclosure of mortgages owned by it, or on judgments or decrees obtained or rendered for debts due to it, or in settlements effected to secure such debts. All such real property shall be sold by such corporation within five years after the title to the same shall be vested in it, unless, upon application by the board of trustees, the superintendent shall extend the time within which such sale shall be made.

Every such corporation may, with the approval in writing and under the seal of the superintendent of banks, change its location within the limits of any city or town wherein it may be established. In effecting such change of location such corporation owning a banking-house and lot, may purchase such additional plot under the provisions of subdivision one of this section as the corporation may require; and such banking-house and lot previously owned and occupied shall be sold as provided in this subdivision concerning real property acquired in satisfaction of debts.

Formerly L. 1892, ch. 689, § 117, as am'd by L. 1894, ch. 178, § 1.

**§ 148. Available fund for current expenses; how loaned.** The trustees of every such corporation shall as soon as practicable invest the moneys deposited with them in the securities authorized by this article; but for the purpose of meeting current payments and expenses in excess of the receipts, there may be kept an available fund not exceeding ten per centum of the whole amount of deposits with such corporation, on hand or deposit in any bank in this state organized under any law of this state or of the United States, or with any trust company incorporated by any law of the state; but the sum so deposited in any one bank or trust company shall not exceed twenty-five per centum of the paid-up capital and surplus of any such bank or company; or such available fund, or any part thereof, may be loaned upon pledge of the securities or any of them named in subdivisions one, two, three, four and five of section one hundred and forty-six, or upon the first mortgage bonds, or any of them, of the railroads mentioned and described in subdivision six of said section, but not in excess of ninety per centum of the cash market value of such securities so pledged. Should any of the securities so held in pledge depreciate in value, after making any loan thereon, the trustees shall require the immediate payment of such loan or of a part thereof, or additional security therefor, so that the amount loaned shall at no time exceed ninety per centum of the market value of the securities pledged for the same.

Formerly L. 1892, ch. 689, § 118, as am'd by L. 1901, ch. 406, § 1.

**§ 149. Temporary deposits.** Every such corporation may also deposit temporarily in the banks or trust companies specified in section one hundred and forty-eight the excess of current daily receipts over the payments, until such time as the same can be judiciously invested in the securities required by this article. Whenever it shall appear to the superintendent of banks that the trustees of any such corporation are violating the spirit and intent of this provision by keeping permanently un-

invested all or an undue proportion of the moneys received by them, he shall report the facts to the attorney-general, who shall proceed against such corporation in the manner provided in section one hundred twenty-seven of chapter six hundred eighty-nine of the laws of eighteen hundred ninety-two.

Formerly L. 1892, ch. 689, § 119.

**§ 150. Personal security prohibited; loans on bond and mortgage.** The trustees of any savings bank shall not loan the moneys deposited with them or any part thereof, upon notes, bills of exchange, drafts or any other personal securities whatever. In all cases of loans upon real property, a sufficient bond secured by a mortgage thereon shall be required of the borrower, and all expenses of searches, examinations and certificates of title, and of drawing, perfecting and recording papers, shall be paid by the borrower.

Formerly L. 1892, ch. 689, § 120, as am'd by L. 1898, ch. 556, § 1.

**§ 151. Mortgaged property to be insured.** Whenever buildings are included in the valuation of any real property upon which a loan shall be made by any such corporation, they shall be insured by the mortgagor in such company or companies as the directors shall direct, and the policy of insurance shall be duly assigned, or the loss made payable as its interest may appear, to such corporation; and any such corporation may renew such policy of insurance in the same or any other company or companies as they may elect, from year to year, or for a longer or shorter term, in case the mortgagor shall neglect to do so, and may charge the amount paid to the mortgagor. All the necessary charges and expenses paid by such corporation for such renewal or renewals shall be paid by the mortgagor to the corporation, and shall be a lien upon the property mortgaged, recoverable with interest from the time of payment as part of the moneys secured to be paid by the mortgage.

Formerly L. 1892, ch. 689, § 121.

**§ 152. Restrictions on methods of doing business.** No savings banks shall directly or indirectly deal or trade in real property in any other case or for any other purpose than is authorized by this article, or deal or trade in any goods, wares, merchandise or commodities whatever, except as authorized by this article, and except such personal property as may be necessary in the transaction of its business; nor shall any savings bank or any officer thereof in his regular attendance upon the business of the bank, in any manner buy or sell exchange, or gold or silver,

or collect or protest promissory notes or time bills of exchange; but savings banks may sell gold or silver received in payment of interest or principal of obligations owned by them, or from depositors in the regular course of business, and may pay regular depositors when requested by them by draft upon deposits to the credit of the bank in the city of New York, and charge current rates of exchange for such drafts. No savings bank shall borrow money or pledge or hypothecate any of its securities, except with the written approval of the superintendent of banks and in pursuance of a resolution adopted by vote of a majority of its board of trustees, duly entered upon their minutes, whereon shall be recorded the ayes and nays upon each vote. No savings bank shall make or issue any certificate of deposit payable either on demand or at a fixed day, or pay any interest except regular quarterly or semi-annual dividends upon any deposits or balances, or pay any interest or deposit, or portion of a deposit, or any check drawn upon itself by a depositor unless the pass-book of the depositor be produced, and the proper entry be made therein at the time of the transaction. The board of trustees may, by their by-laws, provide for making payments in cases of loss of pass-book, or other exceptional cases where the pass-book can not be produced without loss or serious inconvenience to depositors, the right to make such payments to cease when so directed by the superintendent of banks, upon his being satisfied that such right is being improperly exercised by any savings bank; but payments may be made upon the judgment or order of a court or the power of attorney of a depositor.

Formerly L. 1892, ch. 669, § 122, as am'd by L. 1908, ch. 154, § 1.

**§ 153. Rate of interest; extra dividends.** The trustees of every such corporation shall regulate the rate of interest or dividends not to exceed five per centum per annum upon the deposits therewith, in such manner that depositors shall receive as nearly as may be, all the profits of such corporation, after deducting necessary expenses and providing in a manner approved by the superintendent of banks, for the amortization or gradual extinction of premiums or discounts on all securities owned by such corporation so as to bring them to par at maturity, and reserving such amounts as the trustees may deem expedient as a surplus fund for the security of the depositors, which to the amount of fifteen per centum of its deposits, the trustees of any such corporation may gradually accumulate and hold, to meet any contingency or loss in its business from the depreciation of its securities or otherwise. The trustees may classify their depositors ac-

ording to the character, amount and duration of their dealings with the corporation, and regulate the interest or dividends allowed in such manner that each depositor shall receive the same ratable portion of interest or dividends as all others of his class. The trustees of any such corporation shall not declare or allow interest on any deposit for a longer period than the same has been deposited, except that deposits made not later than the tenth business day of the month, commencing any semi-annual interest period, or the third business day of any month, or withdrawn upon one of the last three business days of the month, ending any quarterly or semi-annual interest period, may have interest declared upon them for the whole of the period or month when so deposited or withdrawn. No dividends or interest shall be declared, credited or paid, except by the authority of a vote of the board of trustees duly entered upon their minutes, whereon shall be recorded the ayes and nays upon each vote; but accounts closed between dividend periods may be credited with interest at the rate of the last dividend, computing from the last dividend period to the date when closed, if the by-laws so provide. Whenever any interest or dividend shall be declared and credited in excess of the interest or profits earned and appearing to the credit of the corporation, after making the deduction for expenses and amortization aforesaid, the trustees voting for such dividend shall be jointly and severally liable to the corporation for the amount of such excess so declared and credited. The trustees of any such corporation whose surplus amounts to fifteen per centum of its deposits, at least once in three years, shall divide equitably the accumulation beyond such authorized surplus as an extra dividend to depositors, in excess of the regular dividends authorized. A notice posted conspicuously in a bank of a change in the rate of interest shall be equivalent to a personal notice.

Formerly L. 1892, ch. 689, § 123, as am'd by L. 1908, ch. 124, § 1.

**§ 154. Per centum of surplus, how determined.**

In determining the per centum of surplus held by any savings bank its interest-paying stocks and bonds shall not be estimated above their par value or above their market value if below par. Its bonds and mortgages on which there are no arrears of interest for a longer period than six months shall be estimated at their face, and its real property at not above cost. The superintendent of banks shall determine the valuation of such stocks or bonds, or bonds and mortgages, as are in arrears of interest for six months or more, and of all other investments not herein enumerated, from the best information he can obtain, and he may

change the valuation thereof from time to time as he may obtain other and further information.

Formerly L. 1892, ch. 689, § 124.

**§ 155. Compensation of officers.** The trustees of any such corporation acting as officers of the same, whose duties require and receive their regular and faithful attendance at the institution, and the trustees appointed as a committee to examine the vouchers and assets pursuant to section one hundred and fifty-seven of this chapter, or to perform the duties required by subdivision six of section one hundred and forty-six of this chapter, may receive such compensation as in the opinion of a majority of the board of trustees shall be just and reasonable; but such majority shall be exclusive of any trustee to whom such compensation shall be voted. Trustees, as such, shall not be paid for their attendance at meetings of the board.

Formerly L. 1892, ch. 689, § 125.

**§ 156. No other report or inspection required.** No such corporation shall hereafter be required to make any annual or other report to the legislature or to the mayor or commonalty of any city, nor to the board of supervisors of any county, nor to any other officer or authority except as provided in this chapter; nor shall it be subject to the inspection or supervision of any local officer or board, nor to any interference from any such officer or board, in any manner appertaining to its business or dealings.

Formerly L. 1892, ch. 689, § 126.

**§ 157. Examination of vouchers and assets by trustees.** The trustees of every savings bank, by a committee of not less than three of their number, on or before the first days of January and July in each year, shall thoroughly examine the books, vouchers and assets of such savings bank, and its affairs generally. The statement or schedule of assets and liabilities reported to the superintendent of banks for the first of January and July in each year shall be based upon such examination, and shall be verified by the oath of a majority of the trustees making it; and the trustees of any savings bank may require such examination at such other times as they shall prescribe. The trustees shall, as often as once in each six months during each year, cause to be taken an accurate balance of their depositors' ledgers, and in their semi-annual report to the superintendent they shall state the fact that such balance has been taken, and the discrepancies, if any, existing between the amount due depositors, as shown



by such balance, and the amount so due as shown by the general ledger.

Formerly L. 1892, ch. 689, § 128.

**§ 158. Expenses to be paid.** For the purpose of defraying the expenses incurred in the performance by the superintendent of the duties imposed upon him with respect to savings banks, other than the examinations thereof, each such corporation shall annually pay five dollars into the treasury of the state, and the residue of such expenses to be apportioned among them by the superintendent shall be paid into the treasury of the state by savings banks whose deposits exceed one hundred thousand dollars, in proportion to the amount of assets severally held and reported by them. If any savings bank shall, after due notice, refuse or neglect for thirty days to pay its \*allotted share of such charges, the superintendent shall report the fact to the attorney-general, who may maintain an action in the name of the people against such corporation for the recovery of such charges, and the same, when recovered, shall be paid into the treasury of the state.

Formerly L. 1892, ch. 689, § 129.

**§ 159. Certain debts from insolvent banks and trust companies preferred.** All the property of any bank or trust company which shall become insolvent shall after providing for the payment of its circulating notes, if it has any, to be applied by the trustees, assignees or receivers thereof in the first place, to the payment in full of any sum or sums of money deposited therewith by any savings bank and by any co-operative savings and loan association ratably and proportionately but not to an amount exceeding that authorized to be so deposited by the provisions of this chapter, and subject to any other preference provided for in the charter of any such trust company.

Formerly L. 1892, ch. 689, § 130, as am'd by L. 1904, ch. 693, § 1.

**§ 160. Advertisements of unauthorized savings banks prohibited.** No bank, banking association, individual banker, firm, association, corporation, person or persons shall make use of the word "savings" in their banking business, or advertise or put forth any advertising literature, or sign as a savings bank, or in any way solicit or receive deposits as a savings bank, other than a savings bank or a co-operative savings and loan association organized under the laws of the state of New York. It shall, however, be lawful for the principal or superin-

\*So in original.

tendent of any public school or schools in the state of New York or for any person designated for that purpose by the board of education or other school authority under which such school shall be to collect once a week, or from time to time, small amounts of savings from the pupils of said school, the same to be deposited by said principal or superintendent or designated person on the day of collection in some savings bank in the state to the credit of the respective pupils from whom the money shall be collected, or if the amount collected at any one time shall be deemed insufficient for the opening of individual accounts, in the names of said principal or superintendent or designated person, in trust, and to be by him eventually transferred to the credit of the respective pupils to whom the same belongs. In the meantime, said principal or superintendent or designated person shall furnish to the bank a list giving the names, signatures, addresses, ages, places of birth, parents' names and such other data concerning the respective pupils as the savings bank may require, and it shall be lawful to use the words "system of school savings banks" or "school savings banks" in circulars, reports and other printed or written matter used in connection with the purposes of this section. Any bank, banking association, individual banker, firm, association, corporation, person or persons violating this provision shall forfeit to the people of the state for every offense the sum of one hundred dollars for every day such offense shall be continued.

Formerly L. 1892, ch. 689, § 131, as am'd by L. 1904, ch. 568, § 1, and L. 1905, ch. 504, § 1.

**§ 161. Charters to be conformed to this chapter.** The powers, privileges and duties, and all restrictions, conferred or imposed upon any savings bank by whatever name known, by its charter or act of incorporation, are hereby abridged, enlarged or modified, as each particular case may require, in such manner that every such charter or act of incorporation shall be made to conform to the provisions of this chapter in relation thereto, and to such amendments thereof as may be hereafter made. Every such savings bank shall possess the powers, rights and privileges, and be subject to the duties, restrictions and liabilities, conferred and imposed by this chapter, notwithstanding anything to the contrary in their respective charters or acts of incorporation. The legality of investments heretofore made, or of transactions heretofore had, pursuant to any provisions of law in force when such investments were made or transactions had, shall not be affected by the provisions of this chapter, nor shall such provisions require the change of investments for those named in this chapter,

except as the same can be done gradually by the sale or redemption of the securities so invested in, in such manner as to prevent loss or embarrassment in the business of such savings bank, or unnecessary loss or injury to the borrowers on such securities.

Formerly L. 1892, ch. 689, § 132.

**§ 162. Savings bank voluntarily closed.** If the trustees of any solvent savings bank shall deem it necessary or expedient to close the business of such corporation, they may, by the affirmative vote of not less than two-thirds of the whole number of trustees, at a meeting to be called for that purpose, of which all the trustees shall have notice, declare by resolution their determination to close such business and to pay the moneys due depositors and creditors and to surrender the corporate franchise. The vote on such resolution shall be taken by ayes and noes and the resolution and the vote thereon shall be recorded in the minutes of the board of trustees. A copy of the record of such proceedings certified by the president and secretary of the corporation shall be filed in the banking department. The trustees shall thereupon give notice to all the depositors and creditors of the adoption of such resolution by publication thereof in a newspaper or newspapers most likely to give the same proper publicity, and by written or printed notice personally served upon or mailed to each depositor and creditor of such savings bank at his last known residence, postage prepaid.

Formerly L. 1892, ch. 689, § 133.

**§ 163. When dissolution effected.** When the trustees of any such savings bank shall have paid the sums due respectively to all the depositors and creditors who claim their deposits, or the money due, the trustees shall make a transcript or statement from the books of the savings bank of the names of all the depositors and creditors who do not claim or have not received the balance of the credit due them, and of the sums due them respectively, and shall file such transcript in the banking department, and pay over and transfer all such unclaimed and unpaid deposits, credits and moneys to the superintendent of banks. The trustees shall then report their proceedings duly verified to the supreme court, and upon such report and the petition of the trustees and upon notice to the attorney-general and the superintendent, and such other notice as the court may deem necessary, the court shall adjudge the franchise surrendered and the existence of the corporation terminated.

Formerly L. 1892, ch. 689, § 134.

**§ 164. Deposit of unclaimed moneys.** The superintendent shall receive the moneys so deposited with him by the trustees of any solvent savings bank voluntarily closing its business, and all moneys which may be deposited with him by the receivers of insolvent savings banks pursuant to the provisions of any law or the order of any court, and shall give a receipt therefor, and forthwith deposit the same in some solvent savings bank or savings banks to the credit of the superintendent of banks in his name of office, in trust for the depositors and creditors of the closed savings bank from which they were received. The superintendent shall report to the legislature annually in his report the names of such closed savings banks and the sums of unclaimed and unpaid deposits to the credit of each of them respectively.

The superintendent may pay over to the persons respectively entitled thereto the moneys so held by him upon being furnished with satisfactory evidence of their right to the same. In cases of doubt or of conflicting claims he may require an order of the supreme court authorizing and directing the payment thereof. He may apply the interest earned by the moneys so held by him towards defraying the expenses in the payment and distribution of such unclaimed dividends to the depositors and creditors entitled to receive the same, and he shall include, in his annual report to the legislature, a statement of the amount of interest earned by such unclaimed dividends.

Formerly L. 1892, ch. 689, § 135.

## ARTICLE 5

### Trust Companies

Section 180. Incorporation.

181. Previous notice of intention to be given.

182. When superintendent shall file certificate.

183. Examination by and certificate of superintendent.

184. Capital must be paid in cash.

185. List of stockholders to be furnished to superintendent.

186. Powers of corporation.

187. Additional powers of certain trust companies.

188. Additional powers, dependent on location.

189. May be administrator, guardian or trustee.

190. No security required; trust fund debts preferred.

191. Official oath not required.

192. Deposits of minors and trust deposits.

Section 193. Investments of capital, surplus, undivided profits and deposits.

194. Interest and accumulations.

195. Directors.

196. Liability of stockholders and directors.

197. Powers of specially chartered trust companies.

198. Lawful money reserve.

**§ 180. Incorporation.** Thirteen or more persons may form a corporation to be known as a trust company. Such persons shall under their hands and seals execute and acknowledge an organization certificate in duplicate, which shall specifically state:

1. The name by which the corporation shall be known.

2. The place where its business is to be transacted.

3. The amount of its capital stock, and the number of shares into which the same is to be divided.

4. The name, residence and post-office address of each member of the corporation.

5. The term of its existence, not exceeding fifty years.

6. A declaration that each member of the corporation will accept the responsibilities and faithfully discharge the duties of a director therein, if elected to act as such, when authorized by the provisions of this chapter.

Such certificate shall, within sixty days after its acknowledgment, be filed, one duplicate in the office of the county clerk of the county wherein such trust company is proposed to be located, and one duplicate in the office of the superintendent of banks of the state. The capital stock of any such corporation must be at least five hundred thousand dollars; provided, however, that a corporation with a capital of not less than two hundred thousand dollars may be organized in any city containing more than one hundred thousand inhabitants and less than two hundred and fifty thousand inhabitants, and a corporation may be organized with a capital of not less than one hundred and fifty thousand dollars in any city containing more than twenty-five thousand inhabitants and less than one hundred thousand inhabitants, and with a capital of at least one hundred thousand dollars in a city or town the population of which does not exceed twenty-five thousand, the number of inhabitants in each case to be ascertained or determined by the last federal or state enumeration.

Formerly L. 1892, ch. 689, § 150, as am'd by L. 1893, ch. 314, § 1.

**§ 181. Previous notice of intention to be given.**

Before filing the organization certificate, a notice of intention to organize such trust company shall be published at least once

a week for four weeks in a newspaper to be designated by the superintendent of banks published in the city or town where such trust company is proposed to be located. Such notice shall specify the names of the proposed corporators, the name of the proposed corporation and the location of the same as set forth in such organization certificate. If there is any trust company or trust companies organized and doing business in such city, a copy of such notice shall also be sent to each at least fifteen days before the filing of the organization certificate.

Formerly L. 1892, ch. 689, § 151, as am'd by L. 1893, ch. 313, § 1.

**§ 182. When superintendent shall file certificate.**

Upon the receipt of any such organization certificate at the office of the superintendent, if it shall not be in form and substance, or duly and properly acknowledged, as required by this article, or shall not be accompanied by evidence satisfactory to the superintendent of the publication and service in good faith according to the intent and purpose of this chapter of the notice required by this article, the superintendent shall refuse to file such certificate, until it shall be amended to conform to the provisions of this article. If such certificate is in due form and duly executed according to the provisions of this article, and is accompanied by evidence satisfactory to the superintendent of the proper publication and service in good faith of such notice, he shall forthwith indorse the same over his official signature, "filed for examination," with the date of such indorsement.

Formerly L. 1892, ch. 689, § 152.

**§ 183. Examination by and certificate of superintendent.** When such certificate shall have been filed, the superintendent shall ascertain from the best sources of information at his command whether the general fitness for the discharge of the duties appertaining to such a trust of the persons named in the certificate is such as to command the confidence of the community in which such trust company is proposed to be located, and whether the public convenience and advantage would be promoted by such establishment. If so satisfied, he shall, within sixty days after such certificate has been filed by him for examination, issue under his hand and official seal the certificate of authorization required by this chapter to the persons named in such certificate, or to a portion of them, together with such other persons as a majority of those named in such organization certificate shall by writing approve, which certificate, so issued by him, shall authorize the persons named therein to become a trust company as des-

igned in the organization certificate, subject to the provisions of this chapter; but no person shall be named in such certificate of authorization who shall not have duly made and acknowledged the declaration prescribed in subdivision six of section one hundred and eighty. The superintendent shall transmit such certificate of authorization to the county clerk of such county, who shall file the same and attach it to the organization certificate previously filed by him, and record both certificates in the book of records of incorporation, and the superintendent shall also file a duplicate of such certificate in his own office.

If the superintendent shall not be satisfied that the establishment of a trust company as proposed in any organization certificate filed by him is expedient and desirable, he shall, within sixty days after the filing of such certificate by him, give notice to the county clerk of such county that he refuses to issue a certificate of authorization for such trust company, which notice shall be forthwith filed by the county clerk with the organization certificate.

Formerly L. 1892, ch. 689, § 153.

**§ 184. Capital must be paid in cash.** The superintendent of banks shall, before issuing a certificate of authorization to any such corporation, examine, or cause an examination to be made, in order to ascertain whether the requisite capital of such corporation has been paid in in cash; and if it appears from such examination that such capital has not been fully paid in in cash, a certificate of authorization shall not be granted; and no such corporation shall commence business until such certificate of authorization has been granted.

Formerly L. 1892, ch. 689, § 154.

**§ 185. List of stockholders to be furnished to superintendent.** Before entering upon active business, every such corporation shall file with the superintendent of banks a list of its stockholders, giving the name, residence, post-office address and number of shares of stock held by each of them respectively, which shall be verified by the two principal officers of the corporation.

Formerly L. 1892, ch. 689, § 155.

**§ 186. Powers of corporation.** Upon the filing of any such certificate of authorization of a trust company, the persons named therein and their successors shall thereupon and thereby become a corporation and in addition to the powers conferred by the general corporation law and the stock corporation law, shall have power:

1. To act as the fiscal or transfer agent of any state, municipality, body politic or corporation; and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness, and to act as agent of any corporation, foreign or domestic, for any lawful purpose.

2. To receive deposits of trust moneys, securities and other personal property from any person or corporation, and to loan money on real or personal securities.

3. To lease, hold, purchase and convey any and all real property necessary in the transaction of its business, or which the purposes of the corporation may require, or which it shall acquire in satisfaction or partial satisfaction of debts due the corporation under sales, judgments or mortgages, or in settlement or partial settlement of debts due the corporation by any of its debtors.

4. To act as trustee under any mortgage or bonds issued by any municipality, body politic or corporation, and accept and execute any other municipal or corporate trust not inconsistent with the laws of this state.

5. To accept trusts from and execute trusts for married women, in respect to their separate property, and to be their agent in the management of such property or to transact any business in relation thereto.

6. To act under the order or appointment of any court of record as guardian, receiver or trustee of the estate of any minor, and as depositary of any moneys paid into court, as provided by the code of civil procedure whether for the benefit of any such minor or other person, corporation or party.

7. To take, accept and execute any and all such legal trusts, duties and powers in regard to the holding, management and disposition of any estate, real or personal, and the rents and profits thereof, or the sale thereof, as may be granted or confided to it by any court of record, or by any person, corporation, municipality or other authority; and it shall be accountable to all parties in interest for the faithful discharge of every such trust, duty or power which it may so accept.

8. To take, accept and execute any and all such trusts and powers of whatever nature or description as may be conferred upon or intrusted or committed to it 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 it or vested in it by order of any court of record, or any surrogate, and to receive and take and hold any property or estate, real or personal, which may be the subject of any such trust.



9. To purchase, invest in and sell stocks, bills of exchange, bonds and mortgages and other securities; and when moneys or securities for moneys are borrowed or received on deposit, or for investment, the bonds or obligations of the company may be given therefor, but it shall have no right to issue bills to circulate as money.

10. To be appointed and to accept the appointment of executor of or trustee under the last will and testament, or administrator with or without the will annexed, of the estate of any deceased person, and to be appointed and to act as the committee of the estates of lunatics, idiots, persons of unsound mind and habitual drunkards.

11. To exercise the powers and possess the privileges conferred on banks and individual bankers by sections seventy-four and seventy-five of this chapter, subject to the restrictions contained in said sections. No such corporation shall have any right or power to make any contract, or to accept or to execute any trust whatever, which it would not be lawful for any individual to make, accept or execute. No loan exceeding in amount one-tenth of its capital stock, shall be made by any such corporation, directly or indirectly, to any director or officer thereof and no loan to such director or officer shall be made without the consent of a majority of the directors. No such corporation shall receive funds and moneys paid or brought into court, except it be designated by the comptroller of the state of New York a depository thereof. No such corporation shall transact its ordinary business by branch office in any city not named in its certificate of incorporation or charter as the place where its business is to be transacted. No trust company shall open a branch office without first having obtained the written approval of the superintendent of banks to the opening of such branch office, which written approval may be given or withheld in his discretion, and shall not be given by him until he has ascertained to his satisfaction that the public convenience and advantage will be promoted by the opening of such branch office; and, provided further, that no trust company in this state, or any officer or director thereof, shall open or maintain a branch office, unless the capital of such trust company actually paid in cash shall exceed the amount required by the law under which it was incorporated by the sum of one hundred thousand dollars for each branch office so opened or maintained. Every trust company and every such officer or director opening a branch office without such written approval shall forfeit to the people of the state the sum of one thousand dollars for every week during which any branch

office shall be maintained without such written approval. No foreign corporation shall have or exercise in this state the power to receive deposits of trust moneys, securities and other personal property from any person or corporation or any of the powers specified in subdivisions one, four, five, six, seven, eight, ten and eleven of this section, nor have or maintain an office in this state for the transaction of, or transact directly or indirectly, any such or similar business.

Formerly L. 1892, ch. 689, § 153, as am'd by L. 1893, ch. 696, § 3; L. 1901, ch. 660, § 1; L. 1904, ch. 492, § 1; L. 1905, ch. 414, § 1; L. 1906, ch. 601, § 1; L. 1908, ch. 184, §§ 1, 2, and L. 1908, ch. 194, § 1.

**§ 187. Additional powers of certain trust companies.** Each trust company organized under this chapter, and having its principal place of business within a county containing less than six hundred thousand and over three hundred thousand inhabitants, as appears by the last state or federal enumeration of its inhabitants, and having a capital of five hundred thousand dollars or upwards, and each trust company organized under this chapter, and having its principal place of business within a county containing less than three hundred thousand and over sixty-five thousand inhabitants, as appears by the last state or federal enumeration of its inhabitants, and having a capital of two hundred thousand dollars or upwards, and each trust company organized under this chapter and having its principal place of business within a county containing less than sixty-five thousand and over fifty thousand inhabitants as appears by the last state or federal enumeration and having a capital of one hundred thousand dollars, or upwards, may possess and exercise, in addition to the other powers conferred upon it by this chapter, the power, upon terms and conditions to be prescribed by its by-laws, to receive upon deposit for safe keeping bonds, mortgages, jewelry, plate, stocks, securities and valuable papers of any kind, and other personal property, for hire, and to let out receptacles for safe deposit of personal property, and each trust company of the class first above specified may also for hire examine titles to real estate, procure and furnish information in relation thereto, and guarantee or insure the title to real estate to persons interested in such real estate or in mortgages thereon against loss by reason of defective title or of other incumbrances upon such real estate; and any trust company specified in this section may be appointed guardian, trustee or administrator, with or without will annexed, on the application or consent of any person acting as such or entitled to such appointment and in the place and stead of such person; or such trust com-

pany may be joined with any person so acting or entitled to such appointment; but such appointments shall be made upon such notice, as is required by law, to the persons interested in the estate or fund and on the consent of such of the principal legatees or other persons interested in the estate or fund as the court, surrogate or judge making the appointment shall deem proper. No appointment hereunder shall be deemed to increase the number of persons entitled to full compensation beyond the number so entitled under the terms of the will or deed creating a trust or appointing a guardian or authorized by law. Whenever a person is joined with such trust company in any appointment as guardian, trustee or administrator with or without the will annexed, his appointment may be under such limitation of powers and upon such terms and conditions as to deposit of assets by such person with such trust company or otherwise, and upon such reduced bond or security to be given by him as the court, surrogate or judge making the appointment shall prescribe.

Formerly L. 1893, ch. 337, § 1, as am'd by L. 1898, ch. 73, § 1; L. 1901, ch. 443, § 1, and L. 1902, ch. 360, § 1.

#### § 188. Additional powers, dependent on location.

Each trust company organized under this chapter, and having its principal place of business within a town adjoining a city, containing over eight hundred thousand and less than one million inhabitants, according to the last state census, and having a capital of two hundred and fifty thousand dollars, or upwards, may possess and exercise in addition to the other powers conferred upon it by this chapter, the power, upon terms and conditions to be prescribed by its by-laws, to receive upon deposit for safe keeping, bonds, mortgages, jewelry, plate, stocks and valuable property of every kind for hire, and also for hire, to examine titles to real estate, to procure and furnish information in relation thereto, and to guarantee or insure the title to real estate to persons interested in such real estate or in mortgages thereon, against loss by reason of defective title or of other incumbrances of or upon such real estate.

Formerly L. 1896, ch. 851, § 1.

#### § 189. May be administrator, guardian or trustee.

When any trust company is appointed executor in any last will or testament, the court or officer authorized to grant letters testamentary in this state shall, upon the proper application, grant letters testamentary thereon to such corporation. When application is made to any court or officer having authority to grant letters of administration with the will annexed, upon the

estate of any deceased person, and there is no person entitled to such letters who is qualified, competent, willing and able to accept such administration, such court or officer may at the request of any party interested in the estate, grant such letters of administration with the will annexed, to any such corporation. Any court or officer having authority to grant letters of guardianship of any infant, may upon the same application as is required by law for the appointment of a guardian of such infant, appoint any such corporation as guardian of the estate of such infant. Any court having jurisdiction to appoint a trustee, guardian, receiver or committee of the estate of a lunatic, idiot or habitual drunkard, or to make any fiduciary appointment, may appoint any such corporation to be such trustee, guardian, receiver or committee, or to act in any other fiduciary capacity. All moneys brought into court by order or judgment of any court of record may be deposited with any such corporation, that has been designated by the comptroller of the state of New York, as provided by the code of civil procedure.

Formerly L. 1892, ch. 689, § 157, as am'd by L. 1900, ch. 552, § 1, and L. 1908, ch. 184, § 3.

**§ 190. No security required; trust fund debts preferred.** No bond or other security, except as hereinafter provided, shall be required from any such corporation for or in respect to any trust, nor when appointed executor, administrator, guardian, trustee, receiver, committee or depository. All investments of money received by any such corporation, and by any trust company chartered by special act, prior to May eighteenth, eighteen hundred and ninety-two, in either of such characters shall be at its sole risk and for all losses of such money the capital stock, property and effects of the corporation shall be absolutely liable, unless the investments are such as the courts recognize as proper when made by an individual acting as trustee, executor, administrator, guardian, receiver, committee or depository, or such as are permitted in and by the instrument or words creating or defining the trust. If dissolved by the legislature or the court, or otherwise, the debts due from the corporation as such executor, administrator, guardian, trustee, committee or depository shall have the preference. The court or officer making such appointment may, upon proper application, require any corporation which shall have been so appointed, to give such security as to the court or officer shall seem proper, or upon failure of such corporation to give security as required, may remove such corporation from and revoke such appointment. Such court or officer may make orders respecting such trusts and require the corporation

to render all accounts which such court or officer might lawfully require if such executor, administrator, guardian, trustee, receiver, committee or depositary were a natural person. Whenever any such corporation shall be designated by the comptroller of the state of New York as a depositary for funds and moneys paid into court, before receiving any such deposit, it shall give to the people of the state a bond in the form and manner, as provided by section forty-four of this chapter. *Am'd by L. 1909, ch. 240, § 3.*

Formerly L. 1892, ch. 689, § 158, as am'd by L. 1893, ch. 696, § 4; L. 1898, ch. 98, § 1, and L. 1908, ch. 184, § 4.

**§ 191. Official oath not required.** Upon the appointment of such corporation as executor, administrator, guardian, trustee, receiver or committee, as provided by this chapter, no official oath shall be required from such corporation or trust company.

Formerly L. 1892, ch. 689, § 158-b, as added by L. 1907, ch. 612, § 1.

**§ 192. Deposits of minors and trust deposits.** When any deposit shall be made by or in the name of any minor, the same shall be held for the exclusive right and benefit of such depositor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends and interest thereon to the person in whose name the deposit shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such deposit or any part thereof to the corporation. 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 in writing to such trust company 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 deposit was made.

Formerly L. 1892, ch. 689, § 158-a, as added by L. 1907, ch. 612, § 1.

**§ 193. Investments of capital, surplus, undivided profits and deposits.** The capital of every such corporation shall be invested in bonds and mortgages on unincumbered real property in this state not exceeding sixty per centum of the value thereof, or in the stocks or bonds of this state, or of the United States, or of any county or incorporated city of this state duly authorized by law to be issued. Stocks or bonds constituting a part of the lawful investment of capital of any such corporation shall not be valued upon its books or entered in its

reports to the superintendent of banks at a higher price or value than their investment value as determined by amortization, after providing in a manner approved by the superintendent of banks for the gradual extinction of premiums or discounts on all such securities so as to bring them to par at maturity. The moneys received by any such corporation in trust may be invested in its discretion in the securities of the kind in which its capital is required to be invested, or in the stocks or bonds of any state of the United States, or in such real or personal securities as it may deem proper. No such corporation shall hold stock in any private corporation to an amount in excess of ten per centum of the capital, surplus and undivided profits of the corporation holding such stock; nor shall any such corporation hold or own stock of another moneyed corporation the par value of which is in excess of ten per centum of the total amount of the stock of such other moneyed corporation issued and outstanding, provided, however, that this limitation shall not apply to the ownership of capital stock of a safe deposit company the vaults of which are connected with or adjacent to an office of such trust company.

Formerly L. 1892, ch. 689, § 159, as am'd by L. 1903, ch. 160, § 1; L. 1904, ch. 479, § 1, and L. 1908, ch. 121, § 1.

**§ 194. Interest and accumulations.** On all sums of money not less than one hundred dollars which shall be collected and received by such corporation acting as executor, administrator, guardian, trustee, receiver or committee under the appointment of any court or officer, or in any fiduciary capacity under such appointment, or as a depository of moneys paid into court, interest shall be allowed by such corporation at not less than the rate of two per centum per annum until the moneys so received shall be duly expended or distributed. If such interest moneys, or any part thereof, shall not annually be expended or distributed pursuant to the terms or provisions of the trust under which such moneys are held, the amount thereof not so expended or distributed shall be accumulated by such corporation for the benefit of the parties interested in such trust fund, and shall be added to the principal to constitute a new principal, upon which interest shall thereafter be computed.

Formerly L. 1892, ch. 689, § 160.

**§ 195. Directors.** The affairs of every such corporation shall be managed and its corporate powers exercised by a board of directors of such number, not less than thirteen nor more than thirty, as shall from time to time be prescribed in its by-laws. The number of directors necessary to form a quorum for the trans-

action of business may be fixed by the organization certificate, or the by-laws; such quorum shall not be less than one-third of such number of directors, and in no case less than seven. No person can be a director who is not the holder of at least ten shares of the capital stock of the corporation; and every person elected to be a director, who after such election shall hypothecate, pledge or cease to be the owner in his own right of the amount of stock aforesaid, shall cease to be a director of the corporation, and his office shall be vacant. The persons named in the organization certificate, or such of them respectively, as shall become holders of at least ten shares of such stock, shall constitute the first board of directors, and may add to their number not exceeding the limit of thirty, and shall severally continue in office until others are elected to fill their respective places. Within six months from the time when such corporation shall commence business, the first board of directors shall classify themselves by lot into three classes, as nearly equal as may be. The term of office of the first class shall expire on the third Wednesday of January next following such classification; the term of office of the second class shall expire one year thereafter; and the term of office of the third class shall expire two years thereafter. At or before the expiration of the term of the first class, and annually thereafter, a number of directors shall be elected equal to the number of directors whose term will then expire who shall hold their offices for three years or until their successors are elected. Such election shall be held at the office of the corporation and at such time and upon such public notice not less than ten days, by advertisement in at least one newspaper approved by the superintendent of banks published in the city where such corporation is located, as shall be prescribed in the by-laws. In case of failure to elect any director on the day named, the directors whose terms of office do not that year expire, may proceed to elect a number of directors equal to the number in the class whose term that year expires, or such number as may have failed of re-election. The persons so elected, together with the directors whose terms of office shall not that year expire, shall constitute the board of directors until another election shall be held according to law. Vacancies occurring in the intervals of elections shall be filled by the board. Each director when appointed or elected shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such corporation and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such corporation, and that he is the owner in good faith and in his own right, of the number of shares of stock required by this

section, subscribed by him or standing in his name on the books of the corporation, and that the same is not hypothecated or in any way pledged as security for any loan or debt and, in case of re-election or reappointment, that such stock was not hypothecated, or in any way pledged as security for any loan or debt during his previous term. Such oath shall be subscribed by the director making it, and certified by the officer before whom it is taken, and shall be immediately transmitted to the superintendent of banks and filed and preserved in his office.

Formerly L. 1892, ch. 689, § 161, as am'd by L. 1896, ch. 452, § 3; L. 1901, ch. 510, § 1; L. 1904, ch. 607, § 1, and L. 1908, ch. 120, § 1.

**§ 196. Liability of stockholders and directors.**

If default shall be made in the payment of any debt or liability contracted by any such corporation, the stockholders thereof shall be individually responsible, equally and ratably, for the then existing debts of the corporation, but no stockholder shall be liable for the debts of the corporation to an amount exceeding the par value of the respective shares of stock by him held in such corporation at the time of such default.

For all losses of money which the capital stock shall not be sufficient to satisfy, the directors shall be responsible in the same manner and to the same extent that directors are now responsible in law or equity.

Formerly L. 1892, ch. 689, § 162.

**§ 197. Powers of specially chartered trust companies.** Every trust company incorporated by a special law shall possess the powers of trust companies incorporated under this chapter and shall be subject to such provisions of this chapter as are not inconsistent with the special laws relating to such specially chartered company.

Formerly L. 1892, ch. 689, § 163.

**§ 198. Lawful money reserve.** Every trust company having its principal place of business or a branch office for the receipt and payment of deposits in a borough in any city in the state which borough had according to the last preceding state or United States census a population of eighteen hundred thousand or over shall at all times have on hand a reserve fund equal to at least fifteen per centum of the aggregate of its deposits, exclusive of moneys held by it in trust, which are not made payable under the conditions of the trust within thirty days and also exclusive of time deposits not payable within thirty days represented by certificates showing the amount of the deposit, the date of is-



sue, and the date when due and also exclusive of deposits which are secured by outstanding unmatured bonds issued by the state of New York. The whole of such reserve fund must consist of either lawful money of the United States, gold certificates, silver certificates, or notes or bills issued by any lawfully organized national banking association. Every trust company having its principal place of business in a borough in any city in the state which borough had according to the last preceding state or United States census a population of less than eighteen hundred thousand which does not maintain a branch office in a borough having a population of over eighteen hundred thousand inhabitants according to the last preceding state or United States census, shall at all times have on hand a reserve fund equal to at least fifteen per centum of the aggregate of its deposits, exclusive of moneys held by it in trust, which are not made payable under the conditions of the trust within thirty days and also exclusive of time deposits not payable within thirty days represented by certificates showing the amount of the deposit, the date of issue and the date when due and also exclusive of deposits which are secured by outstanding unmatured bonds issued by the state of New York. The whole of such reserve fund may, and at least two-thirds thereof must, consist of either lawful money of the United States, gold certificates, silver certificates, or notes or bills issued by any lawfully organized national banking association, and the balance thereof over and above the part consisting of lawful money of the United States, gold certificates, silver certificates, notes or bills issued by any lawfully organized national banking association must consist of moneys on deposit subject to call in any bank or trust company in this state having a capital of at least two hundred thousand dollars or a capital and surplus of at least three hundred thousand dollars, and approved by the superintendent of banks. Every trust company having its principal place of business elsewhere in this state shall at all times have on hand a reserve fund equal to at least ten per centum of its aggregate deposits, exclusive of moneys held by it in trust which are not made payable under the conditions of the trust within thirty days and also exclusive of time deposits not payable within thirty days represented by certificates showing the amount of deposit, the date of issue and the date when due and also exclusive of deposits which are secured by outstanding unmatured bonds issued by the state of New York. The whole of such last mentioned reserve fund may, and at least fifty per centum thereof must, consist either of lawful money of the United States, gold certificates, silver certificates, or notes or bills, issued by any lawfully organized national banking associa-

tion; and the balance thereof over and above the part consisting of lawful money of the United States, gold certificates, silver certificates, notes and bills, issued by any lawfully organized national banking association, must consist of money on deposit subject to call in any bank or trust company in this state having a capital of at least two hundred thousand dollars or a capital and surplus of at least three hundred thousand dollars and approved by the superintendent of banks. The amounts to be kept on hand, as above provided, shall be called the lawful money reserve. If the lawful money reserve of any trust company shall be less than the amount required by this section such trust company shall not increase its liability by making any new loans or discounts otherwise than by discounting bills of exchange, payable on sight or making any dividends of its profits until the full amount of its lawful money reserve has been restored. The superintendent of banks may notify any trust company whose lawful money reserve shall be below the amount herein required to make good such reserve, and if it shall fail for thirty days thereafter to make good such reserve such trust company shall be deemed insolvent, and may be proceeded against as an insolvent moneyed corporation.

Formerly L. 1892, ch. 689, § 164, as added by L. 1906, ch. 337, § 1, and am'd by L. 1908, ch. 152, § 1.

## ARTICLE 6

### Co-operative Savings and Loan Associations

- Section 210. Incorporators.
- 211. Object and purpose.
  - 212. Incorporation.
  - 213. Directors; by-laws.
  - 214. Capital and shares.
  - 215. Dues; fines; entrance fees; advance payments.
  - 216. Withdrawal of free shares.
  - 217. Dues, when to cease.
  - 218. Loans, how made; premium plans.
  - 219. Security for loans.
  - 220. Arrearages; forfeitures; withdrawal values.
  - 221. Loans due when members in arrears.
  - 222. May purchase at foreclosure sale.
  - 223. Association may borrow to pay withdrawals.
  - 224. Profits and losses ascertained annually.
  - 225. Transfer of shares.
  - 226. Attorney; auditors; amendments to by-laws; right to vote.

- Section 227. Eligibility to membership; exemption from execution; from taxation.
228. Annual reports to banking department.
229. Forfeiture for failure to report.
230. Visitation by superintendent of banks.
231. Annual statement to stockholders.
232. Provisions applicable to associations formed under certain acts.
233. Amendments to articles.
234. Reincorporation.
235. Assessment of associations for benefit of banking department.
236. Investment of deposits and income.
237. Payment of expenses.
238. Construction of term "co-operative savings and loan association."
239. Construction of reference to laws of eighteen hundred ninety-two.
240. When association may be dissolved.
241. Petition for dissolution.
242. Proceedings on presentation of petition.
243. Hearing and order for dissolution; appointment of trustee.
244. Report and compensation of trustee.
245. Limitation and construction of article.

**§ 210. Incorporators.** Any fifteen or more persons of full age and residents of the state of New York, may form an association as provided in this article. All associations formed under the provisions hereof shall be known as co-operative savings and loan associations; and the name of every association so formed shall contain as a part thereof the words "co-operative savings and loan association."

Formerly L. 1892, ch. 689, § 170, as am'd by L. 1894, ch. 705, § 1.

**§ 211. Object and purpose.** The object and purpose of such associations shall be to encourage industry, frugality, home-building and savings among its members; the accumulation of savings, the loaning of such accumulations to its members and the repayment to each member of his savings when they have accumulated to a certain sum, or at any time when he shall desire the same, or the association shall desire to repay the same.

Formerly L. 1892, ch. 689, § 171, as am'd by L. 1894, ch. 705, § 1.

**§ 212. Incorporation.** Said association shall become incorporated by the said fifteen or more persons making, signing and acknowledging, in the manner and form prescribed

for the acknowledgment of deeds in this state, a certificate, wherein shall be stated the name of said association; that the association is formed under and for the purpose prescribed in this article; the town, village or city where the association is located within this state. When made as aforesaid, said certificate shall be filed and recorded in the office of the superintendent of banks, and upon said certificate being so filed and recorded, the superintendent of banks shall upon the payment of a fee of one dollar therefor, issue a certificate, in proper and suitable form, declaring the facts contained in said original certificate, and the filing and recording thereof in his office, and such latter certificate shall thereupon be recorded in the county clerk's office of the county where said association is located; and upon the same being so recorded, the persons named in the certificate first above mentioned, their associates and successors, shall become a corporate body with power to adopt by-laws relating to the manner of conducting their business not inconsistent with the provisions of this article. A copy of such by-laws and all subsequent amendments thereof shall be filed with the superintendent of banks within thirty days of their adoption.

Formerly L. 1892, ch. 689, § 172, as am'd by L. 1894, ch. 705, § 1.

**§ 213. Directors; by-laws.** The officers of the association shall consist of a board of directors of not less than thirteen members, including therein a president, vice-president, secretary and treasurer. Said last named officers shall be elected annually by the shareholders or by and from the board of directors, and the other members of the board, or not less than one-third thereof, shall be elected annually, as the by-laws shall determine. Other officers may be authorized by the by-laws, subject to the restrictions hereinafter contained. The duties and compensation of the officers, their terms of office, the time of their election, the manner of filling vacancies, the time of the periodical meetings of the officers and shareholders, the manner of calling special meetings and the manner of voting, shall be determined by the by-laws, except that the board of directors shall fix each year the compensation of the secretary and treasurer, unless otherwise determined by the by-laws; and provided, further, that no officer, agent or other person shall receive compensation by salary, fees, expenses or otherwise for soliciting the sale of shares of the association to any person or persons. All officers named in this article shall hold office until their successors are duly elected and assume the duties of their offices. No association shall expire from neglect to elect officers at the time prescribed in its by-laws.

Formerly L. 1892, ch. 689, § 173, as am'd by L. 1894, ch. 705, § 1.

---

Art. 6            Co-operative Savings and Loan Associations.    §§ 214, 215

---

**§ 214. Capital and shares.** The capital of said association shall consist of the accumulated savings of its members which it holds, and shall be divided into shares of a matured value of not less than fifty dollars nor more than two hundred and fifty dollars, as shall be fixed by the by-laws. The shares shall be issued in series, or at any time, as the by-laws shall determine. No shares of a prior series shall be issued after the issuing of shares in a new series when issued upon the serial plan, except, at the book value at the last distribution of profits plus dues and interest since such distribution. Shares which have not been pledged as security for the payment of a loan shall be called "free shares." Shares that have been so pledged shall be called "pledged shares." Any association incorporated under the provisions of this article, or under the acts enumerated in section two hundred and thirty-two of this chapter, may issue juvenile savings shares, of a matured value not exceeding fifty dollars, to, or in the name of any minor, which shall be held for the exclusive right and benefit of such minor, and free from the control or lien of all other persons, and the accumulated savings, together with the dividends thereon, shall be paid to the person in whose name the shares have been issued, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge for such accumulated savings, together with the dividends accredited thereon, or any part thereof, to the association. Juvenile savings shares shall not be chargeable with fines or losses of any kind, or be required to make regular or specific payments, nor shall they be entitled to vote at any meeting of shareholders. Such shares shall be entitled to dividends from the apportioned profits not exceeding four-fifths of the dividend credited upon regular instalment shares. The matured value of all the juvenile savings shares issued by any association shall not exceed in the aggregate, at the time of issue, ten per centum of the aggregate matured value of the shares in force in all other classes. The manner of withdrawing all or a part of such shares, or of transferring all or a part of such shares for prepaid or instalment shares, shall be clearly set forth in the articles of association, certificate of incorporation, or by-laws of every association issuing such shares.

Formerly L. 1892, ch. 680, § 174, as am'd by L. 1894, ch. 705, § 1;  
L. 1905, ch. 604, § 1, and L. 1906, ch. 438, § 1.

**§ 215. Dues; fines; entrance fees; advance payments.** Regular payments made to the association upon shares shall be called "dues." At or before each stated meeting of the board of directors, or at any stated meeting for receiving dues, each shareholder shall pay to the board, or a committee

thereof, or some officer of the association, as designated by the by-laws, upon each share held by him, such amount of dues as the by-laws require until the share of stock reaches its matured value, or is withdrawn, canceled or forfeited. Payment of dues on shares in each series shall commence from the time that shares began to be issued in such series, when issued upon the serial plan, and, when not issued in series, from the date of issuing. The association shall have the power to impose and collect a fine from each shareholder for every neglect or refusal to make his payment of dues, interest or premiums when due, in such sums and in such manner as its by-laws determine. The association shall also have power to charge an entrance fee upon each share issued, not exceeding twenty-five cents on each share, or, in lieu thereof, a membership fee not exceeding one dollar. Payments of dues, interest or premium may be made in advance, but no association shall allow interest on such advance payments at a greater rate than six per centum per annum, nor for a longer period than one year.

Formerly L. 1892, ch. 689, § 175, as am'd by L. 1894, ch. 705, § 1.

**§ 216. Withdrawal of free shares.** The accumulation upon free shares may be withdrawn and the shares canceled after one month's written notice of such intention, filed with the secretary on or before a stated meeting of the board, but the directors may waive such one month's notice. If filed before such meeting the one month's notice shall not be deemed to have commenced until the first regular meeting after the filing. The withdrawing shareholder shall be paid the amount of the withdrawal value of his accumulations, as determined under the by-laws at the last distribution of profits before the notice of withdrawal, together with all dues paid since such distribution, and with or without such interest on the value of the shares at the time of the last distribution, and on the dues thereafter paid, as the by-laws shall determine, less any fines unpaid, provided, that at no time shall more than one-third the receipts of the association be applicable to the payment of matured and prepaid shares and one-third to the payment of instalment shares, without the consent of the board of directors; and when the demands of the withdrawing shareholders exceed the money applicable to their payment, they shall be paid in the order in which their notices of withdrawal were filed with the secretary. The board of directors of permanent plan associations may permit a member to withdraw a part of the accumulations to his credit, without thereby reducing the number of shares held by him. The board of directors may, at their discretion, under rules made by them, retire the free shares

and prepaid shares by enforcing withdrawals of the same, provided that the by-laws shall clearly state the manner in which the withdrawals may be enforced and that they shall be paid the full value of their shares, less all fines. No corporation shall hereafter pay to a withdrawing shareholder any sum in excess of the dues or stock payments credited to him upon its books, together with such dividends as have been duly apportioned and credited thereon, and such interest on the value of the shares at the time of the last distribution of profits before the notice of withdrawal was filed and on the dues thereafter paid, as its articles of association, certificate of incorporation or by-laws shall determine, but less all unpaid fines, all deductions for expenses authorized by its articles of association, certificate of incorporation or by-laws. This section applies to every association or corporation organized under this article and under the provisions of chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one, chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-seven, chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two and the acts amendatory of each and every of said laws.

Formerly L. 1892, ch. 689, § 176, as added by L. 1894, ch. 705, § 1, and am'd by L. 1901, ch. 328, § 1, and L. 1905, ch. 757, § 1.

**§ 217. Dues, when to cease.** When each free share reaches its matured value all payments of dues thereon shall cease, and the holder thereof shall be paid out of the funds of the association, the matured value thereof with such rate of interest as shall be determined by the by-laws, from the time the board of directors shall declare such shares to have matured until paid; but at no time shall more than one-third of the receipts of the association be applicable to the payment of matured shares, without the consent of the board of directors. The order of payment of the matured shares shall be determined by the by-laws.

Formerly L. 1892, ch. 689, § 177, as added by L. 1894, ch. 705, § 1.

**§ 218. Loans, how made; premium plans.** At each stated meeting of the board, or a committee thereof, or other meeting, as fixed by the by-laws for the purpose of making loans, they shall offer to members of the association desiring to borrow all accumulations applicable to that purpose; the same shall be loaned in sums corresponding with the value of a matured share, or a multiple thereof, or the fractional part thereof. If there shall be more than one member desiring to borrow, the right to a loan shall be determined by the open bidding of a premium upon one of the three plans following, which each association shall determine for itself by its by-laws, namely:

1. The "gross plan," with or without "rebates," as the by-laws shall determine; that is, the premium shall be bid in the form of a certain sum per share, which shall be paid in cash or deducted from the loan made to the successful bidder.

2. The "instalment plan," that is, the premium shall be bid in the form of a certain sum per share, which the successful bidder will pay at each regular payment of interest, in addition to the interest which the association requires during the continuance of his loan.

3. The "premium interest plan," that is, the premium shall be bid in the form of the rate of interest the successful bidder will pay upon his loan during the continuance thereof; the association in this plan shall determine the minimum rate of interest at which the bidding shall begin. But such minimum rate shall not exceed the legal rate of interest.

In all these plans the member bidding the highest premium shall be entitled to the loan upon giving the security required therefor, including the interest and premium; the interest and premium shall be payable from the date of bidding off the loan, unless otherwise ordered by the by-laws, and in case the sale takes place at an adjourned or special meeting, the same shall be payable from the last preceding regular meeting for the loaning of money unless the by-laws otherwise provide. Requiring and receiving such interest and premiums or any other moneys which the association may require under the provisions of this article, shall not be deemed a violation of the statutes relating to usury. No member or members shall borrow a larger sum than shall be equal to the matured value of the shares held by him or them, nor shall the association take security upon real estate located more than fifty miles from its principal office for the transaction of its business. A borrowing member for each share or fractional part thereof borrowed upon, shall in addition to the dues on his shares pay interest and premium, if any, on his loan at such times as the by-laws shall prescribe, until the shares borrowed upon shall reach their matured value or the loan is repaid; and when such matured value is reached the shares shall cancel the loan upon them and the proper surrender and acquittances be made.

4. The "limited payment plan," that is, a plan whereby associations incorporated hereunder, or under chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one, chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-seven, chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two, and acts amendatory thereof, may issue and sell instalment shares as a basis for making loans



or advances, on which the maximum number of payments may be definitely fixed. The premium shall be bid in the form of the rate of interest the successful bidder will pay upon his loan during the continuance thereof; the association shall determine the minimum rate of such premium-interest at which such bidding shall begin, but such minimum rate shall not exceed six per centum per annum. On such stock a definite or fixed rate per centum of dividend per annum shall be credited from the profits of the association, if its earnings are sufficient for that purpose, but such rate shall in no case exceed the rate of premium-interest bid upon the loan for which such stock is the basis, and in no case shall such rate exceed six per centum per annum. There shall be paid on such stock such sum or sums in equal periodical instalments, exclusive of any expense fund or other deductions which are authorized by the articles of association or the by-laws, as will, when taken together with the dividend hereinbefore mentioned, equal the matured value thereof at the end of the maximum period during which payment upon such stock may be required. In consideration of such fixed rate of dividend as above provided, the borrowing member shall waive his right to full participation in the profits of such association. Out of the profits, if any, which remain after paying the expenses of said association and apportioning to the borrowing member the fixed rate agreed upon in the contract with him, there shall be apportioned to the instalment stock such rate of dividends as may be determined by the board of directors, and if such rate so determined and apportioned shall exceed the rate apportioned to the stock of the borrowing members, there shall also then be apportioned to the stock of said borrowing members an additional profit, which shall amount to one-half of the difference between the rate first apportioned to such borrowing members' stock and the rate apportioned to the instalment stock, and the other half of said difference shall be credited to and shall constitute a permanent contingent fund for the payment of losses lawfully chargeable to the profit and loss account of such association, and for no other purpose; and in consideration of such contribution to the contingent fund, such stock shall, as between the members of the association issuing it, be exempt from any further charges or assessments for losses sustained, incurred or paid by such association. When the borrowing member shall have made all the payments required under his contract with the corporation and its articles of association or by-laws, the association shall, unless the shares of stock held by him shall have sooner matured, in consideration of the amount standing to the credit of such stock upon its books, and his agreement to con-

tribute to the contingent fund of the corporation, a portion of the profits to which he otherwise might have been entitled, as hereinbefore provided, accept the amount standing to his credit upon the books of the association, and the sums so contributed, in full satisfaction of the loan or advance made to him; and the shares so issued shall be canceled and proper surrenders and acquittances be made.

Formerly L. 1892, ch. 689, § 178, as added by L. 1894, ch. 705, § 1 and am'd by L. 1899, ch. 704, § 1.

**§ 219. Security for loans.** For every loan made, except as hereinafter provided in this section, a bond secured by a first mortgage on real estate shall be given, accompanied by a transfer and pledge to the association of the shares borrowed upon and all accumulations that have or shall accrue thereon, as collateral security for the repayment of the loan; or, in lieu of the mortgage, the borrower or another may transfer and pledge to the association for the payment of the loan, free shares, the withdrawal value of which under the by-laws at the time of such borrowing shall exceed the amount borrowed and interest thereon for six months, and all fines that could accrue in case the borrower should default in the payment of the dues upon the shares borrowed upon, but an association may provide by its by-laws that it will not make stock loans. If the borrower neglects to offer security satisfactory to the board of directors, within the time provided by the by-laws, his right to the loan shall be forfeited and he shall be charged with interest and premium, if any, for one month, and all necessary expenses incurred, if any, under the by-laws in reference to the proposed loan. All bonds and mortgages given to the association shall be deemed conditioned upon the performance of the provisions of this article relating to the payment of loans, premiums, interest and fines thereon, and the by-laws of the association, although the same may not be fully expressed therein. A borrower may repay a loan, and all arrears of interest, premium, if any, and fines thereon, or one or more shares thereof, at any stated meeting or at any time, but the by-laws may otherwise provide; when not made at a stated meeting, he shall pay interest up to the first stated meeting after such payment, or he may, by a proper notice, and directions as to the application, have the withdrawal or holding value of the shares borrowed upon, applied in payment or part payment, as the by-laws shall determine. Should there at any time be money in the treasury not called for by the borrowing or withdrawing members, the board of directors may make temporary loans to members out of the same, at such rate of interest not ex-

ceeding six per centum, and under such provisions and restrictions as the by-laws may prescribe. Such temporary loans shall not run more than ninety days and shall be secured by the personal note of the borrower, and also by a pledge of shares to the association, the withdrawal value of which shares shall be at least ten per centum more than the amount of the loan and the interest thereon to its maturity. If at any time there is money in the treasury as above in excess of the amount needed to meet the demand for such temporary loans, it may be invested in the same kind of securities and under the same restrictions as allowed to savings banks by section one hundred and forty-six of this chapter. No corporation incorporated under the provisions of this article or under the provisions of the repealed acts hereafter enumerated in section two hundred and thirty-two of this chapter which upon the first day of March, nineteen hundred and one, was not engaged in the business of loaning its funds upon second mortgages upon real estate, shall hereafter loan any portion of its funds upon the security of real estate upon which there is a prior lien or incumbrance, or accept from a borrower a mortgage upon real estate which is not a first mortgage, or purchase real estate securities, or invest any portion of its funds in real estate securities which are not first liens upon the property described in them, unless every prior mortgage, lien or incumbrance is owned by it, and no prior mortgage, lien or incumbrance shall be sold, assigned or transferred by any such corporation until all subsequent mortgages, liens or incumbrances owned by it shall have been fully paid and satisfied.

A corporation incorporated under the provisions of this article, or under the provisions of either of said repealed acts hereinafter enumerated, which was, on the first day of March, nineteen hundred and one, engaged in the business of loaning its funds, or any portion thereof, upon second or divided mortgages or upon subsequent or secondary liens upon real estate, whether the prior mortgages or liens are given to or held by such corporation or not, and which shall hereafter continue to make loans upon such second mortgages or liens, shall not advance in any such loans a sum which taken together with the amount of all prior liens or incumbrances, exceeds seventy-five per centum of the appraised value of the real estate upon which such loans are made. Nor shall the total amount so loaned by any such corporation exceed at any time an amount equal to thirty-three and one-third per centum of the net amount paid in on its capital stock in good standing. Provided further that such corporation shall invest not less than fifteen per centum the first year, twenty per

centum the second year, and thereafter twenty-five per centum of its receipts applicable for loaning purposes in the same securities in which savings banks are by section one hundred and forty-six of this chapter, authorized to invest their deposits and the income derived therefrom, until the funds so invested shall amount to at least twenty-five per centum, and to be at all times so maintained, of all mortgages and liens underlying the mortgages or liens held by it (except that after said fund shall amount to fifteen per centum of all underlying mortgages and liens held by such corporations, the remainder, or any portion of the remainder thereof, may be used in cases of emergency in the payment of withdrawals). Provided, however, such investment in such securities need not exceed five hundred thousand dollars in any case. No such corporation engaged on the first day of March, nineteen hundred and one, in the business of loaning its funds or any portion thereof upon second or divided mortgages, or subsequent or secondary liens, shall after the eleventh day of April, nineteen hundred and one, make any such loans upon the security of vacant or unimproved real estate.

Formerly L. 1892, ch. 689, § 179, as added by L. 1894, ch. 705, § 1, and am'd by L. 1896, ch. 452, § 4; L. 1901, ch. 323, § 2, and L. 1905, ch. 491, § 1.

**§ 220. Arrearages; forfeitures; withdrawal values.**

Whenever any member shall be six months in arrears in the payment of his dues upon free shares, the secretary shall give him notice thereof in writing, and a statement of his arrearages, by mailing the same to him at the last post-office address given by him to the association, and if he shall not pay the same within two months thereafter, the board of directors may, at their option, declare his shares forfeited; and at the time of such forfeiture the withdrawal value thereof shall be determined and stated, and the defaulting member shall be entitled to withdraw the same without interest within one year upon such notice as shall be required of a withdrawing shareholder, and upon failure to so withdraw the same, then, and in that case, it may revert to the association.

Formerly L. 1892, ch. 689, § 180, as added by L. 1894, ch. 705, § 1.

**§ 221. Loans due when members in arrears.** Whenever a borrowing shareholder shall be in arrears in the payment of his dues, interest or premium two months, the whole loan shall become due at the option of the board of directors, and they may proceed to enforce collection upon the securities held by the association. The withdrawal value at the time of the commencement of the action of all shares pledged as collateral security for

---

Art. 6 Co-operative Savings and Loan Associations. §§ 222, 223

---

the loan, shall be applied upon the loan and arrearages of interest, premium and fines thereon, and the shares deemed surrendered to the association.

Formerly L. 1892, ch. 689, § 181, as added by L. 1894, ch. 705, § 1.

**§ 222. May purchase at foreclosure sale.** Any corporation incorporated under the provisions of this article or under the provisions of either of the repealed acts hereafter enumerated in section two hundred and thirty-two of this chapter may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment lien or other incumbrance, taken or obtained in good faith in the regular transaction of the business of the association, and may sell, exchange, convey, lease or mortgage the same or any real estate it now owns at pleasure to any person or persons; it may also hold and own real estate for the purpose of occupying the same with its own business office. Except that no exchange of real estate shall be made except by the unanimous vote of the directors of the corporation making such exchange, and no such exchange shall be made upon a basis involving the payment by said corporation of any difference in value unless approved by the superintendent of banks. No corporation incorporated under the provisions of this article or under the provisions of either of the repealed acts hereafter enumerated in section two hundred and thirty-two of this chapter, shall hereafter purchase or exchange real estate except as hereinbefore provided; and every contract hereafter made by or on behalf of any such association for the purchase or exchange of real estate or for any purpose not hereinbefore expressly authorized shall be void. Any officer of any association, who shall consent to or participate in the making of any such void, illegal or unauthorized contract for the purchase or exchange of real estate, or who shall transfer to any person or persons any property of the corporation in pursuance of any such void, illegal or unauthorized contract shall be guilty of a misdemeanor.

Formerly L. 1892, ch. 689, § 182, as added by L. 1894, ch. 705, § 1, and am'd by L. 1901, ch. 328, § 3.

**§ 223. Association may borrow to pay withdrawals.** Any association organized in pursuance of the provisions of this article may borrow money for the purpose of making loans or paying withdrawals, not exceeding, however, two thousand dollars, so long as its accumulated capital shall not exceed twenty thousand dollars, and when its accumulated capital exceeds that sum, not exceeding ten per centum thereof. No money borrowed shall be for a longer term than one year. Any associa-

tion having a surplus in its treasury for which there is no demand for loans, withdrawing stockholders, matured or paid-up stock, may loan the same to another association, organized under the provisions of this article, subject to the provisions of this section, on the part of the borrowing association. No association shall borrow or make loans in this section authorized, except by a majority vote of all the members of its board of directors, the vote to be recorded by ayes and nays in its regular minutes.

Formerly L. 1892, ch. 689, § 183, as added by L. 1894, ch. 705, § 1.

**§ 224. Profits and losses ascertained annually.**

Profits and losses shall be ascertained at least annually, and shall be distributed to all shares outstanding at the time of such distribution, in the manner provided by the by-laws of the association. At each periodical distribution of profits, the board of directors shall reserve and carry to a reserve or contingent fund, a sum equal to at least five per centum of the net earnings during the period since the last previous dividend was declared, until such reserve or contingent fund shall be equal to at least five per centum of the dues and dividends credited to members by series or otherwise, and equal to at least fifty per centum of the book value of all real estate owned by the association. The directors may carry to such reserve or contingent fund any further portion of the undivided earnings that in their discretion seems wise. When any association takes property at a foreclosure sale or in extinguishment of a debt, it shall not be put upon the books of the association at a figure in excess of the sum due the association at the time of first default. Whenever, by any loss which an association may sustain, from this or any other cause, the reserve or contingent fund is reduced below five per centum of the dues and dividends credited to members by series or otherwise, or below fifty per centum of the book value of all real estate owned by an association, the board of directors shall, at each periodical distribution of profits, carry to such reserve or contingent fund five per centum of the net earnings during the period since the last previous dividend was declared, until such reserve or contingent fund shall again be equal to at least five per centum of the dues and dividends credited to members, by series or otherwise, and equal to at least fifty per centum of the book valuation of all real estate owned by the association. This section applies to every association or corporation organized under the provisions of this article and under chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one, chapter five hundred and fifty-

six of the laws of eighteen hundred and eighty-seven, chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two and the acts amendatory of each and every of said laws.

Formerly L. 1892, ch. 689, § 184, as added by L. 1894, ch. 705, § 1, and am'd by L. 1906, ch. 432, § 1.

**§ 225. Transfer of shares.** No transfers of shares shall be binding upon the association until the same have been made upon the books of the association; and the transferee thereof shall take the same charged with all the liabilities and conditions attaching thereto in the hands of the one transferring the same. The association may require a "transfer fee," not exceeding twenty-five cents per share, or in lieu thereof a total fee not exceeding one dollar on each transfer.

Formerly L. 1892, ch. 689, § 185, as added by L. 1894, ch. 705, § 1.

**§ 226. Attorney; auditors; amendments to by-laws; right to vote.** The board of directors shall have the power to appoint and remove, at pleasure, an attorney-at-law for the association. The by-laws of the association may provide for the election of auditors, and prescribe their duties and compensation, and shall provide in what manner the by-laws themselves may be amended. At the time of the adoption of by-laws on the formation of an association, only those members who have joined in the certificate of incorporation are entitled to vote, and each incorporator shall have only one vote.

Formerly L. 1892, ch. 689, § 186, as added by L. 1894, ch. 705, § 1.

**§ 227. Eligibility to membership; exemption from execution; from taxation.** Any person of full age and sound mind may become a member of the association by taking one or more shares therein and subscribing to the by-laws, and annexing to his signature his post-office address; and whenever he desires his post-office address changed he shall give written notice thereof to the secretary of the association; and for the purpose of giving any member notice, by mail, the last post-office address given by him shall be deemed the proper one. A minor may hold shares in the name of a parent, guardian or next friend, as trustee for him, but the association shall not be responsible to said infant for any moneys received by said trustees on account of said shares from the association. All accumulations upon shares in said association held by any person shall be exempt from execution and proceedings supplementary thereto to the amount of six hundred dollars; and the association itself shall be deemed an institution for savings, and not taxable under any tax

---

§§ 228, 229 Co-operative Savings and Loan Associations. Art. 6

---

law which shall exempt savings banks or institutions for savings from taxation, nor shall any law passed hereafter, taxing corporations in any form, be deemed to include associations formed under this article, unless they are specifically named in such law.

Formerly L. 1892, ch. 689, § 187, as added by L. 1894, ch. 705, § 1.

**§ 228. Annual reports to banking department.**

Every association organized under the provisions of this article or under the provisions of chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one and the acts amendatory thereof, or under chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-seven, or under articles five and six of chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two, shall, annually, on or before the thirtieth day of January, make a full report in writing of the affairs and condition of such corporation on the thirty-first day of December of the next preceding year to the superintendent of banks, in such form and by such officers of the corporation as the said superintendent may designate. Every payment made to an officer or agent of the association, by authority of the association, or by virtue of any provision of its by-laws or articles of association, shall, for the purposes of this section, be deemed a payment to the association and accounted for by it. Such report shall be verified by the oath of the officers making the same, and shall include the receipts of such association from all sources, including membership or share fees, and all other compensation paid to officers or agents by members or persons expecting to become members. Such report shall also include all expenditures made by such association, and for what purpose expended. Every association shall make any further reports which said superintendent of banks shall require, and in such form and as to such matters relating to the condition and conducting of the business of the association, as such superintendent shall designate. Any wilful and false swearing in making and verifying any such report shall be deemed perjury.

Formerly L. 1892, ch. 689, § 188, as added by L. 1894, ch. 705, § 1.

**§ 229. Forfeiture for failure to report.** If any such association shall fail to furnish to the superintendent of banks any report required by this article at the time so required, it shall forfeit the sum of ten dollars per day for every day such report shall be delayed or withheld; and the superintendent of banks may maintain an action in his name of office to recover such penalty and the same shall be paid into the treasury of the state and applied to the expense of the said department, or he may report the



facts to the attorney-general, who may bring an action for recovery in the name of the people of the state of New York; provided, however, that the superintendent may, for good cause shown, extend the time within which such report is to be filed not exceeding twenty days. He shall also annually publish a full report of the condition of all associations formed under the provisions of this article or under the provisions of the acts enumerated in section two hundred and thirty-two of this chapter.

Formerly L. 1892, ch. 689, § 189, as added by L. 1894, ch. 705, § 1.

**§ 230. Visitation by superintendent of banks.**

All associations organized under the provisions of this article or under the acts specified in section two hundred and twenty-eight of this article shall at all times be subject to visitation and examination by the superintendent of banks, his deputies or duly authorized agents; and he shall examine or cause to be examined each of said associations at least once in each year. It shall also be the duty of said superintendent by himself, his deputies or duly authorized agents to make examination of the affairs of any of said associations whenever in the judgment of said superintendent the annual or any other report made to said department as required in this article shall in any manner indicate or reveal that its business is being conducted in a manner not authorized by its articles of association or by-laws or by the laws of the state of New York under which it is organized or in an irregular or unsafe manner, and when any association shall fail wholly to make the reports required by the provisions of this article; all expenses incurred in making such examination or investigation herein authorized shall be paid from the funds provided by section two hundred and thirty-five of this chapter, except the annual examination herein provided for and also excepting examinations made by reason of the business being conducted in a manner not authorized by its articles of association or in violation of law or in an irregular or unsafe manner as hereinbefore provided; but no charge shall be made therefor when the examination is made by said superintendent personally or by one of the salaried employees of his department, except for traveling or other necessary expenses, but when made by some person duly appointed by said superintendent other than a salaried officer of his department, the amount charged shall not exceed the sum of ten dollars per day for the time actually expended in making the examination and reports of same and in getting to and from the place of examination and the actual necessary expenses incurred.

Formerly L. 1892, ch. 689, § 190, as added by L. 1894, ch. 705, § 1.

**§ 231. Annual statement to stockholders.** Each association shall at least annually publish and deliver to each shareholder on application a complete and detailed statement of its financial situation and the business conducted since the issuing of its last prior statement.

Formerly L. 1892, ch. 689, § 191, as added by L. 1894, ch. 705, § 1.

**§ 232. Provisions applicable to associations formed under certain acts.** Chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one, chapter five hundred and sixty-four of the laws of eighteen hundred and seventy-five, chapter ninety-six of the laws of eighteen hundred and seventy-eight, and chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-seven, and article six of chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two, are hereby repealed, except as to associations organized prior to May fifteenth, eighteen hundred and ninety-four, under either of said acts, but such association shall be subject to the provisions of sections two hundred and twenty-two, two hundred and twenty-eight, two hundred and twenty-nine, two hundred and thirty, and two hundred and thirty-five of this chapter and to such provisions of sections two hundred and sixteen and two hundred and nineteen as are expressly made applicable to them.

Formerly L. 1892, ch. 689, § 192, pt., as added by L. 1894, ch. 705, § 1, and am'd by L. 1901, ch. 328, § 4.

**§ 233. Amendments to articles.** No change, alteration or amendment shall be made in or to the articles of association, certificate of incorporation or by-laws of any corporation incorporated under the provisions of this article or of the acts enumerated in the preceding section unless such change, alteration or amendment shall have first been submitted to the superintendent of banks and shall have received his written approval, which may be given or withheld in his discretion, and shall also have been duly adopted at a meeting of stockholders, of which meeting thirty days' notice by mail shall be given to each shareholder of record. Such notice shall contain a true copy of the proposed change, alteration or amendment. Any corporation deeming itself aggrieved by the refusal of the superintendent of banks to give such written approval may apply to any justice of the supreme court, upon notice to the superintendent of banks, for a review of such decision. Such justice shall upon such application being made review the decision of the said superintendent upon such evidence as may be presented to such justice, who may set aside the action

of the said superintendent and approve such change, alteration or amendment. And such approval by said justice shall permit such corporation to make such change, alteration or amendment as approved.

Formerly L. 1892, ch. 689, § 192 part, as added by L. 1894, ch. 705, § 1, and am'd by L. 1901, ch. 328, § 4.

**§ 234. Reincorporation.** Any association now existing and heretofore incorporated under the provisions of chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one, and of the acts amendatory thereof, or chapter five hundred and fifty-six of the laws of eighteen hundred and eighty-seven, or articles five and six of chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two, may become entitled to the benefits of this article and reincorporate under its provisions in the following manner:

1. Upon a majority vote of all the directors so requesting, the president and secretary of the association shall call a special meeting of the shareholders to consider and determine the question whether the association shall reincorporate under the provisions of this article. Such notice shall specify the object of such meeting and be mailed postage prepaid, not less than thirty days prior to the date fixed for the meeting, to every shareholder at his last post-office address known to the association.

2. At such meeting a majority vote of those in attendance shall decide all questions considered at the meeting, the vote being by member or by shares, according to the rule already existing in the association. The meeting may be adjourned from time to time if deemed advisable.

3. If the shareholders decide not to reincorporate, another meeting for such purpose shall not be called until one year has passed.

4. If the shareholders decide to reincorporate, they shall proceed to adopt by-laws for the association when reincorporated, the voting thereon to be the same as provided in the foregoing subdivision two and such by-laws shall be in conformity with the provisions of this article.

5. The shareholders having decided to reincorporate, and having adopted by-laws, shall next designate the fifteen or more persons who may make and file the certificate, and have the certificate recorded as provided in section two hundred and twelve of this chapter.

6. Upon the said fifteen or more persons complying with the provisions of said section two hundred and twelve and filing said by-laws with the superintendent of banks, the association shall become fully incorporated under this article.

centum the second year, and thereafter twenty-five per centum of its receipts applicable for loaning purposes in the same securities in which savings banks are by section one hundred and forty-six of this chapter, authorized to invest their deposits and the income derived therefrom, until the funds so invested shall amount to at least twenty-five per centum, and to be at all times so maintained, of all mortgages and liens underlying the mortgages or liens held by it (except that after said fund shall amount to fifteen per centum of all underlying mortgages and liens held by such corporations, the remainder, or any portion of the remainder thereof, may be used in cases of emergency in the payment of withdrawals). Provided, however, such investment in such securities need not exceed five hundred thousand dollars in any case. No such corporation engaged on the first day of March, nineteen hundred and one, in the business of loaning its funds or any portion thereof upon second or divided mortgages, or subsequent or secondary liens, shall after the eleventh day of April, nineteen hundred and one, make any such loans upon the security of vacant or unimproved real estate.

Formerly L. 1892, ch. 689, § 179, as added by L. 1894, ch. 705, § 1, and am'd by L. 1896, ch. 452, § 4; L. 1901, ch. 328, § 2, and L. 1905, ch. 491, § 1.

**§ 220. Arrearages; forfeitures; withdrawal values.**

Whenever any member shall be six months in arrears in the payment of his dues upon free shares, the secretary shall give him notice thereof in writing, and a statement of his arrearages, by mailing the same to him at the last post-office address given by him to the association, and if he shall not pay the same within two months thereafter, the board of directors may, at their option, declare his shares forfeited; and at the time of such forfeiture the withdrawal value thereof shall be determined and stated, and the defaulting member shall be entitled to withdraw the same without interest within one year upon such notice as shall be required of a withdrawing shareholder, and upon failure to so withdraw the same, then, and in that case, it may revert to the association.

Formerly L. 1892, ch. 689, § 180, as added by L. 1894, ch. 705, § 1.

**§ 221. Loans due when members in arrears.** Whenever a borrowing shareholder shall be in arrears in the payment of his dues, interest or premium two months, the whole loan shall become due at the option of the board of directors, and they may proceed to enforce collection upon the securities held by the association. The withdrawal value at the time of the commencement of the action of all shares pledged as collateral security for

the loan, shall be applied upon the loan and arrearages of interest, premium and fines thereon, and the shares deemed surrendered to the association.

Formerly L. 1892, ch. 689, § 181, as added by L. 1894, ch. 705, § 1.

**§ 222. May purchase at foreclosure sale.** Any corporation incorporated under the provisions of this article or under the provisions of either of the repealed acts hereafter enumerated in section two hundred and thirty-two of this chapter may purchase at any sale, public or private, any real estate upon which it may have a mortgage, judgment lien or other incumbrance, taken or obtained in good faith in the regular transaction of the business of the association, and may sell, exchange, convey, lease or mortgage the same or any real estate it now owns at pleasure to any person or persons; it may also hold and own real estate for the purpose of occupying the same with its own business office. Except that no exchange of real estate shall be made except by the unanimous vote of the directors of the corporation making such exchange, and no such exchange shall be made upon a basis involving the payment by said corporation of any difference in value unless approved by the superintendent of banks. No corporation incorporated under the provisions of this article or under the provisions of either of the repealed acts hereafter enumerated in section two hundred and thirty-two of this chapter, shall hereafter purchase or exchange real estate except as hereinbefore provided; and every contract hereafter made by or on behalf of any such association for the purchase or exchange of real estate or for any purpose not hereinbefore expressly authorized shall be void. Any officer of any association, who shall consent to or participate in the making of any such void, illegal or unauthorized contract for the purchase or exchange of real estate, or who shall transfer to any person or persons any property of the corporation in pursuance of any such void, illegal or unauthorized contract shall be guilty of a misdemeanor.

Formerly L. 1892, ch. 689, § 182, as added by L. 1894, ch. 705, § 1. and am'd by L. 1901, ch. 328, § 3.

**§ 223. Association may borrow to pay withdrawals.** Any association organized in pursuance of the provisions of this article may borrow money for the purpose of making loans or paying withdrawals, not exceeding, however, two thousand dollars, so long as its accumulated capital shall not exceed twenty thousand dollars, and when its accumulated capital exceeds that sum, not exceeding ten per centum thereof. No money borrowed shall be for a longer term than one year. Any associa-

**§ 238. Construction of term "co-operative savings and loan association."** The term, "co-operative savings and loan association," shall include every corporation, company or association doing business in this state and having for a part of its title or name the words "building \*association," "building and loan association," "building and mutual loan association," "savings and loan association," "savings association," "co-operative loan association," or "co-operative bank," and every corporation, company or association whose stock is wholly or in part payable by a cumulative fund in regular or periodical instalments, or which is doing business in the form and of a character similar to that authorized by this article organized or incorporated in this state or in any state or country outside of this state.

Formerly L. 1892, ch. 689, § 2 part.

**§ 239. Construction of reference to laws of eighteen hundred ninety-two.** Whenever reference is made prior to May thirty-first, eighteen hundred and ninety-eight, in any of the statutes of the state of New York to article five or six and to articles five and six of chapter six hundred and eighty-nine of the laws of eighteen hundred and ninety-two the said reference shall be construed to mean and refer to article six of this chapter.

Formerly L. 1892, ch. 689, § 195, as added by L. 1894, ch. 705, § 1.

**§ 240. When association may be dissolved.** In either of the following cases, any association incorporated under chapter one hundred and twenty-two, laws of eighteen hundred and fifty-one, entitled "An act for the incorporation of building, mutual loan and accumulating fund associations," and the acts amendatory thereof, may be dissolved, or the court may declare and adjudge that it has been dissolved, or that its corporate existence has terminated, and the assets of such corporation may be distributed among those entitled thereto:

1. Whenever the time of the existence of such association, as specified in its certificate of incorporation, has expired;

2. Whenever all the shares of such association shall be redeemed by advances thereon, or whenever the owners of unredeemed shares shall be paid the ultimate value thereon, as provided in the articles of association;

3. Whenever it shall appear to the satisfaction of the court that the association has ceased to do business, and that the purposes of its existence, as contemplated by the said act and by its certificate of incorporation, have been accomplished;

\*So in original.

---

Art. 6 Co-operative Savings and Loan Associations. §§ 241, 242

---

4. In any of the cases specified in section one hundred and one of the general corporation law, where no officer, director, agent or other person can be found upon whom service of process in behalf of the corporation is authorized by law.

Formerly, L. 1906, ch. 600, § 1.

**§ 241. Petition for dissolution.** In either of the cases specified in section two hundred and forty a petition may be presented to the supreme court in the district where the real property of such association, or any part of said property, is or was situated, or where the place of business of such association is or was located. Such petition may be presented by any officer, director or trustee, member, shareholder or creditor of such association or by the executor, administrator or assigns of any such officer, shareholder, member or creditor, or by any other person or corporation who has or may have an interest in obtaining the relief prayed for in such petition, or who may have an interest in procuring from some one authorized to represent said corporation some conveyance or other instrument to perfect title, or to remedy an apparent defect in title to real property which, or some interest in which, may at some time have been or might be claimed to have been owned by said association. Such petition shall be verified and shall set forth the name of the association and the place where its certificate of incorporation is filed; the nature of the interest of the petitioner in the association or in the application; under which of the cases specified in section two hundred and forty of this chapter the application falls; and a concise statement of the condition of the affairs of such association, to the best of the petitioner's knowledge, information and belief, together with any other facts that may be deemed appropriate.

Formerly L. 1906, ch. 600, § 2.

**§ 242. Proceedings on presentation of petition.**

Upon the presentation of such petition the court must make an order, returnable in not less than twenty-one days, requiring such association, its officers, directors or trustees, members, shareholders and creditors, and all other persons having any interest in such association or in its assets, to show cause why the relief provided for in section two hundred and forty of this chapter should not be granted; such order shall be published once a week for three successive weeks in a newspaper specified in the order, published in the county wherein the order is entered, or where the certificate of incorporation of such association is filed, and such publication shall be deemed to constitute sufficient

service of the order and of notice of the application upon all persons and classes of persons designated in the order. But the court may direct such different or other service thereof as it may deem proper. A copy of such petition and of the order to show cause granted thereon shall be served upon the attorney-general and the superintendent of banks of the state of New York, at least eight days before the return day thereof.

Formerly L. 1906, ch. 600, § 3.

**§ 243. Hearing and order for dissolution; appointment of trustee.** At the time and place specified in the order, or to which the hearing is adjourned, the court, or the referee, if the court should direct a reference, must hear all persons opposing the prayer of the petition, hear the allegations and proofs of the parties, and determine the facts. If the court shall be satisfied that the association has already been dissolved, or that its legal existence has terminated, it shall make an order so declaring and adjudging. If it shall find that the association, though legally in existence, ought to be dissolved, it shall make an order dissolving it, and upon the entry of such order the association is dissolved. In either case it shall appoint a trustee or trustees for the purpose of settling its affairs, collecting and paying any outstanding debts, and dividing among the persons entitled thereto the money or other property remaining after payment of debts and necessary expenses. Such trustee or trustees shall have the same powers and duties as trustees under section thirty-five of the general corporation law, and shall give security as the court may direct for the faithful performance of his or their duties. The trustee or trustees so appointed may, from time to time, sell, at public or private sale, all or any of the property and assets, including claims of any kind, which belonged to the association when it was dissolved or ceased to exist, and may execute all conveyances or instruments requisite to perfect the title of the purchaser.

Formerly L. 1906, ch. 600, § 4.

**§ 244. Report and compensation of trustee.** Such trustee or trustees shall be subject to the control of the court in the same manner as a receiver appointed in a proceeding for the voluntary dissolution of a corporation, and when he or they shall have completed the liquidation, shall render an account of his or their proceedings, and the net proceeds in his or their hands shall be distributed or paid into court as shall be determined and directed by the court. The trustee or trustees shall thereupon be entitled to be discharged from further liability. The



provisions of section three hundred and three of the general corporation law shall apply to the proceedings hereby provided. Such trustee or trustees shall be entitled to the same compensation as receivers are entitled to under section thirty-three hundred and twenty of the code of civil procedure.

Formerly L. 1906, ch. 600, § 5.

**§ 245. Limitation and construction of article.**

Nothing in this article shall be so construed as to repeal or limit the application of the provisions of the code of civil procedure, the general corporation law or of other statutes providing for the voluntary or involuntary dissolution of corporations by action or special proceeding.

Formerly L. 1906, ch. 600, § 6.

**ARTICLE 7**

**Building and Lot Associations**

Section 260. Incorporation.

261. Powers.

262. Borrowing money.

263. Dividends.

264. Monthly payments.

265. Liability of stockholders and directors.

266. Exemption of shares from sale and execution.

267. Reports.

**§ 260. Incorporation.** Five or more persons may become a corporation for the purpose of accumulating a fund for the purchase of real property, to pay off incumbrances thereon, to aid its members in acquiring a building lot or lots, and making improvements thereon in a manner and form specified in the certificate of incorporation, or for all or any of such purposes, by making, acknowledging and filing a certificate of incorporation setting forth:

1. The name of the corporation.
2. The location of its principal business office.
3. When its regular meetings shall be held and how special meetings may be called.
4. What shall be a quorum to transact business at its meetings.
5. How members shall be admitted, and their qualifications.
6. What officers, directors or attorneys of the corporation there shall be and how and when chosen.
7. The duties of such officers, directors or attorneys, and how removed or suspended from office.

8. The names of the persons who shall be such officers and directors for its first year and until others are chosen or appointed in their places.

9. The amount of each share and how ascertained.

10. The monthly or weekly dues per share.

11. The fees to be paid on the transfer of shares.

12. The penalties for nonpayment of dues or fees, or other violation of the provisions of the certificate.

13. The qualification of voters at its meetings and the mode of voting.

14. The manner of dividing land and selecting or allotting the lots.

15. The manner of altering or amending the certificate of incorporation.

16. Such other provisions not inconsistent with law as shall be necessary for the convenient and effective transaction of its business.

Such certificate must be approved by the superintendent of banks and filed in the office of the clerk of the county in which such corporation shall have its principal business office, and a certified copy thereof shall be filed in the office of the superintendent of banks. Thereupon the persons who have subscribed such certificate and such other persons as shall become members of the corporation and their successors shall be a corporation by the name specified in such certificate.

Formerly L. 1892, ch. 689, § 196, as added by L. 1898, ch. 193, § 1.

**§ 261. Powers.** The directors of every such corporation may call in and demand from the members and stockholders thereof, all sums of money by them subscribed, at such times and in such payments or instalments as the certificate of incorporation shall prescribe, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the member or stockholder within sixty days after a personal demand made or notice requiring such payment shall have been published for six successive weeks in the newspaper nearest to the principal place of business of the corporation. But no corporation organized under this article shall purchase or deal in or take security upon real estate situate more than fifty miles from its principal office for the transaction of its business, and no such corporation shall make deductions from stock payments for running expenses.

Formerly L. 1892, ch. 689, § 196-a, as added by L. 1898, ch. 193, § 1 L. 1906, ch. 573, § 1 part, incorporated.

**§ 262. Borrowing money.** Every such corporation shall have power to borrow money for temporary purposes not inconsistent with the objects of its organization, but no such loan shall have a longer duration than three years, nor shall its indebtedness for money so borrowed exceed at any one time one-fourth of the aggregate amount of its shares and parts of shares and the income thereof actually paid in and received.

Formerly L. 1892, ch. 689, § 196-b, as added by L. 1898, ch. 193, § 1.

**§ 263. Dividends.** Dividends declared from the earnings of the corporation shall be payable in such manner as may be provided in the certificate of incorporation.

Formerly L. 1892, ch. 689, § 196-c, as added by L. 1898, ch. 193, § 1.

**§ 264. Monthly payments.** No holder of shares shall be exempt from making the monthly or other stated payments provided in the certificate of incorporation on the ground that by reason of losses or otherwise, the corporation has continued longer than was originally anticipated, whereby the payments made on such shares have amounted to more than the amount originally intended, with legal interest thereon. The imposition of fines for nonpayment of dues or fees or for other violation of the certificate of incorporation, or the making of any monthly payment required by the certificate of incorporation, shall not be deemed a violation of the provisions of any statute against usury.

Formerly L. 1892, ch. 689, § 196-d, as added by L. 1898, ch. 193, § 1.

**§ 265. Liability of stockholders and directors.** A stockholder of such corporation shall be liable to the creditors for the amount unpaid on the stock held or subscribed for by him. The directors or other officers of every such corporation shall be personally liable for any fraudulent use, disposition or investment of any moneys or property belonging to it, or for any loss which shall be incurred by any investment other than such as are mentioned in and authorized by this article, made by any such directors or officers, but no director or other officer shall be so liable unless he authorized, sanctioned, approved of or made such fraudulent use, disposition or investment.

Formerly L. 1892, ch. 689, § 196-e, as added by L. 1898, ch. 193, § 1.

**§ 266. Exemption of shares from sale and execution.** The shares held by the members and stockholders of every such corporation shall be exempt from sale on execution for debt to an extent not exceeding six hundred dollars in such shares at their par value. Shares held by members of associations incorporated under the provisions of laws of eighteen hun-

---

§§ 267, 280 Mortgage, Loan and Investment Corporations. Arts. 7, 8

---

dred and seventy-two, chapter eight hundred and twenty, together with any amounts of deposits or assessments made on account thereof, shall be exempt from attachment or sale on execution for debt, to an extent not exceeding one thousand dollars, in such shares, deposits or assessments, at their par value; provided, the person holding such shares is not the owner of a homestead.

Formerly L. 1892, ch. 639, § 196-f, as added by L. 1898, ch. 193, § 1; L. 1872, ch. 820, § 20, incorporated.

**§ 267. Reports.** On the first day of January of each year every such corporation shall make a written report to the superintendent of banks, in such form and containing such matters as he shall prescribe. Such reports shall give the condition of such corporation at the close of business on the thirty-first day of December in each year; and such corporation shall also make reports to the superintendent of banks whenever required by him and as of the day designated by him.

Formerly L. 1892, ch. 639, § 196-g, as added by L. 1898, ch. 193, § 1.

## ARTICLE 8

### Mortgage, Loan and Investment Corporations

Section 280. Incorporation.

281. Deposit required; authorization certificate.

282. General powers.

283. License.

284. Verified statement to be furnished.

285. Issue of license.

286. Unlicensed companies prohibited.

287. Revocation of license.

288. Designation of superintendent as attorney.

**§ 280. Incorporation.** Five or more persons may become a mortgage, loan or investment corporation by making, acknowledging and filing in the office of the clerk of the county where such corporation is to be established, and in the office of the superintendent of banks, a certificate in duplicate which shall state:

1. The name by which such corporation is to be known.
2. The particular city, town or village where its operations are to be carried on.
3. The amount of its capital stock, which shall in no case be less than one hundred thousand dollars.

---

Art. 8 Mortgage, Loan and Investment Corporations. §§ 281, 282

---

4. The names and places of residence of its stockholders, and the number of shares held by each.

5. The date at which said corporation shall commence and terminate.

6. The number of directors, which shall not be less than five, and the names of the stockholders who shall be directors for the first year of its incorporation, accompanied with a declaration that each incorporator will accept the responsibilities and faithfully discharge the duties of a director therein, if elected to act as such.

A duplicate of such certificate when filed shall be recorded by the county clerk in the books kept for the record of certificates of incorporation, and a duplicate by the superintendent of banks in a book to be kept by him for that purpose. Such certificate may provide for the increase of capital stock and of the number of persons forming the corporation, and for such other changes not contrary to law, as may be thought proper.

Formerly L. 1892, ch. 689, § 197, as added by L. 1896, ch. 452, § 5.

**§ 281. Deposit required; authorization certificate.**

Upon it appearing satisfactorily to the superintendent of banks that the capital stock of said corporation has been paid in cash and that it has otherwise complied with law, and upon his receiving a deposit to the amount of one thousand dollars to be held by him as a pledge of good faith and a guaranty of compliance with this chapter on the part of such corporation, to be in such securities and assigned in the same manner as specified in section seventy-six of this chapter in reference to deposits to be made by banks and individual bankers, he shall issue his authorization certificate as provided in section thirty-two of this chapter.

Formerly L. 1892, ch. 689, § 198, as added by L. 1896, ch. 452, § 5.

**§ 282. General powers.**

In addition to the powers conferred by the general and stock corporation laws, a corporation organized as provided in the two preceding sections shall have power to sell, offer for sale or negotiate bonds or notes secured by deed of trust or mortgages on real property situated in this state or outside of this state, or choses in action owned, issued, negotiated or guaranteed by it, and may receive money or property either from its own stockholders or other persons in instalments or otherwise, and may enter into any contract, engagement or undertaking with such persons for the withdrawal of such money or property, at any time, with any increase thereof, or for the payment to them or to any person of any sum of money

at any time, either fixed or uncertain, excepting that said corporation can not do a general deposit business without complying with the provisions of section fourteen of this chapter.

Formerly L. 1892, ch. 689, § 199, as added by L. 1896, ch. 452, § 5.

**§ 283. License.** The superintendent of banks may issue a license under his hand and official seal, in accordance with the provisions of this article, authorizing mortgage companies organized under the laws of any other state to transact business within the limits of this state; and the supervisory power granted by this article shall apply to all associations, copartnerships, individuals, joint-stock companies, firms or corporations organized under the laws of any other state, who sell, offer for sale or negotiate bonds or notes, secured by deed of trust or mortgage of real property or bonds, or obligations payable in instalments, or capital stock, or choses in action, owned, issued, negotiated or guaranteed by them; and to all associations, copartnerships, joint-stock companies or corporations organized as provided in sections two hundred and eighty, two hundred and eighty-one and two hundred and eighty-two of this chapter, and the provisions of article two of this chapter shall apply to such.

Formerly L. 1892, ch. 689, § 200, as am'd by L. 1896, ch. 452, § 5.

**§ 284. Verified statement to be furnished.** The companies, associations, and others described in the preceding sections shall annually make and furnish to the superintendent of banks a true and verified statement of their financial condition in detail on blanks furnished by him for that purpose, which shall show:

1. The amount of capital actually paid in cash.
2. The amount of capital subscribed.
3. The undivided profits or earnings on hand.
4. The total liabilities itemized in such form as may be indicated in the blanks.
5. The total amount of moneys loaned, invested or guaranteed.
6. The number and amount of all mortgages in arrears of interest for a period exceeding six months prior to the date of the report.
7. The number and amount of mortgages foreclosed during the past year.
8. The present cash value of all real property held or owned through foreclosure, and such other and further information concerning their business affairs and methods as the superintendent shall require.

The statement shall be signed by the officers of the association, company or corporation or other person making the same,

Art. 8 Mortgage, Loan and Investment Corporations. §§ 285, 286

and in such form as the superintendent shall prescribe. The superintendent may, in his discretion, require a like report, either wholly or in part, as to such particulars as he may prescribe, to be made and submitted to him at any time and within such period as he may designate. No license shall be issued unless the superintendent, either personally or by some competent person or persons appointed by him, has visited and examined thoroughly into the condition, business methods and affairs generally of any company, association, corporation, copartnership or individual proposed to be licensed by him; and he may make such examination as often thereafter as he deems necessary, and such examination shall be made at least once in each year. The superintendent and every examiner appointed by him shall have power to administer an oath to any person whose testimony may be required in any such examination; and all books and papers which may be deemed necessary to be examined by the superintendent or the examiner shall be produced when demanded in writing by him. On every such examination inquiry shall be made as to the condition and resources generally of the company, corporation, association, copartnership or individual examined, the mode of conducting and managing its affairs, the actions of its directors or trustees, the investment of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held, and whether the requirements of its charter and of law have been complied with in the administration of its affairs.

Formerly L. 1892, ch. 689, § 201, as am'd by L. 1896, ch. 452, § 5.

**§ 285. Issue of license.** If it shall appear to the satisfaction of the superintendent from such examination made, and the statement or report submitted by any such corporation, company, copartnership, firm, association or individual organized under the laws of any other state, pursuant to the requirements of the preceding section, that its affairs are being conducted in a safe and lawful manner, he may issue to such company, corporation, copartnership, firm or association a license under his hand and seal, permitting it to transact business in this state for the term of one year from the date thereof.

Formerly L. 1892, ch. 689, § 202, as am'd by L. 1896, ch. 452, § 5.

**§ 286. Unlicensed companies prohibited.** No person, association, corporation, company or copartnership shall act in this state as the agent or representative of any company, corporation or others described in section two hundred and eighty-three of this chapter, unless the same has been duly licensed by the superin-

§§ 287, 288 Mortgage, Loan and Investment Corporations. Art. 8

tendent of banks as hereinbefore provided. Every such company, corporation or others, described in section two hundred and eighty-three of this chapter, organized under the laws of any other state, shall within thirty days after being authorized to transact business in this state, file in the office of the superintendent of banks, a certificate stating the name and business address of every person, association, corporation, company, firm or others, who act or propose to act in this state as its agent or representative, and in case of any change in any such representative, an amended certificate shall be forthwith filed as herein provided. Whoever shall offend against the provisions of this section shall forfeit to the people of the state the sum of one thousand dollars for every offense.

Formerly L. 1892, ch. 689, § 203, as am'd by L. 1896, ch. 452, § 5.

**§ 287. Revocation of license.** If it shall appear to the superintendent from an examination made of, or report submitted by any licensee organized under the laws of any other state under the provisions of this article, or from sufficient information otherwise obtained, that such licensee is conducting its business and affairs in an unsafe or unauthorized manner, he shall, by an order under his hand and official seal, addressed to such licensee, direct it to discontinue such unsafe or illegal practices, and to conform to the requirements of its charter and of law, and to provide for the safety and security of its transactions. If such licensee shall neglect or refuse to make any reports as herein specified, or to comply with such order, or if it shall appear to the superintendent that it is unsafe or inexpedient for any such licensee to continue the transaction of business, he shall forthwith revoke the license granted to any such licensee, and serve a copy of the order of revocation on the company, association, corporation, copartnership or individual whose license is revoked, at its principal office for the transaction of business in this state, and also upon each agent or representative thereof within the state, specified in the certificate provided for in section two hundred and eighty-six of this chapter, by depositing the same in the post-office directed to such licensee at such principal place of business, and to each of such agents at his place of business; and the superintendent may, in his discretion, publish such order, with such other facts as he may deem proper, for six successive days in the state paper published in the city of Albany.

Formerly L. 1892, ch. 689, § 204, as am'd by L. 1896, ch. 452, § 5.

**§ 288. Designation of superintendent as attorney.** Every corporation, company, firm, association or individual, organized under the laws of any other state, thus licensed,



shall, before transacting any business within this state, by an instrument in writing duly executed, appoint the superintendent of banks its true and lawful attorney upon whom all process in any action or proceeding by any resident of the state against it may be served with the same effect as if it were a domestic corporation and had been lawfully served with process in the state. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the superintendent of banks, and copies certified by him or his deputy shall be sufficient evidence thereof. Service in favor of a resident of this state upon such attorney shall be deemed a personal service upon such licensee. Whenever lawful process against such licensee shall be served upon the superintendent of banks, he shall forthwith forward a copy of the process served upon him by mail, prepaid, and directed to the president or secretary of the corporation or association at its last-named post-office address. For each copy of process, the superintendent shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of such service, to be recovered by him as part of his taxable disbursements if he succeeds in his suit or proceeding. The term "process," when used in this section, includes any writ, summons, petition or order whereby any suit, action or proceeding shall be commenced by a resident of this state.

Formerly L. 1892, ch. 689, § 205, as am'd by L. 1896, ch. 452, § 5.

## ARTICLE 9

### Safe Deposit Companies

Section 300. Incorporation.

301. Directors.

302. Officers and by-laws.

303. Liability of stockholders.

304. Remedy for non-payment of rent for safe.

**§ 300. Incorporation.** Five or more persons may become a corporation for the purpose of taking and receiving upon deposit as bailee for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, securities and valuable papers of any kind, and other valuable personal property, and guaranteeing their safety upon such terms and for such compensation as may be agreed upon by it and the respective bailors thereof; and to let out vaults, safes and other receptacles for the uses and purposes of such corporation, by making, acknowledging, and filing in the office of the clerk of the county in which its principal place

of business is to be located, and a duplicate thereof in the office of the superintendent of banks, a certificate stating its corporate name, the business for which formed, the amount of its capital stock,—which shall not exceed one million nor be less than one hundred thousand dollars, except in cities or villages of less than one hundred thousand inhabitants, in which the capital shall not be less than ten thousand dollars,—the number of shares of which its stock shall consist, the term of its existence not to exceed fifty years, the number of directors who shall manage its concerns for the first year and their names, residences, occupations and post-office addresses, and the name of the place in which its operations are to be carried on; such certificate must be approved before filing by the superintendent of banks. No such corporation shall commence or transact business until the whole amount of its capital stock shall have been paid in nor make any loan or advance on any property left with it for storage or safekeeping. Any such corporation having a capital of one hundred thousand dollars or more, paid in cash, may open and maintain one or more branch offices in the place named in its certificate of incorporation, provided, however, that the written approval of the superintendent of banks must be obtained for each branch so opened and maintained, which written approval may be given or withheld in his discretion. Every safe deposit company shall forfeit to the people of the state the sum of one thousand dollars for every week during which any branch office shall be maintained without such written approval.

Formerly L. 1892, ch. 689, § 210, as am'd by L. 1908, ch. 122, § 1.

**§ 301. Directors.** The affairs of every such corporation shall be managed by not less than five nor more than thirteen directors, who shall be stockholders and a majority of whom shall be citizens of this state, and who shall, except for the first year, be annually elected by the stockholders at such time and place as shall be prescribed in the by-laws of the corporation. Notice of the time and place of holding such election shall be published not less than ten days previous thereto in a newspaper in the town or city in which the operations of such corporation shall be carried on, and the election shall be made by such of the stockholders as shall attend for that purpose either in person or by proxy.

Formerly L. 1892, ch. 689, § 211.

**§ 302. Officers and by-laws.** There shall be a president of the corporation to be designated from the directors, and such subordinate officers as the corporation by its by-laws may designate, who may be elected or appointed, and required to give

such security for the faithful performance of the duties of their offices as the corporation by its by-laws may require. The directors may make such by-laws as they shall deem proper for the management, disposition of the stock, property and business affairs of the corporation, not inconsistent with law, and prescribing the duties of the officers and persons employed by it, the manner of the appointment and election of all officers, and for carrying on all kinds of business within the objects and purposes of the corporation.

Formerly L. 1892, ch. 689, § 212.

**§ 303. Liability of stockholders.** The stockholders of every such corporation shall be jointly and severally liable for all debts that may be due and owing by it to an amount equal to the par value of their stock in such corporation over and above such stock, to be recovered of the stockholders who were such when the debt was contracted or the loss or damage sustained or of any subsequent stockholder. Any stockholder who may have paid any demand against such corporation, either voluntarily or by compulsion, shall have a right to resort to the rest of the stockholders who are liable to contribution; and the dissolution of the corporation shall not release or affect the liability of any stockholder incurred before dissolution.

Formerly L. 1892, ch. 689, § 213

**§ 304. Remedy for non-payment of rent for safe.** If the amount due for the use of any safe or box in the vaults of any such corporation shall not have been paid for three years, it may, at the expiration thereof, cause to be sent to the person in whose name such safe or box stands on its books a notice in writing in a securely closed post-paid registered letter, directed to such person at his post-office address as recorded upon the books of the corporation, notifying such person that if the amount then due for the use of such safe or box is not paid within sixty days from the date of such notice, the corporation will then cause such safe or box to be opened in the presence of its president or secretary or treasurer, and of a notary public not an officer or in the employ of the corporation, and the contents thereof, if any, to be sealed up by such notary public in a package, upon which such notary public shall distinctly mark the name and address of the person in whose name such safe or box stands upon the books of the corporation, and the estimated value thereof; and the package so sealed and addressed, when marked for identification by such

notary public, will be placed by such notary public in one of the general safes or boxes of the corporation

Upon the expiration of sixty days from the date of mailing such notice as aforesaid, and the failure of the person in whose name such safe or box stands on the books of the corporation to pay the amount due for the use thereof in full up to the date of such notice, the corporation may in the presence of a notary public and of its president or secretary or treasurer, cause such safe or box to be opened, and the contents thereof, if any, to be removed and sealed up by such notary public in a package, upon which such notary public shall distinctly mark its estimated value and the name of the person in whose name such safe or box stood on the books of the corporation, and when such package has been marked for identification by such notary public, it shall, in the presence of the president or secretary or treasurer of the corporation, be placed by such notary public in one of the general safes or boxes of the corporation, and the proceedings of such notary public shall be fully set out by him in his own proper handwriting and under his official seal, in a book to be kept by the corporation for that purpose.

Formerly L. 1892, ch. 689, § 214.

## ARTICLE 10

### Personal Loan Associations

Section 310. Organization; how effected.

- 311. Supervision; bond and reports required; examinations; expenses; proceedings for violation of law.
- 312. Powers; rate of interest or discount.
- 313. Dividends limited.
- 314. Prohibitions.

**§ 310. Organization; how effected.** In any county of this state containing or which is contained in an incorporated city, except in the counties of Monroe and Westchester, any five or more persons may organize and become a corporation, for the purpose of aiding such persons as shall be deemed in need of pecuniary assistance, by loans of money at interest, not exceeding two hundred dollars to any one person, upon a pledge or mortgage of personal property, by making, signing, acknowledging and filing a certificate, in the form prescribed by the business corporations law. Before transacting any business the said corporation shall execute and file a bond in an amount equal to one-tenth of its capital stock,

but not less than the sum of five thousand dollars, with the superintendent of banks, to be approved by him for the faithful observance of all general provisions of law regulating business corporations within the state of New York, and of the provisions of this article. Said bond shall be executed by a domestic or foreign corporation authorized by the superintendent of insurance to transact within the state the business of surety insurance as surety. At the time of filing such bond such corporation shall also file with the superintendent of banks a certified copy of its certificate of incorporation. Upon the filing of such certified copy of the certificate of incorporation, and the filing and approval of the bond hereinbefore provided for, the superintendent of banks shall issue to the corporation a license to transact business under this article, which license shall terminate on the thirty-first day of March in the following calendar year.

Formerly L. 1895, ch. 326, § 1, as am'd by L. 1895, ch. 706, § 1; L. 1896, ch. 206, § 1; L. 1902, ch. 78, § 1, and L. 1905, ch. 333, § 1.

**§ 311. Supervision; bond and reports required; examinations; expenses; proceedings for violation of law.** Said bond shall be renewed and refiled annually, in January of each year, and shall be approved by the superintendent of banks, and a new license issued on or before the first day of March; or the corporation shall, within thirty days thereafter, cease doing business and proceedings for a dissolution shall be instituted by the attorney-general at the request of said superintendent. Every such corporation shall also in January of each year make a report for the previous calendar year to the superintendent of banks, giving such information as he shall require, which report shall be verified by the oath of the president or secretary; and it shall make such other and further reports, under the like oath, as the said superintendent shall demand at any time. The superintendent of banks shall cause every such corporation to be examined at least once in each year, and may cause it to be examined as often as he deems it necessary; and the examiners appointed by him shall be given free access to all books, papers, securities and other sources of information in respect to the said corporation; for which examination a reasonable charge shall be imposed by the superintendent and paid by the said corporation within twenty days after notice of the charge shall have been mailed to the corporation at the last address given by it. If any such corporation shall knowingly violate any of the provisions or restrictions of this article, the said bond shall be forfeited and shall be collected by suit by the superintendent of banks,

in the name of the people of the state, which suit shall be conducted by the attorney-general; and a reward of two hundred and fifty dollars shall be paid by the state to the person first giving information and furnishing legal proof of such violation. Corporations organized under the provisions of this article shall be subject to the supervision of the superintendent of banks; and the general provisions relative to the supervision of moneyed corporations contained in article two of this chapter shall be applicable to them in so far as they are not inconsistent with the provisions of this article. All expenses incurred by the superintendent of banks in preparing and furnishing suitable blanks, stationery and forms, in preparing and keeping suitable records, for clerical service, and such other expenses as may be incident to such supervision, shall be paid by said corporations in such proportions as the superintendent may deem just and reasonable. The expenses incurred and services performed on account of any such corporation shall be charged to and paid by the corporation for whom they were incurred or performed. All moneys received by the superintendent in payment of such charges shall be deposited and paid by him into the treasury of the state to reimburse all sums advanced from the treasury for such expenses. If any such corporation shall fail to pay such charges as herein required, including charges for examination, the superintendent shall report to the attorney-general the failure of any such corporation to pay such charges, and the attorney-general shall thereupon bring an action in the name of the people for the recovery of such charges. All such charges, including the charges made for examination, shall be a preferred claim against the assets of any such corporation upon its dissolution, or upon its making a general assignment for the benefit of creditors. If it shall appear to the superintendent of banks, from any examination or report, that the capital stock of any such corporation is impaired; or that it has violated its charter or any law of this state; or is conducting its business in an oppressive or unauthorized manner; or is by payment of excessive salaries, excessive rents or any other means, attempting to evade the provisions of this article relative to a reduction in the rate of interest which such a corporation may legally charge, he may, by an order made over his hand and official seal, direct any such corporation to make good such impairment of capital; or to discontinue the illegal, oppressive or unauthorized methods and practices mentioned in said order; or to discontinue the payment of the excessive salaries, rents or other expenses, by means of which an attempt to evade the provisions of this article is apparent. If any such corporation shall not comply with such order within twenty days after the same shall

have been mailed to the last address filed by such corporation in the banking department, the superintendent shall communicate the facts to the attorney-general, who shall thereupon commence an action for the dissolution of the corporation; and the corporation shall upon proof of failure to comply with such order be dissolved and a permanent receiver therefor appointed.

Formerly L. 1895, ch. 326, § 2, as am'd by L. 1902, ch. 78, § 2.

**§ 312. Powers; rate of interest or discount.** Every such corporation shall have the general powers of a business corporation, as provided by law, and shall be subject to all the duties, obligations and restrictions of a business corporation, so far as applicable thereto, and shall have the following additional powers: It shall be entitled to act as pawnbroker within such county, and shall be subject to and entitled to all the benefits and provisions of the laws of the state, and of all ordinances of the city in which it is located, concerning pawnbrokers; except that it shall not be required to obtain a license or file any bond other than that provided for in section three hundred and ten of this chapter. And it may lend money to such persons, within such county, as shall be deemed by it in need of pecuniary assistance, and may take as security for the payment of any such loan either a pledge or a mortgage of any personal property without the actual delivery to it of the property pledged or mortgaged, together with other lawful securities. It shall be entitled to charge and receive upon each loan made by it without the actual delivery to it of the property pledged or mortgaged, interest or discount at a rate not exceeding two per centum per month, which charge shall include all services of every character, in connection with said loan, except upon the foreclosure of the security. It may also charge for the first examination of the property to be pledged or mortgaged, and for drawing and filing the necessary papers, and for all other expenses, a sum not exceeding two dollars if a loan of more than fifty dollars shall actually be made, and a sum not exceeding one dollar if a loan of fifty dollars, or less, shall actually be made; but no further charge for examination of the property, or for drawing or filing papers, or for any services or expenses, or upon any pretext whatsoever, beyond the said charge for interest or discount, shall be made upon any renewal or extension of the loan, or any transfer or change of the loan, or upon any other occasion, within one year from the date of the original loan, nor oftener than once in each period of twelve months thereafter. No loan greater than two hundred dollars shall be made under the authority of this section, nor shall any one

person owe any such corporation more than two hundred dollars for principal at one time.

Formerly L. 1895, ch. 326, § 3, as am'd by L. 1902, ch. 78, § 2.

**§ 313. Dividends limited.** No such corporation shall, in any year, declare or pay dividends on its capital stock amounting to more than ten per centum. The superintendent of banks upon ascertaining that any such corporation has, during the previous calendar year, made a net profit amounting to more than ten per centum on its capital, shall have authority, after ten days' notice to the corporation, to make an order reducing the rates of interest, discount and charges which such corporation may lawfully charge or receive upon loans, to such sums as will, in his judgment, produce a net return of ten per centum on its capital stock. Any order made under this section shall take effect at such time, not less than one month after it is made, as the order shall name, and shall remain in force until revoked. Except in the city of New York, no such corporation shall make any loan in any other county than that in which its principal business office is located, nor take securities upon property located in any other county.

Formerly L. 1895, ch. 326, § 4, as am'd by L. 1902, ch. 78, § 2.

**§ 314. Prohibitions.** In any such county no person or corporation, other than corporations organized pursuant to this article, shall, directly or indirectly, charge or receive any interest, discount or consideration greater than the legal rate of interest upon the loan, use or forbearance of money, goods or things in action less than two hundred dollars in amount or value, or upon the loan, use or sale of personal credit in any wise, where there is taken for such loan, use or sale of personal credit any security upon any household furniture, apparatus or appliances, sewing machine, plate or silver-ware in actual use, tools or implements of trade, wearing apparel or jewelry. The foregoing prohibition shall apply to any person who, as security for any such loan, use or forbearance of money, or for any such loan, use or sale of personal credit as aforesaid, makes a pretended purchase of property from any person and permits the owner or pledgor to retain the possession thereof, or who, by any device or pretense of charging for his services or otherwise, seeks to obtain a larger compensation in any case hereinbefore provided for. Any person, and the several officers of any corporation, who shall violate the foregoing prohibition, shall be guilty of a misdemeanor, and upon proof of such fact the debt shall be discharged and the security shall be void. But this section shall not apply to licensed pawnbrokers, making loans upon the actual and permanent deposit of



---

Art. 11	Laws Repealed; When to Take Effect.	§§ 330, 331
---------	-------------------------------------	-------------

---

personal property as security; nor shall this section affect in any way the validity or legality of any loan of money or credit exceeding two hundred dollars in amount.

Formerly L. 1895, ch. 326, § 5, as am'd by L. 1902, ch. 78, § 2.

## ARTICLE 11

### Laws Repealed; When to Take Effect

Section 330. Laws repealed.

331. When to take effect.

**§ 330. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

Formerly L. 1892, ch. 689, § 215.

**§ 331. When to take effect.** This chapter shall take effect immediately.

Formerly L. 1892, ch. 689, § 216.

#### SCHEDULE OF LAWS REPEALED.

Revised Statutes. . . . Part 1, chapter 20, title 20. . . . All

Laws of	Chapter	Section
1782. . . . .	35. . . . .	All
1804. . . . .	117. . . . .	All
1807. . . . .	173. . . . .	1
1812. . . . .	239. . . . .	59
R. L. 1813. . .	71. . . . .	All
1815. . . . .	32. . . . .	All
1816. . . . .	223. . . . .	All
1816. . . . .	14. . . . .	All (fortieth session)
1817. . . . .	263. . . . .	2
1818. . . . .	236. . . . .	All
1824. . . . .	240. . . . .	All
1825. . . . .	325. . . . .	15, 16
1828. . . . .	20. . . . .	15, ¶ 16 (2d Meet.)
1828. . . . .	21. . . . .	1, ¶¶ 145, 216, 220, 263, 412 (2d Meet.)
1829. . . . .	94. . . . .	All
1830. . . . .	243. . . . .	All
1830. . . . .	295. . . . .	All
1833. . . . .	260. . . . .	All
1834. . . . .	7. . . . .	All

§ 330	Laws Repealed.	Art. 11
Laws of	Chapter	Section
1834.....	190.....	13
1835.....	46.....	All
1835.....	155.....	All
1835.....	262.....	All
1835.....	307.....	All
1837.....	20.....	All
1837.....	74.....	All
1837.....	235.....	All
1837.....	350.....	All
1837.....	450.....	All
1837.....	474.....	All
1838.....	51.....	All
1838.....	260.....	All
1839.....	30.....	All
1839.....	347.....	1-3
1839.....	355.....	All
1840.....	18.....	All
1840.....	202.....	All
1840.....	363.....	All
1841.....	46.....	All
1841.....	130.....	All
1841.....	292.....	All
1841.....	316.....	All
1842.....	3.....	All
1842.....	222.....	All
1842.....	247.....	All
1843.....	218.....	All
1844.....	41.....	All
1844.....	239.....	All
1844.....	281.....	All
1845.....	114.....	All
1846.....	97.....	All
1847.....	160.....	All
1847.....	419.....	All
1847.....	452.....	All
1847.....	478.....	All
1848.....	340.....	All
1848.....	344.....	All
1849.....	97.....	All
1849.....	226.....	All
1849.....	313.....	All
1849.....	437.....	All
1850.....	91.....	All

Art. 11	Laws Repealed.	§ 330
Laws of	Chapter	Section
1850.....	25i.....	All
1850.....	331.....	All
1851.....	68.....	All
1851.....	122.....	All
1851.....	164.....	All
1851.....	203.....	All
1853.....	223.....	All
1853.....	250.....	All
1853.....	257.....	All
1853.....	492.....	All
1854.....	72.....	All
1854.....	138.....	All
1854.....	185.....	All
1854.....	242.....	All
1855.....	69.....	All
1855.....	93.....	All
1855.....	336.....	All
1857.....	103.....	All
1857.....	136.....	All
1857.....	189.....	All
1857.....	370.....	All
1857.....	804.....	All
1858.....	132.....	All
1858.....	136.....	All
1859.....	236.....	All
1859.....	277.....	All
1859.....	365.....	All
1862.....	62.....	All
1862.....	422.....	All
1863.....	22.....	All
1863.....	241.....	All
1863.....	315.....	All
1863.....	372.....	All
1864.....	113.....	All
1865.....	97.....	All
1865.....	214.....	All
1865.....	470.....	All
1866.....	26.....	All
1866.....	348.....	All
1866.....	564.....	All
1867.....	32.....	All
1867.....	191.....	All
1867.....	475.....	All

§ 330	Laws Repeated.	Art. 11
Laws of	Chapter	Section
1834.....	190.....	13
1835.....	46.....	All
1835.....	155.....	All
1835.....	262.....	All
1835.....	307.....	All
1837.....	20.....	All
1837.....	74.....	All
1837.....	235.....	All
1837.....	350.....	All
1837.....	450.....	All
1837.....	474.....	All
1838.....	51.....	All
1838.....	260.....	All
1839.....	30.....	All
1839.....	347.....	1-3
1839.....	355.....	All
1840.....	18.....	All
1840.....	202.....	All
1840.....	363.....	All
1841.....	46.....	All
1841.....	130.....	All
1841.....	292.....	All
1841.....	316.....	All
1842.....	3.....	All
1842.....	222.....	All
1842.....	247.....	All
1843.....	218.....	All
1844.....	41.....	All
1844.....	239.....	All
1844.....	281.....	All
1845.....	114.....	All
1846.....	97.....	All
1847.....	160.....	All
1847.....	419.....	All
1847.....	452.....	All
1847.....	478.....	All
1848.....	340.....	All
1848.....	344.....	All
1849.....	97.....	All
1849.....	226.....	All
1849.....	313.....	All
1849.....	437.....	All
1850.....	91.....	All

Art. 11	Laws Repealed.	§ 330
Laws of	Chapter	Section
1850.....	251.....	All
1850.....	331.....	All
1851.....	68.....	All
1851.....	122.....	All
1851.....	164.....	All
1851.....	203.....	All
1853.....	223.....	All
1853.....	250.....	All
1853.....	257.....	All
1853.....	492.....	All
1854.....	72.....	All
1854.....	138.....	All
1854.....	185.....	All
1854.....	242.....	All
1855.....	69.....	All
1855.....	93.....	All
1855.....	336.....	All
1857.....	103.....	All
1857.....	136.....	All
1857.....	189.....	All
1857.....	370.....	All
1857.....	804.....	All
1858.....	132.....	All
1858.....	136.....	All
1859.....	236.....	All
1859.....	277.....	All
1859.....	365.....	All
1862.....	62.....	All
1862.....	422.....	All
1863.....	22.....	All
1863.....	241.....	All
1863.....	315.....	All
1863.....	372.....	All
1864.....	113.....	All
1865.....	97.....	All
1865.....	214.....	All
1865.....	476.....	All
1866.....	26.....	All
1866.....	348.....	All
1866.....	564.....	All
1867.....	32.....	All
1867.....	191.....	All
1867.....	475.....	All

§ 330	Laws Repealed.		Art. 11
Laws of	Chapter	Section	
1867.....	476.....	All	
1867.....	861.....	All	
1868.....	845.....	All	
1869.....	213.....	All	
1870.....	163.....	All	
1871.....	456.....	All	
1871.....	660.....	All	
1871.....	693.....	All	
1871.....	907.....	All	
1872.....	820.....	20	
1873.....	585.....	All	
1874.....	126.....	All	
1874.....	324.....	All	
1875.....	50.....	All	
1875.....	371.....	All	
1875.....	564.....	All	
1875.....	613.....	All	
1877.....	10.....	All	
1877.....	69.....	All	
1877.....	256.....	All	
1878.....	96.....	All	
1878.....	99.....	All	
1878.....	274.....	All	
1878.....	347.....	All	
1878.....	372.....	All	
1879.....	122.....	All	
1879.....	247.....	All	
1879.....	422.....	All	
1879.....	424.....	All	
1879.....	428.....	All	
1879.....	437.....	All	
1879.....	442.....	All	
1880.....	134.....	All	
1880.....	202.....	All	
1880.....	287.....	All	
1880.....	567.....	All	
1881.....	373.....	All	
1882.....	191.....	All	
1882.....	402.....	All	
1882.....	409.....	1-311, 328	
1883.....	273.....	All	
1883.....	282.....	All	
1883.....	338.....	All	

Art. 11	Laws Repealed.		§ 330
Laws of	Chapter	Section	
1883.....	439.....	All	
1884.....	47.....	All	
1884.....	48.....	All	
1884.....	504.....	All	
1885.....	329.....	All	
1885.....	425.....	All	
1885.....	477.....	All	
1886.....	498.....	All	
1886.....	564.....	All	
1886.....	569.....	All	
1886.....	575.....	All	
1887.....	517.....	All	
1887.....	518.....	All	
1887.....	524.....	All	
1887.....	546.....	All	
1887.....	556.....	All	
1888.....	277.....	All	
1888.....	373.....	All	
1889.....	177.....	All	
1889.....	414.....	All	
1889.....	558.....	All	
1890.....	146.....	All	
1890.....	429.....	All	
1890.....	439.....	All	
1890.....	506.....	All	
1890.....	525.....	All	
1891.....	374.....	All	
1892.....	689.....	All	
1893.....	313.....	All	
1893.....	314.....	All	
1893.....	315.....	All	
1893.....	337.....	All	
1893.....	408.....	All	
1893.....	440.....	All	
1893.....	696.....	All	
1894.....	178.....	All	
1894.....	705.....	All	
1895.....	39.....	All	
1895.....	326.....	All	
1895.....	382.....	All	
1895.....	415.....	All	
1895.....	706.....	All	
1895.....	813.....	All	

§ 330	Laws Repealed.		Art. 11
Laws of	Chapter	Section	
1895.....	929.....	All	
1895.....	930.....	All	
1896.....	206.....	All	
1896.....	452.....	All	
1896.....	453.....	All	
1896.....	454.....	All	
1896.....	851.....	All	
1897.....	134.....	All	
1897.....	386.....	All	
1897.....	441.....	All	
1898.....	73.....	All	
1898.....	98.....	All	
1898.....	193.....	All	
1898.....	236.....	All	
1898.....	333.....	All	
1898.....	348.....	All	
1898.....	410.....	All	
1898.....	556.....	All	
1899.....	386.....	All	
1899.....	451.....	All	
1899.....	704.....	All	
1900.....	42.....	All	
1900.....	89.....	All	
1900.....	199.....	All	
1900.....	240.....	All	
1900.....	310.....	All	
1900.....	552.....	All	
1900.....	567.....	All	
1901.....	171.....	All	
1901.....	253.....	All	
1901.....	328.....	All	
1901.....	406.....	All	
1901.....	443.....	All	
1901.....	472.....	All	
1901.....	503.....	All	
1901.....	510.....	All	
1901.....	660.....	All	
1902.....	54.....	All	
1902.....	78.....	All	
1902.....	145.....	All	
1902.....	380.....	All	
1902.....	440.....	All	
1902.....	598.....	All	



Art. 11	Laws Repealed.	§ 330
Laws of	Chapter	Section
1903.....	84.....	All
1903.....	160.....	All
1903.....	328.....	All
1903.....	640.....	All
1904.....	479.....	All
1904.....	492.....	All
1904.....	568.....	All
1904.....	607.....	All
1904.....	693.....	All
1905.....	297.....	All
1905.....	333.....	All
1905.....	394.....	All
1905.....	401.....	All
1905.....	414.....	All
1905.....	416.....	All
1905.....	418.....	All
1905.....	456.....	All
1905.....	491.....	All
1905.....	564.....	All
1905.....	604.....	All
1905.....	649.....	All
1905.....	673.....	All
1905.....	757.....	All
1906.....	337.....	All
1906.....	432.....	All
1906.....	438.....	All
1906.....	481.....	All
1906.....	572.....	All
1906.....	573.....	All
1906.....	581.....	All
1906.....	600.....	All
1906.....	601.....	All
1907.....	247.....	All
1907.....	408.....	All
1907.....	522.....	All
1907.....	612.....	All
1908.....	57.....	All
1908.....	119.....	All
1908.....	120.....	All
1908.....	121.....	1
1908.....	122.....	All
1908.....	123.....	All
1908.....	124.....	All

2. A chapter of Royal Arch Masons duly chartered by and installed according to the general rules and regulations of the Grand Chapter of Royal Arch Masons of the state of New York;

3. A council of Royal and Select Masons duly chartered by and installed according to the general rules and regulations of the Grand Council of Royal and Select Masters of the state of New York;

4. A commandery of Knights Templar duly chartered by and instituted according to the general rules and regulations of the Grand Commandery of the state of New York;

5. A consistory, chapter, council or lodge duly chartered by and instituted according to the general rules and regulations of the Supreme Council of the Ancient and Accepted Scottish Rite for the Northern jurisdiction of the United States;

6. A lodge of Odd Fellows, duly chartered by and installed according to the general rules and regulations of the Grand Lodge of the Independent Order of Odd Fellows of the state of New York;

7. A temple of Nobles of the Mystic Shrine duly chartered by and instituted according to the general rules and regulations of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine for the United States of America;

8. A lodge of the Knights of Pythias, duly chartered by and installed according to the general rules and regulations of the Grand Lodge of the Knights of Pythias of the state of New York;

9. A post of the Grand Army of the Republic, chartered and installed according to the regulations of that organization;

10. Any lodge of the Benevolent and Protective Order of Elks duly chartered by and installed according to the regulations of that organization;

11. Any subordinate lodge, tribe or other body of any benevolent or fraternal order or society incorporated under and pursuant to the laws of this state;

12. A council of the Knights of Columbus chartered and instituted by the National Council of the Knights of Columbus, pursuant to the constitution and laws of said order;

13. Any high court, subordinate court, or companion court of the Independent Order of Foresters chartered and instituted by the Supreme Court of the Independent Order of Foresters pursuant to the constitution and laws of said order;

14. A tribe of the Improved Order of Red Men, duly chartered by and instituted according to the general rules and regulations of

the Great Council of the Improved Order of Red Men of the state of New York;

15. The Supreme Council of the Mystic Order of Veiled Prophets of the Enchanted Realm, or a subordinate grotto duly chartered by and instituted according to the general rules and regulations of said supreme council;

16. Any subordinate lodge of the Order of American True Ivorites chartered and instituted in accordance with the regulations of the Grand lodge of the Order of American True Ivorites;

17. Any subordinate ærie of the Fraternal Order of Eagles chartered and instituted in accordance with the regulations of the grand ærie of the Fraternal Order of Eagles;

May elect at any regular communication, convocation, encampment or other regular meeting thereof, by whatever name known, held in accordance with the constitution and general rules and regulations of such grand lodge, chapter, commandery or council, or other governing body to which it belongs, or with which it is connected, and in conformity to its own by-laws, if it has any, three trustees for such lodge, chapter, commandery, consistory, council, temple, post, court, tribe, grotto or ærie, who shall be members thereof in full membership and in good and regular standing therein; and may file in the office of the secretary of state, a certificate of such election, signed and acknowledged by the first three elective officers of such lodge, chapter, commandery, consistory, council, temple, post, court, tribe, grotto or ærie, stating the time and place of such election and that the same was regular, the names of such trustees, and the term, severally, for which they are elected to serve, and the name of the lodge, chapter, commandery, consistory, council, temple, post, court, tribe, grotto or ærie, for which they are elected. *Subd. 17, am'd by L. 1909, ch. 240, § 4.*

Formerly L. 1896, ch. 377, § 2, as am'd by L. 1898, ch. 464, § 1; L. 1899, ch. 684, § 1; L. 1902, ch. 390, § 1; L. 1903, ch. 10, § 1; L. 1906, ch. 168, § 1, and L. 1907, ch. 694, § 1.

**§ 3. Powers.** Such trustees may take, hold and convey by and under the direction of such lodge, chapter, commandery, consistory, council, temple or post, all the temporalities and property belonging thereto, whether real or personal, and whether given, granted or devised directly to it or to any person or persons for it, or in trust for its use and benefit, and may sue for and recover, hold and enjoy all the debts, demands, rights and privileges, and all buildings and places of assemblage, with the appurtenances, and all other estate and property belonging to it in whatsoever manner the same may have been acquired, or in whose name soever the same may be held, as fully as if the right

and title thereto had been originally vested in them; and may purchase and hold for the purpose of the lodge, chapter, commandery, consistory, council, temple or post other real and personal property, and demise, lease and improve the same. They may also issue their bonds or other evidences of indebtedness in such amounts and for such time and in such form as they shall determine for the exclusive purpose of raising money to pay for any real estate purchased and held by them, and for the improvement of the same, as hereinabove provided, and may mortgage such real estate for the purpose of securing the bonds or other evidences of indebtedness so issued by them. The proceeds of such bonds or other evidences of indebtedness shall be applied exclusively to pay for such real estate and the improvement thereof. Every such lodge, chapter, commandery, consistory, council, temple or post may make rules and regulations, not inconsistent with the laws of this state, or with the constitution or general rules or laws of the grand lodge or other governing body to which it is subordinate, for managing the temporal affairs thereof, and for the disposition of its property and other temporal concerns and revenue belonging to it, and the secretary and treasurer thereof, duly elected and installed according to its constitution and general regulations and law, shall, for the time being, be ex officio its secretary and treasurer. No board of trustees for any lodge, chapter, commandery, consistory, council, temple or post filing the certificate aforesaid, shall be deemed to be dissolved for any neglect or omission to elect a trustee annually, or fill any vacancy or vacancies that may occur or exist at any time in said board, but it shall and may be lawful for said lodge, chapter, commandery, consistory, council, temple or post to fill such vacancy or vacancies at any regular communication thereafter to be held, and till a vacancy arising from the expiration of the term of office of a trustee is filled, as aforesaid, he shall continue to hold the said office and perform the duties thereof.

Formerly L. 1896, ch. 377, § 3 as am'd by L. 1897, ch. 141, § 1, and L. 1906, ch. 467, § 1.

**§ 4. Terms of trustees.** The persons first elected trustees of such lodge, chapter, commandery, consistory, council, temple or post, if a lodge of Free and Accepted Masons, or a chapter of Royal Arch Masons, shall be divided by lot by the officer making the certificate of election, so that the term of one shall expire on the day of the festival of Saint John the Evangelist, next thereafter, and another in one year, and the third in two years thereafter. If other than a lodge or chapter of Free and

Accepted Masons, the trustees first elected shall be divided by lot by the officers making the certificate of election, so that the term of one will expire in one year, one in two years, and one in three years thereafter. One trustee shall annually thereafter be elected by such lodge, chapter, commandery, consistory, council, temple or post, by ballot, in the same manner and at the same time as the first three officers thereof severally are or shall be elected according to its constitution, by-laws and regulations; and a certificate of such election under the hands of such officers and the seal of the lodge, chapter, commandery, consistory, council, temple or post, if it has any, shall be made, and shall be evidence of such election and entitle the person so elected to act as trustee. If any trustee dies, resigns, demits, is suspended or expelled, removes from the state, or becomes incapacitated for performing the duties of his office, his office shall be deemed vacant. Such lodge, chapter, commandery, consistory, council, temple or post may, at any regular communication, convocation, encampment or other regular meeting, by whatever name known, fill any vacancy in the office of trustee, by ballot, which election shall be certified in like manner and with like effect as an annual election, and the person so elected shall hold his office during the unexpired term of the trustee, whose place he was elected to fill.

Formerly L. 1806, ch. 377, § 4.

**§ 5. Powers of trustees.** Such trustees shall have the care, management and control of all the temporalities and property of the lodge, chapter, commandery, consistory, council, temple or post, and they shall not sell, convey, mortgage or dispose of any property except by and under its direction, duly had or given at a regular or stated communication, convocation, encampment or meeting thereof, according to its constitution and general regulations. They shall at all times obey and abide by the directions, orders and resolutions of such lodge, chapter, commandery, consistory, council, temple or post, duly passed at any regular or stated communication, convocation, encampment or meeting thereof not in conflict with the constitution and laws of this state or of the grand body to which it shall be subordinate, or of such lodge, chapter, commandery, consistory, council, temple or post. If a lodge of Free and Accepted Masons, or a chapter of Royal Arch Masons, surrender its warrant to the grand body to which it is subordinate or is expelled or becomes extinct, according to the general rules or regulations of such body, the trustees then in office shall, out of the property belonging to such lodge or chapter, satisfy all just debts due from it and transfer the residue of its property to the "trustees of the

Masonic hall and asylum fund," a corporation created by chapter two hundred and seventy-two of the laws of eighteen hundred and sixty-four, entitled "An act to incorporate the trustees of the Masonic hall and asylum fund," and unless reclaimed by such lodge or chapter within three years from such transfer, in accordance with the constitution and general regulations of such grand body, the same, with the avails or increase thereof, shall be applied by the "trustees of the Masonic hall and asylum fund" to the benevolent purposes for which such trustees were created in and by such act.

Formerly L. 1896, ch. 377, § 5, as am'd by L. 1897, ch. 141, § 2.

**§ 6. Reorganization.** Any such lodge, chapter, commandery, consistory, council, temple or post heretofore incorporated by the laws of this state, or thereby heretofore enabled to take and hold real or personal property, or both, may surrender its act of incorporation, charter or privilege so conferred upon it, and may become enabled to take and hold real or personal property, or both, under the provisions of this chapter, on making and filing a certificate in the manner specified in this chapter, and stating therein, in addition to what is required in such a certificate, the surrender of such act of incorporation, charter or privilege, specifying the same. The property theretofore held and possessed by it shall be fully vested in its trustees, who shall have all the rights, powers and privileges, and be subject to all the provisions of this chapter.

Formerly L. 1896, ch. 377, § 6.

**§ 7. Joint corporations.** Any number of masonic bodies within the state, chartered by the Grand Lodge of Free and Accepted Masons of the state of New York, the Grand Chapter of Royal Arch Masons of the state of New York, the Grand Council of Royal and Select Masters of the state of New York, the Grand Commandery of Knights Templar of the state of New York, the Supreme Council of the Ancient and Accepted Scottish Rite for the northern masonic jurisdiction, United States of America, or the Imperial Council of the Ancient Arabic Order of Nobles of the Mystic Shrine, United States of America; any subordinate courts or other bodies of the Foresters of America, instituted, established or authorized by the supreme or a grand court thereof; any lodges, encampments and cantons within the state chartered by the Grand Lodge of the Independent Order of Odd Fellows, the Grand Encampment of the Independent Order of Odd Fellows, or by the Sovereign Grand Lodge of the Independent

Order of Odd Fellows; any lodges or other bodies of the Knights of Pythias, duly chartered by and installed according to the general rules and regulations of the Grand Lodge of Knights of Pythias of the state of New York, any posts of the Grand Army of the Republic chartered and installed according to the regulations of that organization; any lodges or other bodies of the Benevolent and Protective Order of Elks duly chartered by and installed according to the regulations of that organization, any lodges or other bodies of the Deutcher Orden der Harugari, duly chartered and installed according to the general rules and regulations of the grand lodge of the Deutcher Orden der Harugari of the state of New York, or of the sovereign grand lodge of the Deutcher Orden der Harugari of the United States, any councils or other bodies of the Knights of Columbus chartered and instituted by the National Council of the Knights of Columbus pursuant to the charter, constitution and laws of said order, and any number of trades unions, trades assemblies, trades associations or labor organizations, and any number of subordinate lodges, tribes or other bodies of any benevolent or fraternal order or society incorporated under and pursuant to the laws of this state, may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting, and maintaining a library for the use of the bodies uniting to form such corporation. Each body hereafter uniting to form such corporation shall annually at a regular meeting thereof, held in accordance with its constitution and general rules and regulations or by-laws, elect a member thereof to represent it in such corporation.

If the bodies uniting to form such corporation do not exceed thirty in number, then each representative so elected shall be a trustee of said corporation, and shall make and file in the office of the clerk of the county where such building is, or is to be located, a certificate of such election signed and acknowledged by the highest two officers of the body electing him, stating the time and place of the election, its regularity, the name of the trustee, and the name of the body from which he was elected. If the bodies uniting to form such corporation shall exceed thirty in number then the representatives elected as hereinbefore provided, shall assemble annually at a time and place fixed by the constitution, by-laws, rules and regulations of the corporation, and shall elect from amongst themselves a president, vice-president, secretary and treasurer, each of whom shall be ex officio trustees of the corporation, and not less than nine or more than twenty-four other

trustees. In case only two bodies unite to form such corporation, the number of trustees to be elected from each body shall not be less than one or more than three, who shall be elected in the manner above prescribed and whose certificate of election shall be made and filed in the manner and form above prescribed.

The trustees so elected shall make, acknowledge and file with the secretary of state a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village or city and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate.

Formerly L. 1896, ch. 377, § 7, as am'd by L. 1898, ch. 46, § 1; L. 1898, ch. 464, § 2; L. 1902, ch. 390, § 2; L. 1903, ch. 283, § 1, and L. 1904, ch. 143, § 1.

**§ 8. Trustees.** The persons executing such certificate and named therein, shall be the board of trustees of such corporation. If but two bodies unite to form such corporation, its by-laws may prescribe the terms of office of the trustees. If more than two bodies so unite, the trustees shall divide themselves by lot into three classes, not including, however, the president, vice-president, secretary and treasurer, if such officers shall have been elected as provided in section seven hereof, who shall be one year trustees, so that the term of office of the first class shall expire in one year; the term of office of the second class, in two years; and the term of office of the third class, in three years, provided, however, that no trustee shall continue as such after he has ceased to be a representative.

On a vacancy occurring in the office of a trustee of such corporation, the body which he represented shall fill such vacancy, provided the bodies uniting to form such corporation do not exceed thirty in number, and the person so chosen shall hold office for three years, if chosen on the expiration of the term of his predecessor, and otherwise, until the expiration of the original term.

But if the bodies uniting to form such corporation exceed thirty in number, then any vacancy occurring by reason of the expiration of a term or by failure of any trustee to be re-elected as a representative, shall be filled for three years or for the balance of the unexpired term as the case may be, by the representatives in annual session; and any vacancy occurring otherwise than as above specified, shall be filled until the next annual meeting of the representatives by the body that has lost representation by reason of



the vacancy, when it shall be filled by said representatives for the remainder of the unexpired term. If the bodies uniting to form such corporation exceed thirty in number, then the representatives, but if less than thirty in number then the board of trustees, may admit or prescribe rules and regulations for the admission as members of such corporation of other bodies chartered or instituted by the same general governing body as any of the bodies named in such certificate, or by any superior or higher jurisdiction or governing body of the order to which any of such bodies belong, and may prescribe rules and regulations for the withdrawal, expulsion or suspension of any body or bodies having membership in such corporation when the representatives of such corporation exceed thirty in number.

Where the bodies uniting to form such corporation do not exceed thirty in number, the board of trustees shall fix the term of office of such trustees elected to represent new members of such corporation at one, two or three years, and shall so apportion such new trustees that as nearly as possible the terms of office of one-third of the trustees of such corporation shall expire annually.

Where the organizations so united are trades unions, trades assemblies, trades associations or labor organizations, the board of trustees may, from time to time, admit as members of such corporation and of such board of trustees the representatives of any other labor or trades organization or association whether or not the same be chartered or instituted by the same general governing body as any of the bodies named in such certificate, or by any superior or higher jurisdiction or governing body of the order to which such bodies belong. The board of trustees admitting such members shall file in the county clerk's office a certificate showing such action, and the terms of the representatives so admitted shall be fixed as above provided in the case of other organizations.

Every corporation formed under this chapter must file annually immediately after its annual meeting, in the clerk's office of the county where such building is or is to be located, a certificate giving the names and addresses of the principal officers of the corporation and the names and addresses of the members of the board of trustees, and the names and location of all bodies admitted to or withdrawn or expelled from membership since the filing of the last preceding certificate.

Formerly L. 1896, ch. 377, § 8, as am'd by L. 1898, ch. 589, § 1, and L. 1904, ch. 143, § 2.

**§ 9. Powers of joint corporations.** Such corporation may acquire real property in the town, village or city in which such hall, home, temple or building is or is to be located, and

erect such building or buildings thereupon for the uses and purposes of the corporation, as the trustees may deem necessary. or repair, rebuild or reconstruct any building or buildings that may be thereupon and furnish and complete such rooms therein as may appear necessary for the use of such bodies or for any other purpose for which the corporation is formed; and may rent to other persons any room in such building or any portion of such real property. Until such real property shall be acquired or such building erected or made ready for use, the corporation may rent and sublet such rooms or apartments in such town, village or city as may be suitable or convenient for the use of the bodies mentioned in such certificate, or of such other bodies as may desire to use them, and the board of trustees may determine the terms and conditions on which rooms and apartments in such building or buildings, when erected, or which may be leased, shall be used and occupied. Before such corporation composed of not more than thirty bodies shall purchase or sell any real property, or erect or repair any building or buildings thereupon, and before it shall purchase any building or part of a building for the use of a corporation, it shall submit to the bodies constituting the corporation, the proposition to make such sale or purchase, or to erect or repair any such building or buildings, or to rent any building or part thereof, for the use of the corporation; and unless such proposition receives the approval of two-thirds of the bodies constituting the corporation, such proposition shall not be carried into effect. The evidence of the approval of such proposition by any such body shall be a certificate to that effect signed by the presiding officer and secretary of the body, or the officers discharging duties corresponding to those of the presiding officer and secretary, under the seal of such body. But where land is purchased for the purpose of erecting a hall, home or temple thereon, the buildings upon such land at the time of such purchase may be sold by the trustees without such consent. The powers of the board of trustees of every corporation created hereunder and composed of more than thirty bodies, respecting sales, purchases and repairs, shall be fixed by the by-laws adopted by the representatives of the various bodies composing such corporation, or shall be determined by such representatives when assembled in annual session. Every corporation created hereunder shall have power to enforce, at law or in equity, any legal contract which it may make with any of the bodies composing it respecting the care and maintenance of members or other dependents of such body, the same as if such body or bodies were not members of the corporation. Any corporation created here-

under shall have power to take and hold real and personal estate by purchase, gift, devise or bequest subject to the provisions of law relating to devises and bequests by last will and testament or otherwise.

Formerly L. 1896, ch. 377, § 9, as am'd by L. 1903, ch. 253, § 1 and L. 1904, ch. 143, § 3.

**§ 10. Mortgaging property.** If the funds of the corporation shall not be sufficient to pay for any real property purchased by the board of trustees in pursuance of law, or for the construction, repair or rebuilding of a suitable building or buildings, and the finishing or furnishing of apartments therefor, the corporation may issue its bonds bearing interest, semi-annually, for such additional sum as may be required therefor, and may execute to any such trustee or trustees, as the board may select, a mortgage upon its real property as security for the payment of such bonds. The proceeds of such bonds shall be applied to the payment of debts of the corporation incurred by the purchase of such real property, or the construction and repair of a building or buildings thereupon or the finishing or furnishing of apartments therein. Any of the bodies specified in section seven may invest its funds in the bonds authorized by this section to be issued.

Formerly L. 1896, ch. 377, § 10.

**§ 11. Reincorporation of joint corporations.** A corporation heretofore organized, the members whereof represent lodges or bodies in any of the benevolent or fraternal orders mentioned or described in section seven hereof, may by a two-thirds vote of all its members present and voting at a regular or regularly called meeting thereof, proceed to reincorporate under this chapter with the same name and for the same purposes for which it was originally organized. In thus proceeding to reincorporate, the board of trustees or directors may be increased or diminished within the limits prescribed by section seven hereof, but any decrease in such membership shall not take effect so as to affect the term of office of any trustee or director of the old corporation. Such trustees or directors and the other officers of the old corporation shall continue to serve as such under the reorganized corporation for the term for which they were originally elected or appointed. Such reorganization shall not effect a dissolution of the corporation, but shall be deemed a continuation of its corporate existence without affecting its property rights, or its liabilities, or the liabilities of its members or officers as such; but thereafter it shall have only such other rights, powers and privileges and be

---

§§ 20, 21                      Laws Repealed; When to Take Effect.                      Art. 3

---

subject only to such other duties and liabilities as a corporation created for the same purpose under this chapter.

Formerly L. 1896, ch. 377, § 10-a, as added by L. 1904, ch. 143, § 4.

### ARTICLE 3

#### Laws Repealed; When to Take Effect

Section 20. Laws repealed.

21. When to take effect.

**§ 20. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

Formerly L. 1896, ch. 377, § 11.

**§ 21. When to take effect.** This chapter shall take effect immediately.

Formerly L. 1896, ch. 377, § 12.

#### SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1825.....	186.....	All
1866.....	317.....	All
1869.....	176.....	All
1871.....	308.....	All
1873.....	417.....	All
1885.....	419.....	All
1888.....	290.....	All
1891.....	65.....	All
1892.....	290.....	All
1893.....	72.....	All
1895.....	713.....	All
1896.....	377.....	All
1897.....	141.....	All
1898.....	46.....	All
1898.....	464.....	All
1898.....	589.....	All
1899.....	684.....	All
1901.....	476.....	All
1902.....	253.....	All
1902.....	390.....	All
1903.....	10.....	All
1903.....	283.....	All
1904.....	143.....	All
1906.....	168.....	All
1906.....	467.....	All
1907.....	694.....	All

# BUSINESS CORPORATIONS LAW

---

**L. 1909, Ch. 12, "An Act relating to business corporations, constituting chapter four of the Consolidated Laws."**

(In effect February 17, 1909.)

## CHAPTER 4 OF THE CONSOLIDATED LAWS

[Formerly L. 1890, Ch. 567, being chapter 41 of the General Laws as amended by L. 1892, Ch. 691.]

- Article 1. Short title (§ 1).  
2. General provisions (§§ 2-16).  
3. Laws repealed; when to take effect (§§ 25, 26).

### ARTICLE 1

#### Short Title

Section 1. Short title.

**§ 1. Short title.** This chapter shall be known as the "Business Corporations Law."

Formerly L. 1892, ch. 691, § 1, as am'd by L. 1895, ch. 671, § 1.

### ARTICLE 2

#### General Provisions

- Section 2. Incorporation.  
3. Restrictions upon commencement of business.  
4. Reorganization of existing corporations.  
5. Payment of capital stock.  
6. Full liability corporations.  
7. Consolidation of corporations.  
8. Submission of consolidation agreement to stockholders.  
9. Powers of consolidated corporations.  
10. Transfer of property of old corporations to consolidated corporations.

---

**Explanation.**—For location and disposition of former sections of the Business Corporations Law see L. 1892, Ch. 691, in "Consolidated Schedule of Repeals," Vol. 7.

Section 11. Rights of creditors of old corporations.

12. District steam corporations.

13. Examination of meters by agent of district steam corporations.

14. Entry by agent of district steam corporation to cut off steam.

15. Water companies.

16. Improvement corporations; right of condemnation.

**§ 2. Incorporation.** Three or more persons may become a stock corporation for any lawful business purpose or purposes other than a moneyed corporation, or a corporation provided for by the banking, the insurance, the railroad and the transportation corporations laws, or an educational institution or corporation which may be incorporated as provided in the education law, by making, signing, acknowledging and filing a certificate which shall contain:

1. The name of the proposed corporation.
2. The purpose or purposes for which it is to be formed.
3. The amount of the capital stock, and if any portion be preferred stock, the preferences thereof.
4. The number of shares of which the capital stock shall consist, each of which shall not be less than five nor more than one hundred dollars, and the amount of capital not less than five hundred dollars, with which said corporation will begin business.
5. The city, village or town in which its principal business office is to be located. If it is to be located in the city of New York, the borough therein in which it is to be located.
6. Its duration.
7. The number of its directors, not less than three.
8. The names and post-office addresses of the directors for the first year.
9. The names and post-office addresses of the subscribers to the certificate, and a statement of the number of shares of stock which each agrees to take in the corporation.

Any certificate of incorporation filed, prior to April twenty-second, eighteen hundred and ninety-six, under the provisions of the business corporations law theretofore in force which shall contain the names and post-office addresses, either of the subscribers to the stock or of the subscribers to the certificate, and a statement of the number of shares of stock which each agrees to take in the corporation, shall be deemed to have complied with the requirements of section two, subdivision nine of said law.

If meetings of the board of directors are to be held only within the state the certificate or by-laws must so provide.

Formerly L. 1892, ch. 691, § 2, as am'd by L. 1895, ch. 671, § 1; L. 1896, ch. 369, § 1; L. 1896, ch. 460, § 1; L. 1901, ch. 520, § 1; L. 1903, ch. 525, § 1; L. 1904, ch. 446, § 1, and L. 1907, ch. 646, § 1. L. 1896, ch. 369, § 2 incorporated.

**§ 3. Restrictions upon commencement of business.**

No such corporation shall incur any debts until the amount of capital specified in its certificate of incorporation, as the amount of capital with which it will begin business, shall have been paid in in money or property.

Formerly L. 1892, ch. 691, § 3, as am'd by L. 1895, ch. 671, § 1.

**§ 4. Reorganization of existing corporations.**

Any stock corporation heretofore organized, except a moneyed or transportation corporation, or a corporation the business of which partakes of the nature of banking or insurance, may reincorporate under this chapter in the following manner: The directors of the corporation shall call a meeting of the stockholders thereof by publishing a notice, stating the time, place and object of the meeting, signed by at least a majority of them, in a newspaper of the county in which its principal business office is situated, once a week, for at least three successive weeks, and by serving upon each stockholder, at least three weeks before the meeting, a copy of such notice either personally or by depositing it in the post-office, postage prepaid, addressed to him at his last known post-office address. The stockholders shall meet at the time and place specified in the notice and organize by choosing one of the directors chairman, and a suitable secretary, and shall then take a vote of those present in person or by proxy upon the proposition to reincorporate under this chapter, and if votes representing a majority of all the stock of the corporation shall be cast in favor of the proposition, the officers of the meeting shall execute and acknowledge a certificate of the proceedings, which certificate shall also contain the statements required by section two of this chapter, and shall be filed in the offices where certificates of incorporation under this chapter are required to be filed. From the time of such filing such corporation shall be deemed to be a corporation organized under this chapter, and if originally organized or incorporated under a general law of this state, it shall have and exercise all such rights and franchises as it has heretofore had and exercised under the laws pursuant to which it was originally incorporated, and such reorganization shall not in any way affect, change or diminish the existing liabilities of the corporation.

Formerly L. 1892, ch. 691, § 4, as am'd by L. 1895, ch. 671, § 1.

**§ 5. Payment of capital stock.** One-half of the capital stock of every such corporation shall be paid in within one year from its incorporation, or the corporation shall be dissolved, and the directors within thirty days after such payment shall make a certificate of the fact of such payment, which shall be signed and acknowledged by a majority of the directors, and verified by the president or vice-president and secretary or treasurer, and filed in the offices where the certificates of incorporation are filed. The dissolution of any such corporation for any cause shall not take away or impair any remedy against it, its stockholders or officers, for any liabilities incurred previous to its dissolution.

Formerly L. 1892, ch. 691, § 5.

**§ 6. Full liability corporations.** Every corporation formed under this chapter may be or become a full liability corporation by inserting a statement in the certificate of incorporation, that the corporation thereby formed is intended to be a full liability corporation; and in case of an existing corporation, which is not a full liability corporation, it may become such by filing in the offices where certificates of incorporation are required to be filed, a supplemental certificate stating that thereafter the corporation intends to be a full liability corporation, which certificate shall be executed and acknowledged by the president and treasurer of the corporation or by the board of directors, and shall have annexed thereto a copy of a resolution, adopted by a two-thirds vote of the board of directors, and the written consent of all the stockholders of the corporation, authorizing and consenting to the change of the corporation to a full liability corporation. If the corporation is formed as or becomes a full liability corporation all the stockholders of the corporation shall be severally individually liable to its creditors for all its debts and liabilities, and may be joined as defendants in any action against it. No execution shall issue against any stockholder individually until execution has been issued against the corporation and returned unsatisfied, and all the stockholders shall contribute a proportionate share, according to the number of shares of stock owned by each, of the amount paid by any stockholder on a judgment recovered against him individually for a debt of the corporation, and he may recover from the other stockholders in the corporation in a joint or several action the proper portion due by them and each of them, of the amount paid by him on any such judgment.

Formerly L. 1892, ch. 691, § 6.



**§ 7. Consolidation of corporations.** Any two or more corporations organized under the laws of this state for the purpose of carrying on any kind of business of the same or of a similar nature, which a corporation organized under this chapter might carry on, may consolidate such corporations into a single corporation, as follows: The respective corporations may enter into and make an agreement signed by a majority of their respective boards of directors and under their respective corporate seals, for the consolidation of such corporations, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number of directors who shall manage its affairs, not less than three, the names and post-office addresses of the directors for the first year, the term of its existence, not exceeding fifty years, the name of the town or towns, county or counties, in which its operations are to be carried on, the name of the town or city and county in this state in which its principal place of business is to be situated, the amount of its capital stock, which shall not be larger in amount than the fair aggregate value of the property, franchises and rights of such corporations, and the number of shares into which the same is to be divided, the manner of distributing such capital stock among the holders thereof, and if such corporations, or either of them, shall have been organized for the purpose of carrying on any part of its business in any place out of this state, the agreement shall so state, with such other particulars as they may deem necessary.

Formerly L. 1892, ch. 691, § 8, as am'd by L. 1895, ch. 671, § 1 and L. 1901, ch. 520, § 2.

**§ 8. Submission of consolidation agreement to stockholders.** Such agreement shall be submitted to the stockholders of each of such corporations, at a meeting thereof to be called upon notice of at least two weeks, specifying the time, place and object thereof, and addressed to each at his last known post-office address, and deposited in the post-office, postage prepaid, and published for at least two successive weeks in one of the newspapers in each of the counties of this state in which either of such corporations shall have its place of business, and if such agreement shall be approved at each of such meetings of the respective stockholders separately, by the vote by ballot of the stockholders owning at least two-thirds of the stock, the same shall be the agreement of such corporations, and a sworn copy of the proceedings of such meetings, made by the secretaries thereof, respectively, and attached thereto, shall be presumptive

evidence of the holding and action of such meetings. Such agreement and verified copy of proceedings of such meetings shall be made in duplicate, one of which shall be filed in the office of the secretary of state, and the other in the office of the clerk of the county where the principal business office of the new corporation is to be situated in this state, and thereupon such corporation shall be merged into the new corporation specified in such agreement, to be known by the corporate name therein mentioned, and the provisions of such agreement shall be carried into effect as therein provided. If any stockholder, not voting in favor of such agreement to consolidate, shall at such meeting, or within twenty days thereafter, object to such consolidation and demand payment for his stock, such stockholder or such new corporation, if the consolidation takes effect at any time thereafter, may at any time within sixty days after such meeting apply to the supreme court at any special term thereof held in the district in which any county is situated in which such new corporation may have its place of business, upon at least eight days' notice to the new corporation, for the appointment of three persons to appraise the value of such stock, and the court shall appoint three such appraisers and designate the time and place of their first meeting, with such directions in regard to their proceedings as shall be deemed proper, and also direct the manner in which payment for such stock shall be made to such stockholder. The court may fill any vacancy in the board of appraisers occurring by refusal or neglect to serve or otherwise. The appraisers shall meet at the time and place designated, and they or any two of them, after being duly sworn honestly and faithfully to discharge their duties, shall estimate and certify the value of such stock at the time of such dissent, and deliver one copy to such new corporation, and another to such stockholder if demanded; the charges and expenses of the appraisers shall be paid by the new corporation. When the new corporation shall have paid the amount of such appraisal, as directed by the court, such stockholder shall cease to have any interest in such stock and in the corporate property of such corporation, and such stock may be held or disposed of by such new corporation. Where any consolidation has been heretofore or shall be hereafter effected pursuant to the laws of this state, and the holders of ninety per centum of the capital stock of each of such corporations have voted in favor of such agreement to consolidate, if any stockholder not voting in favor of such consolidation shall fail to exchange his stock for stock of such new corporation within sixty days after this act shall go

into effect, or, in case of a consolidation hereafter effected, within sixty days after he shall have become entitled to make such exchange, such new corporation may, at any time thereafter, upon at least eight days' notice to such stockholder, to be given personally, within the state, if possible, and if not, then in such manner as the court shall direct, apply to the court, as hereinbefore provided, for the appointment of three persons to appraise the value of such stock at the time of the expiration of such sixty days. Upon the completion of the appraisal in the manner hereinbefore provided for, and the payment by such new corporation of the amount of such appraisal, as directed by the court, such stockholder shall cease to have any interest in such stock, and in the corporate property of such corporation, and such stock may be held or disposed of by such new corporation.

Formerly L. 1892, ch. 691, § 9, as am'd by L. 1902, ch. 438, § 1.

**§ 9. Powers of consolidated corporations.** Such new corporation in addition to the general powers of corporations shall enjoy the rights, franchises and privileges possessed by each of the corporations so consolidated, subject to the restrictions, liabilities, duties and provisions contained in this chapter so far as the same may be applicable to the purposes for which it shall have been organized and expressed in the agreement for consolidation, and may prosecute or carry on any kind of business which each of the consolidating corporations was authorized by law to conduct.

Formerly L. 1892, ch. 691, § 10.

**§ 10. Transfer of property of old corporations to consolidated corporations.** Upon the consummation of such act of consolidation, all the rights, privileges, franchises and interests of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them, shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement and act; and the title to all real estate; taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this chapter, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolida-

tion; and all the rights, privileges, franchises and property of the corporations, parties to any consolidation heretofore made under this chapter, shall vest as fully in the new corporation thereby created as they were vested in the corporations, parties to such consolidations.

Formerly L. 1892, ch. 691, § 11, as am'd by L. 1902, ch. 457, § 1.

**§ 11. Rights of creditors of old corporations.** The rights of creditors of any corporation that shall be so consolidated shall not in any manner be impaired, nor any liability or obligation for the payment of any money due or to become due to any person or persons, or any claim or demand for any cause existing against any such corporation or against any stockholder thereof be released or impaired by any such consolidation; but such new corporation shall succeed to and be held liable to pay and discharge all such debts and liabilities of each of the corporations consolidated in the same manner as if such new corporation had itself incurred the obligation or liability to pay such debt or damages and the stockholders of the respective corporations consolidated shall continue, subject to all the liabilities, claims and demands existing against them as such, at or before the consolidation; and no action or proceeding then pending before any court or tribunal in which any corporation that may be so consolidated is a party, or in which any such stockholder is a party, shall abate or be discontinued by reason of such consolidation, but may be prosecuted to final judgment, as though no consolidation had been entered into; or such new corporation may be substituted as a party in place of any corporation so consolidated, by order of the court in which such action or proceeding may be pending.

Formerly L. 1892, ch. 691, § 12.

**§ 12. District steam corporations.** Any corporation now or hereafter incorporated for the purpose of supplying steam to consumers from a central station or stations through pipes laid in the public streets, shall be known as a district steam corporation and upon the application in writing of the owner or occupant of any building or premises, within one hundred feet of any street main laid down by any such corporation, and payment by him of all money due from him to it, such corporation shall supply steam as may be required for heating such building or premises, notwithstanding there may be rent or compensation in arrears for steam supplied, or for meter, pipe or fittings furnished to a former occupant thereof, unless such owner or occupant

shall have undertaken or agreed with the former occupant to pay or to exonerate him from the payment of such arrears, and shall refuse or neglect to pay the same; and if, for the space of twenty days after such application, and the deposit, if required, of a reasonable sum to cover the cost of connection and two months' steam supply, the corporation shall refuse or neglect to supply steam as required, it shall forfeit to such applicant the sum of ten dollars and the further sum of five dollars for every day thereafter during which such refusal or neglect shall continue; but no such corporation shall be required to lay a service pipe for the purpose of supplying steam to any applicant where the ground in which such pipe is required to be laid shall be frozen, or otherwise present serious obstacles to laying the same, nor unless the applicant, if required, shall deposit in advance with the corporation a sum of money sufficient to pay for two months' steam supply and the cost of the necessary connections and of the erection of a meter and such other special apparatus as are required for use in connection with such steam supply, nor unless the applicant shall provide the space and right of way necessary for the erection, maintenance and use of such connections and apparatus, and signify his assent in writing to the reasonable regulations of the corporation with reference to the supply of steam to consumers.

Formerly L. 1892, ch. 691, § 13.

**§ 13. Examination of meters by agent of district steam corporations.** Any such corporation may make an agreement with any of its customers, by which any of its officers or agents shall be authorized at all reasonable times to enter any dwelling, store, building, room or place, supplied with steam by such corporation and occupied by such customer, for the purpose of inspecting and examining the meters, devices, pipes, fittings and appliances for supplying or regulating the supply of steam, and for ascertaining the quantity of steam consumed, or the quantity of water resulting from the condensation of steam consumed. Every such agreement shall further provide that such officer or agent shall exhibit his written authority if requested by the occupant of such dwelling, store, building, room or place. Any person who shall directly or indirectly prevent or hinder such officer or agent from entering such dwelling, store, building, room or place, or from making such inspection or examination, in violation of such agreement, shall forfeit to the corporation the sum of twenty-five dollars for each offense.

Formerly L. 1892, ch. 691, § 14.

§ 25	Laws Repealed.		Art. 5
Laws of	Chapter	Section	
1896.....	460.....	All	
1900.....	518.....	All	
1901.....	520.....	All	
1902.....	438.....	All	
1902.....	457.....	All	
1903.....	525.....	All	
1904.....	446.....	All	
1907.....	646.....	All	

# CANAL LAW

**L. 1909, Ch. 13. "AN ACT relating to canals, constituting chapter five of the Consolidated Laws."**

(In effect February 17, 1909.)

## CHAPTER 5 OF THE CONSOLIDATED LAWS

[Formerly L. 1894, Ch. 338, being chapter 13 of the General Laws.]

- Article**
1. Short title (§ 1).
  2. State canals (§§ 2-5).
  3. Canal board (§§ 15-21).
  4. Superintendent of public works (§§ 30-48).
  5. State engineer; department of canals (§§ 60-69).
  6. Appropriation of lands and water (§§ 80-88).
  7. Surplus water (§§ 100-111).
  8. Highways and bridges (§§ 120-128).
  9. Contracts (§§ 140-154).
  10. Navigation (§§ 170-192).
  11. Laws repealed; when to take effect (§§ 200, 201).

### ARTICLE 1

#### Short Title

Section 1. Short title.

**§ 1. Short title.** This chapter shall be known as the "Canal Law."

Formerly L. 1894, ch. 338, § 1.

### ARTICLE 2

#### State Canals

Section 2. Designation of canals.

3. State dam at Waterloo.
4. Maps and field-notes.
5. Copies of maps and field-notes in county clerk's office.

**§ 2. Designation of canals.** This chapter applies to the following canals:

1. The Erie canal, connecting the waters of Lake Erie with those of the Hudson river.

**Explanation.**— For location and disposition of former sections of the Canal Law see L. 1894, Ch. 338, in "Consolidated Schedule of Repeals," Vol. 7.

2. The Champlain canal, connecting the waters of Lake Champlain with those of the Hudson river.

3. The Cayuga and Seneca canal, commencing at Geneva and terminating near Montezuma, connecting the waters of Seneca lake with the Erie canal.

4. The Oswego canal, commencing at Syracuse and terminating at Oswego.

5. The Black River canal and Erie canal feeder, extending from the foot of the high falls in the Black river, in the county of Lewis, to the Erie canal at Rome, with a navigable feeder from the Black river to the summit level near the village of Boonville.

The term "canal," as used in this chapter, includes all the side cuts, feeders and other works belonging to the state connected therewith.

Formerly L. 1894, ch. 338, § 2.

**§ 3. State dam at Waterloo.** The superintendent of public works is authorized to maintain a state dam at Waterloo, at a height not exceeding the height of the original state dam at that place, but so as not to raise the waters of Seneca lake above the natural height of the waters of the lake, but no claim shall be made or allowed for any damages to any property by reason of raising such dam to its original height.

Formerly L. 1894, ch. 338, § 3.

**§ 4. Maps and field-notes.** There shall be kept on file in the office of the state engineer complete manuscript maps and field-notes of every canal now or hereafter to be built and of all the lands belonging to the state adjacent thereto or connected therewith, in which the boundaries of every parcel of land to which the state shall have a separate title shall be designated, and the names of the former owners and the date of each title entered. The expense of all such maps and field-notes shall be paid out of the appropriations made for the support and maintenance of the canals. All such maps and field-notes approved by the canal board or superintendent of public works or certified by such board or superintendent or by the state engineer to be correct, shall be presumptive evidence of the truth of the facts therein stated and of the ownership by the state of the lands therein described.

Formerly L. 1894, ch. 338, § 4.

**§ 5. Copies of maps and field-notes in county clerk's office.** A copy of every map and of all field-books and notes so filed or of such part thereof as relates to the canal lands in any county, certified by the state engineer to be a correct copy



thereof, shall be filed in the clerk's office of such county, and shall be evidence with like force and effect as the original maps and field-notes of which it is a copy. Transcripts of a part of any such map or field-notes, certified by the officer having the custody of the original or certified copies from which they are made, to be correct copies thereof, shall be evidence as to the parts contained in such transcripts, with the same force and effect as if the originals were produced.

Formerly L. 1894, ch. 338, § 5.

### ARTICLE 3

#### Canal Board

Section 15. General powers.

16. Power to permit erections for commercial or manufacturing purposes.
17. Meetings and publication of minutes of board.
18. Investigation of charges against superintendents of repairs and other officers of the board.
19. Frauds to be investigated.
20. Witnesses on investigation; expenses.
21. Bureau of canal affairs.

**§ 15. General powers.** The canal board may:

1. Make, from time to time, rules and regulations, not inconsistent with law, for the transaction of the business of the board, the discharge of its duties, and the conduct of hearings before it.
2. Determine the boundaries of the three divisions of the canals of the state, and change such boundaries when deemed expedient.
3. Determine whether any lands, taken for the purposes of the canals, may be sold beneficially to the state.
4. Determine whether lands, taken for the purposes of the canals, have been abandoned.
5. Investigate all matters and transactions connected with or pertaining to the canals of the state, and take proofs in regard to any matter pending before the board or which it is authorized to examine or investigate.
6. Appoint one or more members of the board a committee to hear any matter pending before it and take proofs in regard thereto and report thereon to the board, with the proofs taken and his or their opinion thereon. Such members shall have the same powers with respect to such hearing as the board would have had if it had been before such board.
7. Grant a rehearing in any case where they are authorized to adjudicate, when, in their judgment, justice may require it, if

application in writing be made therefor within sixty days after such hearing or adjudication; but there shall not be more than one rehearing and the decision on any such rehearing shall be final and conclusive.

8. Remit, either absolutely or on such conditions as they prescribe, any forfeiture incurred by a violation of any provision of this chapter, or any of the rules and regulations established by the board or by the superintendent of public works, on the written petition of the person liable for the forfeiture, with due proof of the facts on which the application for the remission is founded, which petition and proofs and the order of the board thereon shall be filed and preserved in the office of the comptroller.

9. Examine and approve or disapprove, by a resolution to be entered upon its minutes, all plans, specifications and estimates transmitted to it by the state engineer, and a certificate of such approval, when given, shall be indorsed by the clerk of said board upon each of such plans.

10. Order the sale for a term of years to the person bidding the highest annual rent therefor of any surplus water which may be spared on any canal or works connected therewith, without injury to the navigation and safety of the canals, when the persons entitled to the first privilege of taking such water do not avail themselves thereof or there is no person so entitled.

Formerly L. 1894, ch. 338, § 10.

**§ 16. \* Powers to permit erections for commercial or manufacturing purposes.** The board may grant permission, on such terms and conditions as it deems proper, for the erection of warehouses, mills or other buildings for commercial or manufacturing purposes upon any dam, pier, mole or other work erected by the board or by the superintendent of public works in any canal, lake, river or other body of water, and for the use of such an amount of water power created by such dam, pier, mole or other work as may, in the opinion of the board, be so erected and used without injury thereto, and without detriment or obstruction to the public use thereof, or to the navigation of such canal, lake, river or other body of water; such permission, except in the case of the pier in the Niagara river at Black Rock, shall be granted only to the owner of the land from which the water to be used flows, or the owner of the land adjoining the river or other stream or water at the place where such dam, mole or other work is erected.

Such permission shall be by resolution of the board, entered at full length in the minutes, including all the terms, conditions and

\* So in original.

stipulations which the board deems expedient, and a written lease in duplicate shall be executed in conformity to such resolution, by the comptroller, on behalf of the state, and by the lessee; one of such duplicates shall be deposited in the office of the comptroller and the other delivered to the lessee.

Every such building shall be erected at such point, on such plan and not exceeding such dimensions as the superintendent of public works specifies, by a minute in writing, recorded at full length in his office, a copy of which, certified by him, with a written assent of the lessee indorsed thereupon or annexed thereto, shall be filed in the office of the comptroller before the delivery of the lease. The board may also with the consent of the superintendent of public works grant permission for the use of any of the state lands adjoining any reservoir or of any island or islands in any reservoir as a public pleasure resort, and for the erection of buildings thereon, upon such terms, conditions, covenants and restrictions as the board may deem proper.

Formerly L. 1894, ch. 338, § 11, as am'd by L. 1900, ch. 522, § 1.

**§ 17. Meetings and publication of minutes of board.** The assent of four members of the board shall be required for the adoption of all questions or resolutions, involving the expenditure or appropriation of the public moneys, and all such questions or resolutions shall be taken by ayes and noes and entered upon the minutes. The secretary of the board shall cause the minutes of the board to be published in the state paper as soon as may be after each session.

Formerly L. 1894, ch. 338, § 12.

**§ 18. Investigation of charges against superintendents of repairs and other officers of the board.** When any charges of misconduct, malfeasance or incompetency in office are made against any superintendent of repairs or other officer appointed or employed by the canal board or by the superintendent of public works, the canal board may direct the district attorney of the county where such official misconduct, malfeasance or incompetency is charged to have been committed or exhibited, to conduct an inquiry into the truth of such charges before the county judge of the county, and the same proceedings shall be had thereon as are provided by law in the case of charges made for the removal of a sheriff or county clerk, except that the testimony so taken shall be transmitted to the canal board. The necessary expenses of any such inquiry shall be certified by the canal board and paid out of the canal fund.

Formerly L. 1894, ch. 338, § 13.

**§ 19. Frauds to be investigated.** The superintendent of public works or the state engineer may report to the board any suspected fraud or misconduct on the part of any engineer or assistant, in relation to the public works, and the board may employ such agents and engineers as they deem proper, to aid in the investigation of such charges, and the expenses of such investigation shall be paid out of the canal fund.

Formerly L. 1894, ch. 338, § 14.

**§ 20. Witnesses on investigation; expenses.** The examination of a witness in an investigation by the board or a committee thereof, shall be open and public if such witness so request. A witness may have counsel and his examination by such counsel shall be reduced to writing as a part of his deposition. Other witnesses on the same matter may be excluded by the board or committee during the examination of a witness. A person examined under this article shall not be excused from testifying on the ground that his evidence would tend to criminate or degrade him, but his testimony shall not be used against him in any criminal action or proceeding. All evidence taken under this article shall be filed with the attorney-general. On the order of the board, the comptroller shall pay all expenses incurred by it in an investigation out of any moneys in the treasury appropriated for canal purposes.

Formerly L. 1894, ch. 338, § 15

**§ 21. Bureau of canal affairs.** The bureau of canal affairs heretofore established in the office of the comptroller is continued, and the chief clerk of such bureau shall be the secretary of the commissioners of the canal fund and of the canal board.

Formerly L. 1894, ch. 338, § 16, as added by L. 1901, ch. 413, § 1.

## ARTICLE 4

### Superintendent of Public Works

- Section 30. Superintendent of public works.  
 31. Assistant superintendents.  
 32. Deputy superintendent.  
 33. General powers and duties of superintendent.  
 34. Accounts of superintendent.  
 35. Powers with reference to railroad near the canals.  
 36. Duties of superintendent of repairs.  
 37. Advances to superintendent of repairs.

Section 38. Monthly abstracts of disbursements of superintendent of repairs.

39. Police powers.

40. Administration of oaths by clerks and special agents.

41. Exemption of canal officers from arrest in civil actions.

42. Ineligibility to appointment on the canals.

43. Canal officers not to be interested in boats, contracts or hydraulic works.

44. Delivery of property upon discharge of employees.

45. Canada thistles and other noxious weeds on the banks of canals to be cut.

46. Commissioners of the canal fund to allow claims.

47. Claims for damages.

48. Electrical or other improved systems of towage.

**§ 30. Superintendent of public works.** The superintendent of public works shall be paid an annual salary of six thousand dollars and all traveling expenses necessarily and actually incurred in the discharge of his duties. Before entering on the duties of his office, he shall execute an official undertaking in the sum of fifty thousand dollars, to be approved by and filed in the office of the comptroller, and to be renewed as often as the governor requires. The sureties on such undertaking and on the undertaking of the assistant superintendents and deputy superintendents shall be freeholders of this state.

Formerly L. 1894, ch. 338, § 20.

**§ 31. Assistant superintendents.** The assistant superintendents appointed by the superintendent of public works shall each be paid an annual salary of three thousand dollars, and all traveling expenses necessarily and actually incurred in the discharge of their official duties. Before entering on the discharge of the duties of his office, each assistant shall execute an undertaking in the sum of twenty thousand dollars, to be approved by and filed in the office of the comptroller and to be renewed as often as the superintendent may require.

Formerly L. 1894, ch. 338, § 21.

**§ 32. Deputy superintendent.** The superintendent of public works may appoint a deputy to hold office during his pleasure, and may fix his compensation not to exceed four thousand dollars per year which deputy may perform any or all of the duties of the superintendent except those imposed upon him as a member of the canal board or of the capitol com-

mission. Before entering on the duties of his office he shall execute an undertaking in the sum of twenty-five thousand dollars, to be approved by and filed with the comptroller and renewed as often as the governor may require.

Formerly L. 1894, ch. 338, § 22, as am'd by L. 1896, ch. 188, § 1.

**§ 33. General powers and duties of superintendent.**

The superintendent of public works shall:

1. Have the general care and superintendence of the canals; enforce the faithful execution and observance of the canal law by all persons, and as a member of the canal board be entitled to one vote therein.

2. Assign an assistant superintendent to the charge of each of the three divisions of the canals, subject to his direction, supervision and control.

3. Employ an engineer to act in an advisory capacity and such agents and other persons other than engineers as he deems necessary to enable him to discharge his duties.

4. Fix the compensation for the services of all officers, clerks and employees appointed by him, whose salary is not fixed by law, and make and file with the comptroller a schedule of the compensation so fixed.

5. Inquire into the official conduct of all superintendents of repairs, lock-keepers and other subordinates, and receive and hear all complaints preferred against them.

6. Call on the state engineer for the assignment of an engineer, whenever the services of an engineer are required upon any portion of the canals undergoing repairs, or upon any construction or improvement work.

7. Provide all necessary tools, materials and labor for the construction, improvement, repairs or navigation of the canals and make payment therefor on or before the fifteenth day of the month following that in which the same is provided.

8. When construction or improvement work is ordered by the legislature or canal board, request from the state engineer the requisite survey, maps, plans, specifications and estimates, and on their adoption by the canal board, take measures for the execution of such work; and before contracting for any work, submit to the state engineer the maps, plans, profiles and estimates therefor.

9. Direct and cause to be made such ordinary repairs of the canals as he deems necessary, and such extraordinary repairs and improvements thereof as are ordered by the canal board.

10. Make all such canals, feeders, locks, dams, aqueducts and other works as he deems the construction of every canal author-

ized by law to require; and enter upon, take possession of and use all lands, streams and water, the appropriation of which for the use of such canals and works is, in his judgment, necessary.

11. Keep in complete repair all edifices and weighing scales built or purchased for the use of the canal, and, at such times and places as the canal board direct, erect further edifices or weighing scales and purchase ground necessary therefor.

12. Make all necessary rules and regulations for the safe and speedy navigation, protection and maintenance of the canals and the structures thereof, for the government of all employees under his control engaged in their construction, improvement, repair and navigation, and for the payment for tools, materials and labor; impose such forfeitures of money, not exceeding the sum of twenty-five dollars for each offense, as he deems reasonable for the breach of such rules or regulations and prosecute therefor in the name of the state and pay over all money received on such prosecution into the state treasury. He shall cause such rules and regulations to be filed with the comptroller and a sufficient number of copies thereof, specifying the forfeiture for the breach thereof, to be printed and distributed to the assistant superintendents, superintendents of repairs and lock-keepers, to be kept in their respective offices for public inspection.

13. Permit, in his discretion, on such terms as he shall deem to be advantageous to the state, any person to cut, gather and haul away, ice from such canals whenever the same can be done without causing damage to the banks or other structures thereof.

14. Have charge of and exercise the same powers that he has as to other canals, over so much of the navigable waters of the Cayuga inlet as are necessarily used in connection with the canals; and cause such obstructions to be removed therefrom and such improvements to be made therein as may be necessary, from time to time, to keep the channel of such inlet of sufficient depth and capacity to admit the passage of any boat or water craft navigating the Erie canal.

15. Report to the legislature annually, on or before February fifteenth, the trade and tonnage transported upon the canals of the state during the preceding season of navigation, and within twenty days after the commencement of each annual session, the condition of the canals and the work and improvements connected therewith, the improvements and repairs made or contemplated during the past year, the amount of moneys received and expended during the same period, with recommendations of such measures in relation to the canals as in his judgment the public interests require.

Formerly L. 1894, ch. 338, § 23, as am'd by L. 1907, ch. 495, § 1.

**§ 34. Accounts of superintendent.** The superintendent shall take duplicate receipts of all moneys advanced or paid by him and keep an accurate account of the recoveries in all actions brought by him, or under his direction, for the recovery of penalties or damages under this chapter and of the cost and expenses thereof; and after deducting such costs and expenses, pay over the remainder of such recoveries to the state treasurer and account for the same with the comptroller. He shall account and settle with the comptroller annually on or before October fifteenth, for all moneys received by him by virtue of his office during the next preceding fiscal year, and shall specify in his accounts the sums respectively paid by him to all contractors, agents and employees of every description employed on the canals and paid by him to all other persons having received compensation for damages; and the names of such persons and the amounts received by them respectively shall annually be reported by the comptroller to the legislature.

Formerly L. 1894, ch. 338, § 24.

**§ 35. Powers with reference to railroad near the canals.** The superintendent of public works shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state, or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the superintendent of public works a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtains the written permission of the superintendent of public works and of the canal board for the construction of such railroad, with such condition, directions and instructions as in his judgment the free and perfect use of any such canal or feeder may require. Whenever any street railroad shall cross over any bridge spanning a canal, or canal feeder, the company owning, maintaining and operating the same shall be deemed liable for and shall pay all damages that may occur or arise, either to the state or to individuals, by reason of its laying and maintaining its tracks or rails over, upon and across any such bridge, or by reason of the operation of its cars over the same; and any such company shall upon demand of the superintendent of public works, make



any repairs to such structure to insure the continued safety thereof as shall have been rendered necessary by reason of such use of said structure by said company. Any company so maintaining or operating a street railroad over, upon and across any such bridge shall indemnify the state against any and all loss, damages or claims for damage, for injuries to person or property of passengers which shall be incurred by or made against such state by reason of the operation of such railroad over any such bridge, and the superintendent of public works may, in his discretion, require any company so maintaining or operating a street railroad to furnish a bond, with sureties to be approved by him, to indemnify the state from all such loss, damage or claims. All such permits heretofore or hereafter granted shall be revocable whenever the free and perfect use of any such canal or feeder may so require, or if such railroad company shall fail to make any such repairs when required by the superintendent of public works. The railroad company using or occupying any bridge over the same shall, within a reasonable time after the service upon it, by the superintendent of public works, of written notice of such revocation, or to make such repairs, remove at its own cost and expense its railroad from such bridge and from the limits of ten rods of said canal or feeder.

Formerly L. 1894, ch. 338, § 25, as am'd by L. 1902, ch. 340, § 1.

**§ 36. Duties of superintendent of repairs.** Every superintendent of repairs shall be under the direction of the superintendent of public works, and especially of the assistant superintendent having charge of the line of the canal on which he is employed. Before entering on his duties he shall execute and file in the office of the superintendent of public works an official undertaking in sum and form to be approved by the superintendent of public works. He shall, under the direction of the superintendent of public works or assistant superintendent, keep in repair such section of the canals and works and buildings connected therewith committed to his charge, and faithfully expend and account for all moneys placed in his hands by the superintendent of public works, or the assistant superintendent. At least once in thirty days he shall render an account of his receipts and expenditures to the superintendent of public works. The assistant superintendent having charge of that part of the canal on which a superintendent of repairs is employed, or the superintendent of public works, shall certify upon every account presented by any such superintendent of repairs and before its approval by the comptroller, that he has examined the same, that the several disbursements specified therein were made upon the

canal, under the direction of such assistant superintendent or the superintendent of public works, or were for repairs necessary to be made thereon, and that he believes such disbursements to be proper and reasonable, and to have been made as charged:

Formerly L. 1894, ch. 338, § 26, as am'd by L. 1906, ch. 257, § 1.

**§ 37. Advances to superintendent of repairs.** No advance of money shall be made to a superintendent of repairs until he makes out a detailed statement in such form as the superintendent of public works prescribes, of the several proposed objects of expenditures upon the line of the canal under his charge, covering a period of one month. The superintendent of public works or the assistant superintendent in charge shall indorse upon such statement or append thereto his allowance or disallowance of each particular object of expenditure named therein, or if he considers the sum estimated for any object or work excessive, the amount which in his judgment may be required for such work or object. When such estimates are filed in the office of the superintendent of public works, the superintendent of public works may make advances thereon, in order to meet the authorized disbursements, not exceeding the amount approved in said estimates. Every such superintendent of canal repairs shall apply the sums so advanced exclusively to the work or object named in the estimate for the expenditure and approved by the superintendent of public works or the assistant superintendent of public works. *Am'd by L. 1909, ch. 240, § 6.*

Formerly L. 1894, ch. 338, § 27, as am'd by L. 1906, ch. 257, § 2.

**§ 38. Monthly abstracts of disbursements of superintendent of repairs.** Every superintendent of repairs, or officer on whom the duties of such superintendent devolve, shall, on or before the twentieth day of each month, publish in the entire weekly edition of a newspaper published in a county through which the section of the canal in his charge passes, located on the line of such section, or in the county of his residence, if possible, an abstract, in such form as the comptroller prescribes, of his official disbursements during the preceding calendar month, stating the name and residence of every person to whom he has paid money; the amount paid to each; if for labor, the number of days and the amount per day; if for material, the kind, quantity and price, and the tools and implements purchased, if any. Such abstracts shall be verified by the oath of such superintendent, and a duplicate thereof filed in the office of the clerk of the county in which he resides, and shall be open to the inspection of the public during office hours. The expense of such publication, not exceeding the legal rates allowed for the publication of the session laws in such

county, may be included in the monthly abstract of such superintendent and paid in the same manner and upon like vouchers as his other disbursements and expenses are audited and paid. The form and manner of such publication may be prescribed by the comptroller and the expense of publication shall be determined and approved by him.

Immediately after the publication and filing of such abstract, the superintendent shall transmit to the comptroller a certificate, in the form prescribed by the comptroller, that the same has been published and filed as required by law, and shall state therein the aggregate amount of the abstract.

Formerly L. 1891, ch. 338, § 28.

**§ 39. Police powers.** The superintendent of public works, deputy superintendent, each assistant superintendent, foreman of sections or lock-tender has all the authority of a peace officer with a warrant, to arrest any person engaged in the commission of a crime affecting any of the canals, or any person whom he has reasonable cause to believe has committed such crime; and shall forthwith take the person so arrested before any magistrate of the county within which the crime is committed, to be dealt with according to law.

Formerly L. 1894, ch. 338, § 29.

**§ 40. Administration of oaths by clerks and special agents.** The superintendent of public works may designate two clerks in the office of the superintendent in the city of Albany, one clerk in the office of each assistant superintendent in the three divisions of the canals, and one or more special agents in the department of public works, each of whom upon filing his signature with the comptroller of the state, and his oath of office with the clerk of the county in which he resides, may administer oaths and take acknowledgments in any county of the state, in matters pertaining to canal business only, in which oaths and acknowledgments may be required to be taken, with the like force and effect as though taken before a notary public in the county where administered, but without fee or compensation therefor.

Formerly L. 1894, ch. 338, § 30.

**§ 41. Exemption of canal officers from arrest in civil actions.** Neither the superintendent of public works nor any assistant superintendent or deputy, superintendent of repairs, lock-keeper or other public officer employed upon or in charge of the canals, shall be liable to arrest or to be held to bail in any civil action for any act done or omitted to be done by him

canal, under the direction of such assistant superintendent or the superintendent of public works, or were for repairs necessary to be made thereon, and that he believes such disbursements to be proper and reasonable, and to have been made as charged.

Formerly L. 1894, ch. 338, § 26, as am'd by L. 1906, ch. 257, § 1.

**§ 37. Advances to superintendent of repairs.** No advance of money shall be made to a superintendent of repairs until he makes out a detailed statement in such form as the superintendent of public works prescribes, of the several proposed objects of expenditures upon the line of the canal under his charge, covering a period of one month. The superintendent of public works or the assistant superintendent in charge shall indorse upon such statement or append thereto his allowance or disallowance of each particular object of expenditure named therein, or if he considers the sum estimated for any object or work excessive, the amount which in his judgment may be required for such work or object. When such estimates are filed in the office of the superintendent of public works, the superintendent of public works may make advances thereon, in order to meet the authorized disbursements, not exceeding the amount approved in said estimates. Every such superintendent of canal repairs shall apply the sums so advanced exclusively to the work or object named in the estimate for the expenditure and approved by the superintendent of public works or the assistant superintendent of public works. *Am'd by L. 1909, ch. 240, § 6.*

Formerly L. 1894, ch. 338, § 27, as am'd by L. 1906, ch. 257, § 2.

**§ 38. Monthly abstracts of disbursements of superintendent of repairs.** Every superintendent of repairs, or officer on whom the duties of such superintendent devolve, shall, on or before the twentieth day of each month, publish in the entire weekly edition of a newspaper published in a county through which the section of the canal in his charge passes, located on the line of such section, or in the county of his residence, if possible, an abstract, in such form as the comptroller prescribes, of his official disbursements during the preceding calendar month, stating the name and residence of every person to whom he has paid money; the amount paid to each; if for labor, the number of days and the amount per day; if for material, the kind, quantity and price, and the tools and implements purchased, if any. Such abstracts shall be verified by the oath of such superintendent, and a duplicate thereof filed in the office of the clerk of the county in which he resides, and shall be open to the inspection of the public during office hours. The expense of such publication, not exceeding the legal rates allowed for the publication of the session laws in such

county, may be included in the monthly abstract of such superintendent and paid in the same manner and upon like vouchers as his other disbursements and expenses are audited and paid. The form and manner of such publication may be prescribed by the comptroller and the expense of publication shall be determined and approved by him.

Immediately after the publication and filing of such abstract, the superintendent shall transmit to the comptroller a certificate, in the form prescribed by the comptroller, that the same has been published and filed as required by law, and shall state therein the aggregate amount of the abstract.

Formerly L. 1894, ch. 338, § 28.

**§ 39. Police powers.** The superintendent of public works, deputy superintendent, each assistant superintendent, foreman of sections or lock-tender has all the authority of a peace officer with a warrant, to arrest any person engaged in the commission of a crime affecting any of the canals, or any person whom he has reasonable cause to believe has committed such crime; and shall forthwith take the person so arrested before any magistrate of the county within which the crime is committed, to be dealt with according to law.

Formerly L. 1894, ch. 338, § 29.

**§ 40. Administration of oaths by clerks and special agents.** The superintendent of public works may designate two clerks in the office of the superintendent in the city of Albany, one clerk in the office of each assistant superintendent in the three divisions of the canals, and one or more special agents in the department of public works, each of whom upon filing his signature with the comptroller of the state, and his oath of office with the clerk of the county in which he resides, may administer oaths and take acknowledgments in any county of the state, in matters pertaining to canal business only, in which oaths and acknowledgments may be required to be taken, with the like force and effect as though taken before a notary public in the county where administered, but without fee or compensation therefor.

Formerly L. 1894, ch. 338, § 30.

**§ 41. Exemption of canal officers from arrest in civil actions.** Neither the superintendent of public works nor any assistant superintendent or deputy, superintendent of repairs, lock-keeper or other public officer employed upon or in charge of the canals, shall be liable to arrest or to be held to bail in any civil action for any act done or omitted to be done by him

in the exercise of his official duties, nor be subject to military duty while actually engaged in their respective employments upon the canals, while the same are navigable.

Formerly L. 1894, ch. 338, § 31.

**§ 42. Ineligibility to appointment on the canals.**

No person owning any hydraulic works dependent upon the canals for their supply of water or employed in or connected with any such works, or engaged in transporting property upon the canals, or owning or interested in boats navigating the same, shall be employed as a superintendent, lock-keeper or otherwise upon the canals.

Formerly L. 1894, ch. 338, § 32.

**§ 43. Canal officers not to be interested in boats, contracts or hydraulic works.**

No public officer or appointee connected with the care or management of the canals shall be interested in any hydraulic works dependent upon the canals for a supply of water, or in any line of boats regularly navigating the canals, or either directly or indirectly in any contract on the canals as a contractor, surety or otherwise, in his own name or in the name of any other person, or either directly or indirectly derive any benefit from the ordinary or extraordinary expenditures upon the canals, beyond his established compensation; or if any such officer or appointee shall, at any time, while holding such office or appointment, be or become so interested or derive any such benefit, he shall forfeit his office or appointment, and be discharged therefrom, and any contract in contravention hereof shall be void.

Formerly L. 1894, ch. 338, § 33.

**§ 44. Delivery of property upon discharge of employees.**

Every agent, collector, lock-keeper or superintendent employed upon any canal and occupying any house, office, building or land belonging thereto, who is discharged from his employment, and the wife and family of every such person who dies in such employment, shall deliver to the superintendent of public works or to a person designated by him, the possession of the premises so occupied, and of all books, papers, matters or things belonging to the canals acquired by virtue of such employment, within seven days after a notice is served for that purpose by the superintendent or an assistant superintendent of public works. In case of a refusal or neglect to make such delivery, any justice of the peace in the county where such premises are situated, may, on application, issue his warrant, ordering any peace officer, with

such assistance as may be necessary, to enter, in the day time, upon the premises so occupied and remove therefrom all persons found in possession thereof, and to take into his custody all books, papers, matters and things there found belonging to the canals, and deliver the same to the superintendent of public works or to some person designated by him, and such officer shall execute such warrant accordingly.

Formerly L. 1894, ch. 338, § 34.

**§ 45. Canada thistles and other noxious weeds on the banks of canals to be cut.** The superintendent of public works shall cause all Canada thistles and other noxious weeds, growing upon the banks and sides of the canals, to the width owned by the state, to be cut down twice in each year, once between the fifteenth day of June and the first of July and again between the fifteenth day of August and the first of September. If such thistles or noxious weeds are not cut down, any person may cut the same between the first and fifteenth days of July and the first and fifteenth days of September of each year at the expense of the assistant superintendent having charge of the division upon which such thistles and noxious weeds are so cut, at the rate of one dollar per day for the time occupied in cutting.

Formerly L. 1894, ch. 338, § 35.

**§ 46. Commissioners of the canal fund to allow claims.** The commissioners of the canal fund may allow claims for moneys paid by the superintendent of public works or an assistant superintendent or an officer or person employed by them, or in the engineer department of the canals, in the care, management, superintendence and repair thereof, for judgment recovered against them or any of them, in any action instituted for any act done by them, pursuant to the provisions of this chapter, or for costs and expenses incurred in such action, or in an action instituted by them or any of them under such chapter. Before allowing a claim, the commissioners shall examine into the circumstances under which such costs and expenses were incurred, or judgments recovered, and shall allow such claim or such part thereof as they deem reasonable, if satisfied that the officer or person making the same has been subjected to such costs, expenses or judgments, while acting in good faith in the discharge of his duty under a law of the state. The commissioners, in their discretion, may direct the attorney-general or employ other counsel to take all necessary steps to defend the interest of the state in actions and proceedings arising under the laws respecting the canals, or from the appraisalment of damages thereon.

Formerly L. 1894, ch. 338, § 36.

**§ 47. Claims for damages.** There shall be allowed and paid to every person sustaining damages from the canals or from their use or management, or resulting or arising from the neglect or conduct of any officer of the state having charge thereof, or resulting or arising from any accident, or other matter or thing connected with the canals, the amount of such damages to be ascertained and determined by the proper action or proceedings before the court of claims; but no judgment shall be awarded by such court for any such damages in any case unless the facts proved therein make out a case which would create a legal liability against the state, were the same established in evidence in a court of justice against an individual or corporation; provided that the provisions of this section shall not extend to claims arising from damages resulting from the navigation of the canals.

Neither the comptroller nor the commissioner of the canal fund shall pay any damages awarded, or the amount of any commutations agreed on for the appropriation of land or water, or for the erection of a farm bridge, until a satisfactory abstract of title and certificate of search as to incumbrances is furnished, showing the person demanding such damages or commutations to be legally entitled thereto, which abstract and search shall be filed in the office of the comptroller.

Formerly L. 1894, ch. 338, § 37, as am'd by L. 1890, ch. 280, § 1.

**§ 48. Electrical or other improved systems of towage.** The superintendent of public works may:

1. Designate or set aside such portions of the Erie canal as he deems expedient for experiments to test the efficiency, economy and practicability of devices offered for improving the present system of towage, by electrical or other means.

2. Prescribe such regulations to govern the conduct of such experiments as he deems requisite to prevent damage to the canal or any appurtenance or interference with the traffic thereof.

3. Authorize from time to time any person or corporation to construct, maintain and operate electric conductors for light, heat or power upon or along any canal on such terms and conditions not inconsistent with the public use of such canal as he approves.

4. In like manner contract for or permit the use of such light, heat or power upon any such canal, but not to create a charge against the state except against appropriations lawfully applicable thereto.

With the permission of the superintendent and subject to the regulations prescribed by him, and to his discretion and control, any citizen of the state or corporation authorized to transact busi-



ness in the same, presenting to such superintendent a device for improving such method of towage may erect, at his or its own expense upon the portion of a canal designated for that purpose and upon state lands, such temporary buildings or other structures, with necessary machinery, and raise and temporarily maintain such poles along such canal and string wires thereupon as are necessary to test the efficiency, economy and practicability of such device.

Formerly L. 1894, ch. 338, § 38.

## ARTICLE 5

### State Engineer; Department of Canals

- Section 60. Powers and duties of state engineer.
61. Division and resident engineers and assistants.
  62. Division engineers; general duties.
  63. Division engineers; duties as to maps, surveys and plans.
  64. Advances to division engineers.
  65. Accounts of division engineers.
  66. Duties of resident engineers.
  67. Assistant engineers.
  68. Engineer's record of measurements.
  69. Penalty for making false representations or estimates.

**§ 60. Powers and duties of state engineer.** The state engineer shall:

1. Have the general supervision of the engineer department of the canals and perform all duties in relation thereto required by the canal board or the superintendent of public works.
2. Visit and carefully inspect all the canals at least once in each year and make additional visits and examinations of the whole or any part thereof, and communicate such information and suggestions in relation to the improvement and maintenance thereof to the canal board or the superintendent of public works as he deems the public interests to require.
3. Appoint and at pleasure remove the division, resident and assistant engineers and all other persons employed to assist them.
4. Prescribe and define the duties of the engineers so appointed and assign each division and resident engineer to a division of the canals.
5. When constructor or improvement work upon any of the canals is ordered by the legislature or the canal board, make or cause to be made all surveys, maps, plans, specifications and esti-

mates required by the canal board or the superintendent of public works, for the purpose of determining the proper location of the line of the canal, or any part thereof, or otherwise necessary, preparatory to the commencement of such work. He shall transmit such surveys, maps, plans, specifications and estimates with his approval thereof to the superintendent of public works and the canal board and, if the same is adopted by such board, file the same in his office, and a copy thereof in the office of such superintendent. He shall also communicate to the canal board or such superintendent his opinion in writing as to the time when the public interests require such work commenced and the time when it should be completed, and also his opinion as to any maps, plans, profiles or estimates submitted to him by the superintendent preliminary to contracting for work.

6. Assign an engineer for service upon any portion of the canals undergoing repairs or upon any construction or improvement work, upon the requisition of the superintendent of public works. The state engineer and surveyor may designate two assistants in his office at Albany and one or more in the office of each of the three division engineers, each of whom upon filing his signature with the comptroller of the state and his oath of office with the clerk of the county in which he resides, may administer oaths and take acknowledgments in any county of the state, in matters pertaining to canal business only, in which oaths and acknowledgments may be required to be taken, with the like force and effect as though taken before a notary public in the county where administered, but without fee or compensation therefor.

7. Report annually to the legislature, on or before the first day of February, the number and compensation of the persons employed by him upon the canals during the preceding year, the number so employed upon each resident engineer's subdivision, the length and estimated cost of all work under construction, the amount done and remaining to be done under existing contracts for repairs in each subdivision and such other information and suggestions as, in his judgment, the public interests require.

Formerly L. 1894, ch. 338, § 50, as am'd by L. 1898, ch. 75, § 1.

**§ 61. Division and resident engineers and assistants.** Each engineer and appointee mentioned in this section shall take and file with the secretary of state the constitutional oath of office. The division and resident engineers, before entering on the duties of their offices, must execute an official undertaking in a sum not exceeding twenty thousand dollars, to be fixed by the comptroller. But one division engineer and one resident engineer shall be employed on each division of the canals.

The persons appointed to assist the division and resident engineers shall be classed as assistant engineers, levelers, rodmen and chainmen. The state engineer shall file with the comptroller a statement of all such appointments, containing the name of the appointee, the nature of his duties, the daily compensation to be paid him and the term of his employment.

Formerly L. 1894, ch. 338, § 51, as am'd by L. 1905, ch. 309, § 1.

**§ 62. Division engineers; general duties.** Each division engineer shall frequently pass over and carefully inspect all of the canals embraced in the division under his charge; examine and, if necessary, revise all surveys, maps, profiles, measurements, plans, specifications and estimates made in reference thereto by any engineer employed upon such division; see that the engineers and overseers of work employed thereupon faithfully perform their duties, and make to the state engineer and to the superintendent of public works or the assistant superintendent in special charge of the division, and to the superintendents of repairs, such suggestions in relation to repairs and the plan of making the same as will, in his judgment, most tend to the safe and economical navigation of the canals.

Formerly L. 1894, ch. 338, § 52.

**§ 63. Division engineers; duties as to maps, surveys and plans.** Each division engineer shall, under the direction of the state engineer, make or cause to be made all surveys, maps, plans, specifications and estimates necessary or required by the canal board or superintendent of public works, to determine the proper location of the line of the canals, or any portion thereof, upon his division, or preparatory to placing any work under contract for construction, and transmit a copy thereof to the state engineer, who shall, after a due inspection and revision, submit the same to the canal board, with his approval indorsed thereupon, and on obtaining the certificate of adoption of the canal board, he shall file the same in his office.

Formerly L. 1894, ch. 338, § 52.

**§ 64. Advances to division engineers.** If a division engineer has filed his official undertaking, he may draw on the comptroller for advances to meet the expenses of the engineer department upon his division. If such draft be countersigned by the state engineer, and a receipt for the amount thereof be filed with the comptroller, the comptroller shall pay the same by warrant on the treasurer in favor of such division engineer. But the

advances unaccounted for to a division engineer shall, at no time, exceed forty thousand dollars and no money shall be drawn from the treasury to meet the expenses of the engineer department of the canals, other than those pertaining to the office of the state engineer, in any other manner.

Formerly L. 1894, ch. 338, § 54, as am'd by L. 1904, ch. 14, § 1 and L. 1908, ch. 88, § 1.

**§ 65. Accounts of division engineers.** Each division engineer shall quarterly, beginning on the first day of each fiscal year, render accounts of his disbursements, with sworn vouchers for the same, to the state engineer, who shall examine and, if found correct, approve them and forward them with such approval to the comptroller, who shall audit them. If any division engineer omits to render any such account, or his account rendered is not satisfactory, the comptroller shall notify the state engineer and no further advances shall be made to such engineer until he satisfactorily explains to the state engineer his omission to render proper accounts.

The comptroller shall prepare such blank forms and publish such rules as may be required to facilitate the rendering of such accounts and to insure uniformity therein.

Formerly L. 1894, ch. 338, § 55.

**§ 66. Duties of resident engineers.** The resident engineers shall, under the immediate direction of the division engineers, survey, lay out, measure and complete the quantities of all work ordered by the canal board or the superintendent of public works, to be surveyed for location, construction or other purposes; assist the division engineer, so far as necessary, in making maps, plans, specifications and estimates; see that the work done upon the several subdivisions is well and faithfully performed by the contractors, and in all respects strictly according to the terms of the contract, and on the completion of the same, accurately ascertain the quantity of the several items of work done and the amount at the contract prices, and present to the superintendent of public works or division engineer a final statement thereof in such form duly verified as shall be prescribed by the comptroller. Each resident engineer shall enter, or cause to be entered, in a book furnished for that purpose by the state engineer, all the field-notes and computations of the items of work done in the subdivision under his charge, with such recapitulations, diagrams and other illustrations as may be necessary to render the same intelligible, and a statement of the total quantity of each item of work done, the amount thereof at the contract

price and the aggregate amount at contract prices of the work done by each contractor, which entry shall be in due form and properly certified by the several engineers making it, within three months from the time the final statement is prepared; and the books containing such entries shall, within one hundred days after the completion of the work on each subdivision, be properly indexed and filed in the office of the state engineer.

Each resident engineer shall perform such other services as are from time to time required by the state engineer or the division engineer in charge of the subdivision on which he is located. In case of the absence or inability of any division engineer to act, the resident engineer shall discharge the duties of such division engineer so far as they relate to the subdivision assigned to him.

Formerly L. 1894, ch. 338, § 56.

**§ 67. Assistant engineers.** The first assistant engineer, when directed by the resident or division engineer, shall lay out and accurately measure and compute the quantities of the several items of work done or to be done in constructing the public works within the limits assigned to them; see that the work is faithfully performed by the contractors and others connected therewith, and in all other respects aid and assist the resident engineers in the discharge of their duties, and perform such other services in the line of their duties as the resident or division engineer may require.

Formerly L. 1894, ch. 338, § 58.

**§ 68. Engineer's record of measurements.** Every engineer on whose certificate payments are made for any public work shall enter in a book to be kept for that purpose every measurement made by himself or his assistant, with such explanations in regard to the location of the material, if the same has not been placed in the public work, as will enable his successor to identify and secure the material for the use of the state; and on leaving the public service, such book of measurements shall be deposited with the state engineer.

Formerly L. 1894, ch. 338, § 58.

**§ 69. Penalty for making false representations or estimates.** Any engineer or other officer or person in the employ of the state, who shall knowingly make any false representation or estimate of the nature, quality, quantity or cost of any work proposed by the state or any individual to be done, or of any materials so proposed to be furnished for any canal or its appurtenances, or any false representation or estimate in any statement of work or materials so proposed, which may be re-

quired by the canal board, or any other board or officer, or who shall knowingly report or certify to any false statement of the amount of any work done, or purporting to have been done for the state, or of the quality or nature of such work, or of the quality or quantity of any materials furnished or purporting to have been furnished to the state, by which any person may be enabled to claim or receive a greater allowance than is justly due, shall be deemed guilty of a misdemeanor, and on conviction shall be imprisoned in the state prison for not more than five years or in a county jail or penitentiary not more than two years, and shall be fined not exceeding one thousand dollars.

Formerly L. 1854, ch. 329, § 12.

## ARTICLE 6

### Appropriation of Lands and Water

Section 80. Entry upon lands.

81. Permanent appropriation for repairs.
82. Temporary appropriation for repairs.
83. Owner of lands entitled to damages.
84. Damages resulting from the erection of dams or the temporary occupation of lands.
85. Removal of encroachments.
86. Agreements for the purchase of water privileges.
87. Supplying deficiencies of water.
88. Awards, how distributed in cases of liens or incumbrances.

**§ 80. Entry upon lands.** The superintendent of public works may enter on, take possession of and use any lands, structures and waters, the appropriation of which for the use of the canals and the works connected therewith, and for the execution and completion of any repairs or improvements directed by the canal board or legislature to be made, shall in his judgment be necessary. An accurate survey and map of all such lands shall be made by the state engineer and certified by him to be correct, and the superintendent of public works shall indorse thereon or annex thereto a certificate stating that the lands described therein have been appropriated for the use of the canals of the state, and such map, survey and certificate shall be filed in the office of the state engineer. The superintendent of public works shall thereupon serve upon the owner of any real property so appropriated a notice of the filing and the date of filing of such map and survey, and specifically describing that portion of such real property

belonging to such owner, which has been so appropriated, and from the time of such service, the entry upon and appropriation by the state of the real property described in such notice, for the uses and purposes of the canals, shall be deemed complete, and such notice shall be conclusive evidence of such entry and appropriation and of the quantity and boundaries of the lands appropriated.

The superintendent may cause duplicates of such notice, with an affidavit of due service thereof on such owner, to be recorded in the books used for recording deeds in the office of the clerk of any county of the state where any of the property described therein may be situated, and the record of such notice and of such proof of service shall be evidence of the due service thereof.

Formerly L. 1894, ch. 338, § 70.

**§ 81. Permanent appropriation for repairs.** Whenever in the judgment of the superintendent of public works any of the earth structures of the canals of the state should be raised, widened, strengthened or otherwise improved, he may enter upon and permanently appropriate to the use of the state so much of any lands adjacent to the canals as may be necessary to provide earth and gravel for such purposes.

Claims for damages by reason of any such appropriation may be adjusted and paid by the superintendent, if the amount thereof can be agreed upon with the owners of the lands appropriated, but such amount shall not be paid out of the treasury unless the canal board shall approve thereof.

Formerly L. 1894, ch. 338, § 71.

**§ 82. Temporary appropriation for repairs.** Whenever the navigation of any canal is interrupted or endangered, the superintendent of public works shall, without delay, repair the injury causing or threatening such interruption, and for that purpose he may, by himself or by his agents, enter upon and use any contiguous lands, and procure therefrom all such materials as in his judgment are necessary or proper to be used in making such repairs, and agree, subject to the approval of the canal board, with the owner of the property so appropriated upon the amount of damage to be paid him therefor.

Formerly L. 1894, ch. 338, § 72.

**§ 83. Owner of lands entitled to damages.** The title to all real property permanently appropriated for the use of the canals of the state shall be vested in the people of this state. The owner or person interested in any real property so perma-

nently, appropriated shall be entitled to be allowed and paid the damages resulting or accruing to him in consequence of such appropriation, after deducting therefrom the benefits received by or resulting to him in consequence of the construction and maintenance of the canal for the use of which the appropriation is made.

Formerly L. 1894, ch. 338, § 73.

**§ 84. Damages resulting from the erection of dams or the temporary occupation of lands.** The owner of lands overflowed by the erection of a dam by the superintendent of public works upon any river or stream connected with such public works, or of lands, waters or streams which such superintendent occupies for temporary purposes in the construction or improvement of any canal or other work connected therewith, or upon which the superintendent enters for the purpose of obtaining materials for the construction or improvement of such canal or other works, shall have allowed and paid to him such just and equitable damages as he sustains by reason of the erection of such dam, or such occupation or entry upon such lands, waters or streams, and the superintendent of public works may agree with such owner on the amount of such damages subject to the approval of the canal board.

Formerly L. 1894, ch. 338, § 74.

**§ 85. Removal of encroachments.** The superintendent of public works is authorized, in his discretion to cause to be removed from the lands taken by the state for canal purposes all encroachments thereon whether buildings, fences, structures or other obstructions; that such lands may be kept in the possession of the state for the purposes of canal navigation.

Formerly L. 1894, ch. 338, § 75, as am'd by L. 1896, ch. 492, § 1.

**§ 86. Agreements for the purchase of water privileges.** Whenever it is necessary to secure to a canal an additional supply of water, the superintendent of public work may agree with the proprietor of any hydraulic privilege affected by the taking of any such additional supply as to the terms and conditions on which the same may be taken.

Formerly L. 1894, ch. 338, § 76.

**§ 87. Supplying deficiencies of water.** Whenever the navigation of any canal is endangered by reason of a deficiency of water, the superintendent of public works shall, without delay, supply such deficiency. For that purpose, he shall resume the temporary use of all the surplus water leased upon



the level of the canal where such deficiency exists. If there be still a deficiency of water, he may enter upon and use all lands, streams and waters, which, in his judgment, may be necessary or proper to be used to procure a temporary supply of water for such canals. The superintendent may agree with the owner of any property used for temporary purposes under this section, on the amount of damages sustained by him thereby, subject to the approval of the canal board, but no damages shall be allowed in any case for resuming the use of any leased surplus water.

Formerly L. 1894, ch. 338, § 77.

**§ 88. Awards, how distributed in cases of liens or incumbrances.** When damages are awarded for the appropriation of any lands or water to the use of a canal and it appears that there is any lien or incumbrance on the property so appropriated, the comptroller may deposit the amount awarded in any bank, in which moneys belonging to such fund may be deposited, to the account of such award, to be paid and distributed to the persons entitled to the same as ordered by the supreme court on application of any person.

Formerly L. 1894, ch. 338, § 78.

## ARTICLE 7

### Surplus Water

- Section 100. When adjacent owner may use surplus water.
101. Appraisal; failure to comply with conditions; resumption of surplus water.
  102. Preference in the use of surplus water.
  103. Preference on sale of surplus water.
  104. When surplus water not to be leased.
  105. Proceedings on sale of water.
  106. Right of purchaser on partial resumption.
  107. Erection of walls; prohibition of waste gates.
  108. Discharge of water.
  109. Discharge of surplus water on Rome level.
  110. Surplus water on the Oswego canal.
  111. Lease of surplus water arising from improvements.

**§ 100. When adjacent owner may use surplus water.** If works, in which water power is lawfully used, adjacent to a river or creek across which a dam is constructed to raise a head of water for the use of a canal, may be benefited by the use of the surplus water, without prejudice to the canal, the owner of such works may use such surplus water for their benefit, if he:

1. Constructs under the direction of the superintendent a good and substantial raceway and gate in such dam to draw off as much of the surplus water as his works may require.

2. Gives such security to the people of the state, as the superintendent deems sufficient, to keep such gate and raceway in complete repair, so as to prevent any waste of water.

3. Applies to the canal board, within ninety days after such gate or raceway shall have been completed, to have the benefits accruing to him from the use of such dam or other erection ascertained.

4. Pays the sum at which such benefits are estimated into the treasury within ninety days after it is so ascertained.

Formerly L. 1894, ch. 338, § 90.

**§ 101. Appraisal; failure to comply with conditions; resumption of surplus water.** The canal board when so requested shall make a fair estimate of such benefits and a return thereof without delay to the state treasurer.

If such conditions are not fulfilled by the owner, the superintendent of public works shall close any raceway or gate constructed by such owner, and such owner shall not open the same, or any other in the same dam, unless on the performance of the conditions so imposed. The superintendent of public works may resume the privileges so granted, whenever in his judgment the surplus water or a portion thereof shall become necessary for the use of the canals. Whenever such privileges are so resumed, the sum paid into the treasury therefor shall be refunded.

Nothing in this article shall deprive the owner of hydraulic privileges of any rights possessed by him prior to any grant from the state under this article, unless his damages from the loss of such rights shall be paid.

Formerly L. 1894, ch. 338, § 91.

**§ 102. Preference in the use of surplus water.** If any water or mill privilege, lawfully used, is injured by the diversion of water to the use of a canal, the owner thereof, with the consent of the superintendent of public works and on the terms and conditions specified in this article, shall have the first privilege of taking the surplus water for the use of his works, from any works constructed for the purpose of such diversion or from the canal benefited thereby.

Formerly L. 1894, ch. 338, § 92.

**§ 103. Preference on sale of surplus water.** When the canal board shall order a sale of surplus water to the use of

which no person shall be first entitled, as the owner of works before such time legally used, according to the preceding provisions of this article, the owner of the land upon which the surplus water shall flow, and the owner of lands adjoining any dam erected by the authorities in charge of the canals, by which surplus water shall be created, shall be entitled to the first privilege of taking water subject to the provisions of this article, so far as the same may be applicable; and the superintendent shall have the same powers in relation to all such surplus water as are given in this article, in respect to surplus water by which hydraulic privileges are benefited, but he need not close any raceway or gate, if he deems it inexpedient. On application by such owner for such privilege, the superintendent of public works may request the canal board to estimate the value thereof, and the board shall make such estimate and include therein the value of any use of such water which such owner may have previously had. Such owner shall pay the amount of such appraisal into the treasury within ninety days after notice thereof. If such owner omits for three months after being notified by the superintendent to make such application or neglects to comply with any provision of this article the canal board shall order a sale of such surplus water.

Formerly L. 1894, ch. 338, § 93.

**§ 104. When surplus water not to be leased.** If, in the opinion of the canal board, a lease of surplus water will not confer on the lessee the right or authority to use the same without the consent of the owner of the land over which such surplus water flows, it shall not authorize the letting of the same, without evidence that such consent has been given to such use.

Formerly L. 1894, ch. 338, § 94.

**§ 105. Proceedings on sale of water.** When a sale of surplus water is directed by the canal board, the superintendent of public works shall sell and convey such surplus water in the following manner:

1. Each privilege of using such water shall be sold separately at public auction to the person bidding the highest annual rent therefor.

2. The place of sale shall be in the vicinity of the place where the water may be most conveniently used.

3. A notice stating the time and place of the sale and the privilege to be sold, shall be published twice in each week for six successive weeks immediately preceding the sale, in the state paper, and once in each week for the same time in two newspapers published in the county where the water is to be sold, one of which

shall be in the town, village or city where the privilege is situated, if any newspaper is published therein.

4. A lease for such a term of years as may be directed by the canal board shall be executed by the superintendent in the name of the state to the purchaser, reserving the rent bid, and containing a covenant for its payment annually to the commissioners of the canal fund; a condition that if it remains unpaid for one year after it is due, the lease shall be forfeited to the state; a reservation of the right wholly to resume the water conveyed and the privileges granted, and to control and limit the use of such water and privileges, whenever, in the opinion of the canal board or of the legislature, the necessary supply of water for the use of any canal, or the safety of such canal or works connected therewith, may render such resumption, control or limitation necessary; and a provision, that where such resumption is made, or control or limitation imposed, no compensation or damages shall be allowed for any improvements or erections made in consequence of such lease; and a further reservation of the right of the state, without making any compensation to the purchaser, to wholly abandon or destroy the work by the construction of which such surplus water was created, whenever in the opinion of the superintendent the occupation and use of such work may cease to be advantageous to the state.

5. A duplicate of such conveyance under the hand and seal of the purchaser shall be executed and delivered by him to the superintendent of public works, who shall, without delay, procure the same to be recorded in the clerk's office of the county in which the privilege sold is situated and transmitted to the commissioners of the canal fund.

6. All the expenses attending the execution of the conveyance and the recording thereof shall be paid by the purchaser.

Formerly L. 1894, ch. 338, § 95.

**§ 106. Right of purchaser on partial resumption.**

If there is a partial resumption only of the water so sold, the purchaser may use the remaining water privileges for the remainder of his term on the payment of a reduced rent to be fixed by the canal board. If he refuses to accept the remaining privileges at the reduced rent, they shall be sold by the superintendent of public works under the direction of the canal board. *Am'd by L. 1909, ch. 240, § 7.*

Formerly L. 1894, ch. 338, § 96.

**§ 107. Erection of walls; prohibition of waste gates.** Where water is taken from any canal or work connected therewith for hydraulic purposes, the superintendent of public

works shall construct a permanent wall or erection of stone laid in mortar and cemented, of sufficient thickness to insure the safety of the canal, not less than six inches lower than the top water line of the canal.

No waste-gate, sluice, slide, water-gate or other passage shall be made in connection with any wall or erection over which water is to be drawn in such manner that the same can be opened, or that water can be drawn by, through or under the same, to the use of any mill or machinery, using water from the canal.

This section does not apply to Black Rock, the mouth of Tonawanda creek, the locks at Lockport or any place where such water is taken from a dam across a stream used as a feeder or from a feeder not navigable.

Formerly L. 1894, ch. 338, § 97.

**§ 108. Discharge of water.** Every owner of any water privilege upon a canal shall discharge the water owned by him at such place as the superintendent directs.

Formerly L. 1894, ch. 338, § 98.

**§ 109. Discharge of surplus water on Rome level.** The surplus water in the western portion of the Rome level of the Erie canal shall at all times be discharged through the culverts of the locks at the western end of the level, so far as the capacity of such culverts permits, and in no case shall any such surplus water be discharged into the channels of Limestone and Butter-nut creek, except to guard against danger to the banks of the canal, in the discretion of the superintendent of public works.

Formerly L. 1894, ch. 338, § 99.

**§ 110. Surplus water on the Oswego canal.** The superintendent of public works may permit the surplus water flowing over any dam on the Oswego river, except the dam nearest the city of Oswego, to be used for hydraulic purposes, by the owners of the lands upon which such water flows, under such regulations and restrictions as he may impose, and subject to be resumed partly or wholly, whenever he deems best, without any right of the person receiving such permission to claim any damage or compensation for such resumption. Such permission shall not be given to use any water on the level of the Oswego canal.

Formerly L. 1894, ch. 338, § 100.

**§ 111. Lease of surplus water arising from improvements.** The superintendent of public works, with the approval of the canal board, is hereby authorized, upon such terms

as he shall deem advantageous to the state, to make a lease of any of the surplus water of the canals of this state arising from enlargement or improvements of the same, actually made, or in progress, which water shall not be necessary for the navigation or operation of such canals, or may be withdrawn for use for power and returned without detriment thereto, and which has not heretofore been leased. Such lease shall provide that it may be terminated in whole or in part whenever the superintendent of public works shall deem the whole or any part of such water desirable for the purposes of the canals. All connections for withdrawing the water and for the return of the same shall be made in accordance with plans to be approved by the state engineer and surveyor and under the supervision of said superintendent of public works. The power conferred by this section is in addition to any power in the premises now given by statute.

Formerly L. 1897, ch. 595, § 1.

## ARTICLE 8

### Highways and Bridges

- Section 120. Alteration of roads.
- 121. Farm and road bridges.
  - 122. Commutation for bridges.
  - 123. Private road in lieu of farm bridge.
  - 124. Iron bridges.
  - 125. Models and location of bridges.
  - 126. Restriction on the construction of farm and road bridges.
  - 127. Construction of bridges by municipal corporations.
  - 128. Construction of lift, hoist or swing-bridge by city.

**§ 120. Alteration of roads.** If the superintendent of public works, or assistant superintendent having charge of the work, deems it necessary to discontinue or alter any part of a public road, because of its interference with the proper location or construction of any work on the canals, either of construction, repairs or improvement, he shall direct such discontinuance or alteration to be made, and file an accurate description of the part of such road so discontinued and laid out anew in the office of the town clerk of the town in which the same is situated; and from the time of filing such description, such road shall be so altered.

The passage of the part of such road so discontinued or altered shall not be obstructed until such superintendent or his assistant opens and works the part of such road so laid out anew, as to

render the same passable. The written certificate of a justice of the peace of the county in which such road is situated that the part so laid out anew has been so opened and worked, shall be sufficient evidence thereof. Every alteration made by any engineer on any public road upon either of the canals before the first day of January, eighteen hundred and twenty-eight, shall be deemed valid in law from the time of such alteration.

Formerly L. 1894, ch. 338, § 110.

**§ 121. Farm and road bridges.** The superintendent of public works is authorized and required to construct and hereafter maintain, at the public expense, road and street bridges over the canals, in all places where such bridges were constructed prior to the twentieth day of April, eighteen hundred and thirty-nine, if, in his opinion, the public convenience requires that they should be continued, whether theretofore maintained at the expense of the state or of the towns, villages and cities where they are situate.

The superintendent is authorized to construct farm bridges over such canals when the same, in his opinion, are reasonably required, having reference to the accommodation of the owners of the land and a due regard to economy to the state and the convenience of navigation. But this provision does not abridge the power of the superintendent in relation to streets, roads and bridges as prescribed by law on the date above specified.

When a farm bridge is constructed in lieu of one theretofore maintained by the owner of the land and damages are claimed by such owner for the appropriation of lands or other injury done in the enlargement of the canals, the benefit derived by the owner by being relieved from the expense of maintaining the farm bridge over the canal shall be set off against any damage so claimed.

Formerly L. 1894, ch. 338, § 111.

**§ 122. Commutation for bridges.** The superintendent of public works may commute with owners and claimants of bridges over any canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed on between the claimant and the superintendent. If, in the opinion of the superintendent, a bridge should not be rebuilt, and the amount to be so paid be not agreed upon, the bridge shall not be built, but the damages sustained by such owner by being deprived of such bridge, and which the state under all the circumstances ought of right to pay, shall be ascertained in the same manner as damages for the appropriation of real property for the use of the canals, and paid by the superintendent. If the damages be

claimed for the deprivation of a bridge which the claimant had before constructed or maintained, the circumstance of his being equitably bound to contribute proportionately towards the construction and maintenance of an enlarged bridge shall be taken into consideration and a proper amount on that account shall be set off against any damage to which the claimant might otherwise be entitled.

Formerly L. 1894, ch. 338, § 112.

**§ 123. Private road in lieu of farm bridge.** If the superintendent of public works can not agree with the owner of a farm bridge over a canal, as to the amount of commutation, in any case where such superintendent is of opinion that the state should erect such bridge, and such superintendent determines that a private road through adjoining lands will sufficiently accommodate such owner and that the same can be laid out with economy to the state, he may apply to the commissioners of highways of the town to lay out a private road for the accommodation of the owner, in the manner prescribed by law for laying out private roads, and pay to the owner of the lands through which the same is laid out the damages assessed.

Formerly L. 1894, ch. 338, § 113.

**§ 124. Iron bridges.** When the construction of an iron bridge over a canal is ordered by the legislature, or required by the superintendent of public works, the state engineer shall prepare a plan and general specifications for the construction of such bridge and submit the plan to the canal board. On obtaining the certificate of adoption by the canal board he shall file the plan so approved in his office and a copy thereof in the office of the superintendent of public works, who shall then advertise for proposals for the work, and award the contract to the lowest responsible bidder.

Formerly L. 1894, ch. 338, § 114.

**§ 125. Models and location of bridges.** No bridge shall be constructed across any canal without first obtaining for the model and location thereof the written consent of the superintendent of public works or of a superintendent of repairs upon that line of the canal which is intersected by the road or highway of which the bridge is to be a part.

Every person undertaking to construct or locate any such bridge without such consent and placing any materials for that purpose upon either bank of the canal or upon the bottom thereof, shall forfeit to the state the sum of fifty dollars, and the superin-



tendent of public works or any assistant superintendent, superintendent of repairs or engineer may remove all such materials as soon as they are discovered, wholly without the banks of the canal.

Formerly L. 1894, ch. 338, § 115.

**§ 126. Restriction on the construction of farm and road bridges.** A person shall not be entitled to demand a farm bridge across a canal or feeder where the necessity or convenience of such bridge shall have arisen from the division or acquisition of property subsequent to the location of such canal or feeder. A street or road bridge shall not be constructed by the superintendent of public works over a canal or feeder, except upon such streets or roads as were laid out, worked or used previously to the construction of the canal or feeder by which such street or road was or is obstructed; and when bridges are constructed or reconstructed upon any such streets or roads, the cost to the state shall in no case be more than is required to preserve in a safe and substantial manner the continuity of such streets or roads so as not to unnecessarily impair their usefulness. When a bridge of a more costly nature is desired by the local authorities of a city, town or village within whose corporate limits a bridge is to be built or rebuilt, the superintendent of public works, on presentation to him by such local authorities of plans and specifications for such bridge, approved by the state engineer, shall estimate and determine the proportion of the cost, which, in order to preserve the continuity of such streets and roads, the state ought equitably to pay, and file such estimate and determination in his office and a duplicate thereof in the office of the clerk of such city, town or village, and no more than such proportion of the cost shall be appropriated by the legislature for such purpose, and then only on condition that such city, town or village shall pay the remainder of such cost. If a private road or public highway is laid out by legal authority in such direction as to require the erection of a new bridge over a canal for the accommodation of the road, such bridge shall be so constructed and forever maintained at the expense of the town or city in which it shall be situated.

Formerly L. 1894, ch. 338, § 116.

**§ 127. Construction of bridges by municipal corporations.** A town, village or city upon the line of any canal, at its own cost and expense, with the consent and under the direction of the superintendent of public works, may erect and maintain at any point within its limits, where a bridge is not maintained

by the state, such bridge across such canal, of such kind, dimensions and materials, and with such approaches as such superintendent approves, at the proper cost and expense of such town, village or city, at any point where there is not now a bridge built and maintained by the state. If such bridge shall be a hoist, lift or swing-bridge, and requires the constant attendance of bridge tenders to manage and work it, the superintendent may appoint and remove such bridge tenders as he deems necessary, and the expenses and wages thereof shall be paid to the superintendent by such town or village when he may require it, to be paid by him to such bridge tenders, and all the cost of material, power or tools necessary for the tending of such bridge shall be paid for by such town or village on demand therefor by the superintendent.

Formerly L. 1894, ch. 338, § 117.

**§ 128. Construction of lift, hoist or swing-bridge by city.** The common council of any city may provide by ordinance for the erection of a lift, hoist or swing-bridge over a canal at any street in such city, and, if the superintendent of public works consents to such erection, in writing, filed with the clerk of such common council, may levy and assess the cost of the construction of such bridge on the property benefited thereby. Such bridge shall be built, operated and maintained under the supervision and control of such superintendent, but at the expense of such city or of the property adjudged by the common council thereof to be so benefited.

Formerly L. 1894, ch. 338, § 118.

## ARTICLE 9

### Contracts

- Section 140. Restrictions on power to contract.  
 141. Contracts required to be in writing.  
 142. Requisites of proposals.  
 143. Indemnity clause in contracts.  
 144. Security for performance of contract.  
 145. Security for payment of laborers.  
 146. Construction to be kept distinct from repairs.  
 147. Materials and tools for ordinary repairs.  
 148. When certificate of superintendent of public works required.  
 149. Inspection of materials and tools furnished.  
 150. Proceedings in case of neglect or refusal to perform contract.

- Section 151. Exemption of materials from execution.  
 152. Certain directions to be in writing.  
 153. Drafts of money by the superintendent for the payment of contracts.  
 154. Verification of estimates and measurements before payment.

**§ 140. Restrictions on power to contract.** No work shall be contracted for upon any of the canals, until the division engineers ascertain with all practicable accuracy, the quantity of embankment, excavation, masonry, the quantity and quality of all materials to be used, and all other items of work to be placed under contract, and a statement thereof, with the maps, plans and specifications, corresponding to those adopted by the canal board, and on file in the office of the state engineer, is publicly exhibited to every person proposing or desiring to make a proposal for such work. The quantities contained in such statement shall be used in determining the cost of the work, according to the different proposals received, and when the contracts for any such work are awarded, every such statement, with such maps, plans and specifications and all other papers relating to the work advertised and which are necessary to identify the plan and extent of the work embraced in such contracts, shall be filed in the office of the state engineer, with the certificate of the state, division or resident engineer, stating the time and place of their exhibition. No alteration shall be made in any such map, plan or specification or in the plan of any work under contract during its progress, except with the consent and approval of the superintendent of public works and the state engineer, nor unless a description of such alteration and such approval be in writing and signed by the parties making the same, and a copy thereof filed in the office of the state engineer. No change of plan which shall increase the expense of any such work or create any claim against the state for damage arising therefrom shall be made, unless a written statement, setting forth the objects of the change and the expense thereof, is submitted to the canal board, and their assent thereto, at a meeting when the state engineer was present, is obtained.

Formerly L. 1894, ch. 338, § 130.

**§ 141. Contracts required to be in writing.** Every contract for the construction of a canal and for any repairs or improvements on the canals directed by the legislature or canal board shall be in writing and executed in triplicate, one of which shall be retained by the superintendent of public works and one

deposited with the comptroller, and shall not be entered into without public notice of the time and place of the receipt of sealed proposals for the work to be done thereunder, published for ten days successively in the state paper and in one or more newspapers of each county in which such work or any part thereof is to be done.

Every contract entered into by the superintendent of public works or an assistant or any assistant superintendent or deputy or superintendent of canal repairs or engineer in charge of repairs for the delivery of timber or lumber or the furnishing of other materials for the repairs of the canals or to do or to complete a specified piece of work relating to such repairs and involving the performance of labor and the furnishing of materials when not advertised to be let to the lowest bidder shall be in writing, stating the time within which it is to be performed and executed, not exceeding one year, duly authenticated and filed in the office of the comptroller before any money is paid thereon and within fifteen days after its execution.

Formerly L. 1894, ch. 338, § 131, as am'd by L. 1896, ch. 188, § 1.

**§ 142. Requisites of proposals.** Every proposal for a contract, for which written proposals are to be received, shall be sealed, and shall be for a sum certain as to the price to be paid or received, and no proposition not thus definite and certain, or which contains any alternative condition or limitation as to such price, shall be received or acted upon.

If any person offers more than one proposal for the same contract, all his proposals therefor shall be rejected.

Formerly L. 1894, ch. 338, § 132.

**§ 143. Indemnity clause in contracts.** The canal board shall cause to be inserted in all contracts for work or repairs on the canals a clause requiring the contractor to pay all damages arising to the state or to any person by reason of the neglect, default or misconduct of such contractor in the performance of the contract.

Formerly L. 1894, ch. 338, § 133.

**§ 144. Security for performance of contract.** Every contractor entering into any written contract for construction, improvement, repair or maintenance of or upon a canal, or for the furnishing of materials, tools or labor therefor, shall give satisfactory security to the superintendent of public works for the faithful performance of such contract. If any such contractor shall fail or neglect or refuse to perform his contract, or to comply with the requirements of the superintendent of public works or

the assistant superintendent or any engineer, superintendent of repairs or other officer having in charge the supervision thereof, made in conformity with such contract, the superintendent of public works may declare such contract abandoned, and such contractor shall be excluded from any interest in any further contract in relation to the same and all similar objects.

Formerly L. 1894, ch. 338, § 134.

**§ 145. Security for payment of laborers.** The superintendent of public works or assistant superintendent having charge, shall also require and take from the contractor, a bond with at least two good and sufficient sureties, conditioned that such contractor will well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which shall be duly acknowledged and filed in the office of the clerk of the county wherein such contract or work is to be performed, and if partly in two or more counties, such bond or a certified copy thereof shall be filed in the clerk's office of each county.

Actions may be brought for a breach of such bond by any laborer not paid in accordance with its terms, and the commencement or maintenance of an action by one or more laborers thereon shall not be a bar to the commencement and maintenance of other actions thereon by other laborers. No action shall be maintained against the sureties unless brought within thirty days after the completion of the labor the payment of which is secured by the bond.

Formerly L. 1894, ch. 338, § 135.

**§ 146. Construction to be kept distinct from repairs.** All work connected with the enlargement and improvement of any canal, done under contracts made by the superintendent of public works, shall be kept distinct, as far as practicable, from the ordinary repairs of the canal.

Formerly L. 1894, ch. 338, § 136.

**§ 147. Materials and tools for ordinary repairs.** When in his opinion, the interests of the state will be promoted thereby, the superintendent of public works may direct the superintendent of canal repairs to purchase materials and tools for the ordinary repair of the canals without advertising for the same. He is not bound to accept proposals therefor unless he deems it for the interest of the state.

Formerly L. 1894, ch. 338, § 137.

**§ 148. When certificate of superintendent of public works required.** Except in case of a sudden break or

breach in the canal during navigation, requiring immediate action before the superintendent of public works or assistant superintendent in charge can be consulted, no superintendent of canal repairs shall contract for the purchase or delivery of tools, implements, materials, boats or other matters or things to be used in the repairs of the canals, unless the superintendent of public works or such assistant superintendent shall make a certificate designating the number and quantities with the prices to be paid therefor. A superintendent of repairs violating any provision of this section or applying any money received on a detailed estimate by him to any object, work or purpose, other than as specially mentioned or described in such estimate, shall be removed from office.

Formerly L. 1894, ch. 338, § 138.

**§ 149. Inspection of materials and tools furnished.** All materials and tools purchased and delivered or offered for delivery for use in the maintenance and repair of the canals, shall be carefully and thoroughly examined and inspected by the superintendent of public works or assistant superintendent, or superintendent of canal repairs in charge of the work, or other person designated by the superintendent of public works, and the person other than the superintendent of public works making such examination and inspection, shall immediately make a sworn report thereof to the superintendent of public works, stating the quantity, quality and amount or number of the materials or tools examined and received or rejected.

No payment shall be made for any materials or tools, except such as are accepted as being in conformity with the contract under which they were delivered.

Formerly L. 1894, ch. 338, § 139.

**§ 150. Proceedings in case of neglect or refusal to perform contract.** If any such contractor fails, neglects or refuses to perform his contract or to comply with any requirement, the superintendent of public works may procure all such tools and materials to be furnished, therein provided for, as may be necessary for immediate use, and until such contract is relet, and such contractor and his sureties shall be liable for all damages which may result from such neglect or refusal, together with the necessary extra cost, over and above the contract price, of the articles and tools so procured. All contracts shall contain a provision for the speedy and equitable adjustment of all questions that may arise relative to their performance.

Formerly L. 1894, ch. 338, § 140.

**§ 151. Exemption of materials from execution.**

All materials procured or partly procured under a contract with the superintendent of public works, shall be exempt from execution, but the superintendent shall pay the moneys due for such materials to any judgment creditor of the contractor under whose execution such materials might otherwise have been sold, on production to him of due proof that such execution would have so attached, and such payments shall be valid payments on the contract.

Formerly L. 1894, ch. 338, § 141.

**§ 152. Certain directions to be in writing.**

All orders and directions given by any superintendent of repairs or engineer to a contractor shall be in writing.

Formerly L. 1894, ch. 338, § 142.

**§ 153. Drafts of money by the superintendent for the payment of contracts.**

The superintendent of public works may draw on the comptroller for any sum to be paid to a contractor on his contract, and if a copy of the contract shall have been duly filed in the office of the comptroller, and a receipt of the contractor for such drafts filed in the same office, the comptroller shall draw a warrant on the treasury for the amount of such draft. The superintendent of public works shall not be allowed to have in his hands at any one time more than one hundred thousand dollars, and every sum advanced to or received by him shall be deemed to remain in his hands until its application shall have been properly accounted for to the comptroller.

Formerly L. 1894, ch. 338, § 143, as am'd by L. 1900, ch. 211, § 1 and L. 1906, ch. 257, § 3.

**§ 154. Verification of estimates and measurements before payment.**

No money shall be advanced or paid to any canal contractor on his contract except on the sworn certificate of an engineer in such form as the comptroller prescribes, that he has actually measured the work or material included in the certificate, and believes that the quantities therein stated do not exceed the amounts actually performed or delivered by the contractor. Such sworn certificate shall be given to the superintendent of public works and shall accompany the receipt of the contractor when presented to the comptroller for audit. The comptroller shall reject and refuse payment of every draft or certificate of the superintendent of public works or any other claim against the state, founded on the certificate or measurement of an

engineer in the employment of the state, unless such estimate and measurement is sworn to and verified as prescribed in this section.

Formerly L. 1894, ch. 338, § 144.

## ARTICLE 10

### Navigation

- Section 170. Definitions of "float" and "master."  
 171. Statistics to be furnished.  
 172. Registry of canal boats.  
 173. Clearances and ownership.  
 174. Bills of lading.  
 175. Regulations with respect to clearances.  
 176. Copies of clearances.  
 177. Assignment of berths for loading or unloading.  
 178. Name of mortgaged canal boat not to be changed.  
 179. Speed and meeting of boats and preference in passing.  
 180. Passage of locks.  
 181. Prohibition of use of setting poles; knife on bow.  
 182. Obstruction of navigation.  
 183. Seizure of obstructions.  
 184. Unlawful conversion of personal property by boatmen.  
 185. Wharves and basins.  
 186. Prohibition against driving on tow-paths or faster than a walk over bridges.  
 187. Quantity of water to be taken into level; waste-weirs.  
 188. Regulations relating to the harbor at Whitehall.  
 189. Floating elevators.  
 190. Liability of boat for penalties; detention and sale thereof.  
 191. When bond must be given to secure detention of boat.  
 192. Actions for penalties.

**§ 170. Definitions of "float" and "master."** The term "float" in this article includes every boat, vessel, raft or floating thing navigated on the canals or moved thereupon, under the direction of some person having the charge thereof; and the term "master" includes every person having for the time the charge, control or direction of any such float.

Formerly L. 1894, ch. 338, § 160.



**§ 171. Statistics to be furnished.** The master of any boat or float shall, on the request of any person designated by the superintendent to procure the statistics required to be reported by him to the legislature, deliver to such person a true statement of the quality and description of the lading of such boat or float, specifying the place from which it departed and to which it is destined. Such master may have such boat or float and its load weighed at some weigh-lock selected by the superintendent and duplicate reports of such weights shall be furnished to him on payment of such reasonable fee, to be fixed by the superintendent, as will reimburse the state for the actual expenses thereof, and the superintendent may at any time require any such boat or float and its load to be so weighed. Any master who refuses to comply with any provision of this section shall forfeit to the people of the state the sum of twenty-five dollars, to be collected by any person designated to collect such statistics, and paid to the state treasurer.

Formerly L. 1894, ch. 338, § 161.

**§ 172. Registry of canal boats.** The owner of every boat navigating the canals shall deliver to the officer or person designated by the superintendent of public works to receive the same when the first clearance of the boat is demanded, a certificate of registry containing the name of the owner, his residence, the name of the boat and of the place where it is owned, which shall be signed by the owner, if a resident of this state, if not, by the master of the boat as the owner thereof.

If the master of a boat the owner of which resides out of the state is changed after the delivery of such certificate, the new master shall sign and deliver a proper certificate of registry to the office\* or person so designated. The officer or designated person receiving a certificate of registry, shall execute and deliver to the master of the boat an acknowledgment of the receipt thereof, and without delay transmit the certificate to the superintendent of public works.

The superintendent of public works shall make a registry of all boats navigating the canals, which shall be kept on file in his office and be open to public inspection during office hours. The name of a registered boat shall not be changed without the order of the superintendent of public works.

If a resident of the state produces to the superintendent of public works due proof of the transfer of a registered boat, and

\* So in original.

delivers to him a new certificate of registry, he shall change the registry of the boat to correspond with the new certificate.

The superintendent of public works shall, from time to time, transmit to the several collectors of canal statistics a certified copy of the register of boats in his office and of the several changes made therein.

Formerly L. 1894, ch. 338, § 162.

**§ 173. Clearances and ownership.** No clearance shall be granted to any boat, unless the officer or other person, of whom it is required, has evidence that it is duly registered; or if it be not registered, until the master thereof delivers to such officer or person a proper certificate of registry, or exhibits to him the receipt of some other authorized officer for such certificate.

Each boat shall have a separate clearance, and no part of the cargo shall be cleared to a place beyond that to which the boat is cleared.

No boat shall receive a clearance or be permitted to pass on any canal which has not the name thereof and of the place where it is owned, corresponding to its certificate of registry then in force, printed in a conspicuous and prominent part on the outside of the boat in letters of at least four inches in height.

For the purpose of conforming to the rules and regulations for the navigation and maintenance of the canals, the person named in the certificate of registry as the owner of a boat shall be deemed its owner, and every owner of a boat who changes its name from that stated in the certificate, without the order of the superintendent of public works, and every master who enters or reports a boat at any office by a different name than that stated in the certificate, shall for every such offense forfeit to the state the sum of twenty-five dollars.

Formerly L. 1894, ch. 338, § 163.

**§ 174. Bills of lading.** A bill of lading containing a just and true account of all property conveyed in any boat upon a canal, signed by the master of the boat and by the consignor of the property, and stating the names of the places upon the canal where any portion of the property was shipped, of the place for which it is intended to be cleared, the names, description and weight of all the articles of such property, or the number of such articles and the number of feet of each article if bought or sold by the foot, shall be exhibited by the master of the boat to any collector of canal statistics requiring the same and to any officer or person of whom a clearance is required, and to every officer or

person designated by the superintendent of public works for that purpose, at a place where any portion of the cargo is unladen or any additional cargo received, or if there is no such officer or person at such place, to such officer or person whose office shall be next in order in the course of the voyage. If there be no such office at the place where any article is laden, nor at the place of their delivery, nor at any intermediate place, the master of the boat shall within ten days after the delivery of such articles exhibit the bill of lading thereof to such officer or designated person whose office shall be nearest to the place of such delivery, and every master omitting to exhibit such bill within such period, shall, for every offense, forfeit to the state the sum of twenty-five dollars.

Every officer or person receiving a bill of lading may require the master exhibiting it to verify it by his oath. No clearance of a boat or cargo shall be granted or issued by any officer or person except upon the production to him of a bill of lading as herein required.

Formerly L. 1894, ch. 338, § 164.

**§ 175. Regulations with respect to clearances.**

No boat shall proceed beyond the place to which it is cleared, nor unload any of its cargo, before or after its arrival, at the place from which such articles are cleared, nor proceed beyond such place until the master thereof delivers the clearance of such boat or articles to the officer or person designated by the superintendent of public works to receive the same, at the place for which they are cleared, or if there be no such officer or person at such place, to the last officer or person designated for that purpose, whose office shall be passed by the boat in the order of its voyage, and receives a permit from such collector to proceed to the place to which it is cleared.

Every master omitting to deliver a clearance to the officer or person to whom it ought to be delivered shall forfeit to the state the sum of twenty-five dollars.

Formerly L. 1894, ch. 338, § 165.

**§ 176. Copies of clearances.** Every officer or person issuing a clearance or with whom a clearance is filed shall, when requested, give a certified copy thereof, with any additional cargo entered thereupon, and the several indorsements, if any, which certified copy shall have the same validity and effect as the original clearance of which it is a copy. Every such person or officer shall demand and receive for such certified copy, not exceeding two

folios, six cents from the person requesting the same, and fifteen cents for all copies exceeding two folios, and shall account to the comptroller for all moneys which shall be so received, at such time and in such manner as the superintendent of public works shall direct.

Formerly L. 1894, ch. 338, § 166.

**§ 177. Assignment of berths for loading or unloading.** An officer or person designated by the superintendent of public works for that purpose, and, if no such officer or person be present, any canal superintendent or superintendent of repairs may assign berths to all boats while loading or unloading at any landing place upon a canal and determine disputes concerning the same.

Formerly L. 1894, ch. 338, § 167.

**§ 178. Name of mortgaged canal boat not to be changed.** The superintendent of public works shall not grant permission to change the name or hailing place of any canal boat, steam tug, scow or other craft navigating the canals, on which there is an existing lien or mortgage filed in the comptroller's office, unless it shall be necessary to make the name or hailing place conform to the United States custom house regulations, by reason of a change of name after having been registered at the custom house; and any boat, steam tug, scow or other craft found navigating the canals of this state, the registered name or hailing place of which shall have been changed without the written permission of the superintendent of public works, shall, upon due proof thereof, be subject to a penalty of not less than fifty dollars nor more than three hundred dollars.

Formerly L. 1894, ch. 333, § 168.

**§ 179. Speed and meeting of boats and preference in passing.** No float shall move in any canal faster than at the rate of four miles an hour without a permission in writing from the superintendent of public works; except that upon any of the enlarged canals, a boat may move at a rate of speed not exceeding six miles an hour, to be fixed by the superintendent of public works.

The master of a float meeting another float, shall turn to the right, so as to be wholly on the right side of the center of the canal.

The master of a float going from the navigable waters of the Hudson river, approaching any place in a canal less than thirty feet wide upon the surface, or which will not safely permit it

passing another float approaching the same place, shall stop at such distance from such narrow place as may be convenient for the floats going towards such navigable waters to pass through such place, and there wait until such passage is effected.

When a boat used chiefly for the conveyance of persons overtakes any other float not used chiefly for that purpose, the master of the latter shall give to the former every practicable facility for passing, and, if necessary, shall stop until the former has fully passed.

When any boat propelled or towed by steam, meets or overtakes a boat or float not so propelled or towed and not waiting its turn for lockage, the master of the latter shall turn out so as to allow the former to pass on the berme side of the canal.

Every master or boatman violating any provision of this section shall, for each offense, forfeit to the state the sum of ten dollars.

Formerly L. 1894, ch. 338, § 169.

**§ 180. Passage of locks.** Every float within one hundred yards of a lock, if upon the same level that the water in the lock then is, shall be permitted to pass the lock before any other float not upon the same level. Questions as to which of two or more floats may first pass through a lock shall be determined by the lock-keeper, and the passage made in the manner and order directed by him.

The owner, master or navigator of any float, refusing to conform to any such determination of a lock-keeper, or who detains or unnecessarily hinders the passage of any float through a lock, in violation of any provision of this section, shall, for each offense, forfeit to the state the sum of twenty-five dollars.

Formerly L. 1894, ch. 338, § 170.

**§ 181. Prohibition of use of setting poles; knife on bow.** No person navigating any canal shall use any setting pole or shaft, pointed with iron or other metal. No covered or decked boat shall navigate any canal without a knife or sharp metallic instrument so affixed upon the stem or bow of the boat as to cut apart any tow rope which might otherwise pass over such bow.

Every owner or master of a boat failing to comply with any provision of this section shall, for every such failure, forfeit to the state the sum of twenty-five dollars.

Formerly L. 1894, ch. 338, § 171.

**§ 182. Obstruction of navigation.** A person who obstructs the navigation of a canal by the improper mooring,

management or conduct of a boat or floating thing, or by sinking a vessel, timber, stone, earth or other thing to the bottom thereof, or by placing any obstruction upon the towing path thereof, or on the bank opposite the towing path, shall forfeit to the state the sum of twenty-five dollars for every such obstruction.

Formerly L. 1894, ch. 338, § 172.

**§ 183. Seizure of obstructions.** The superintendent of public works, his assistants, deputy and every superintendent or agent employed upon the canals may seize all boats, rafts, logs or any floating or sunken thing found in a canal, or any article not under the care or charge of any person, found upon the tow-path thereof and sell the same at public auction after giving ten days' written notice of the sale, conspicuously posted at two public places nearest to the place where such boat, logs, floating or sunken thing or other article is found, unless before the time of sale the owner of the article appears and claims the same and pays the cost of seizure and expenses of removal.

The avails of such sale shall be accounted for by the officer making the same to the commissioners of the canal fund, who may, on the application of the owner and due proof of ownership, pay over such proceeds to him after deducting the forfeiture and all costs and reasonable charges thereon.

If the navigation of a canal is interrupted or endangered, the superintendent of public works may cut up, destroy or remove any canal boat, vessel or other thing in or partly in the canal, and, if the same is in the canal without the fault of the owner, the damages sustained by him in consequence of such destruction shall be paid to him, and if the superintendent is unable to agree with the owner as to the amount of such damages, they shall be ascertained and determined in the same manner as damages for the temporary appropriation of lands for the repairs of the canals.

Formerly L. 1894, ch. 338, § 173.

**§ 184. Unlawful conversion of personal property by boatmen.** If a boatman or any person on board of a boat upon any canal takes, without right, any rails, boards, planks, staves, firewood or fencing posts from the banks or vicinity of the canals, the master of the boat shall forfeit to the owner treble the value of the property taken, and possession on board the boat shall be presumptive evidence of the taking. A person or boatman violating any provision of this section shall forfeit twenty-five dollars to any person who will prosecute therefor.

Formerly L. 1894, ch. 338, § 174.

**§ 185. Wharves and basins.** No person without the written permission of the superintendent of public works or an assistant superintendent in charge, shall construct any wharf, basin or watering place in any canal, or make or apply any device for the purpose of taking water from a canal. Every wharf, basin, watering place or device constructed with such permission shall be held during the pleasure of the superintendent of public works and be subject to his control.

Every person constructing any such wharf, basin, watering place or device without such permission, or neglecting or refusing to conform to the direction of the superintendent granting the permission, shall for each offense forfeit to the state the sum of twenty-five dollars, and the superintendent of public works may remove or destroy the construction illegally made at the expense of the person making it.

Formerly L. 1894, ch. 338, § 175.

**§ 186. Prohibition against driving on tow-paths or faster than a walk over bridges.** A person, not engaged in towing a boat or other float upon or conveying articles unladen or to be laden from or to a canal, who leads, drives or rides any horse, ox, mule, ass or other cattle upon the towing path of a canal or upon the bank opposite to such towing path, within the blue line of the canal, shall forfeit to the state the sum of five dollars. This provision shall not apply to a person authorized by any canal superintendent or canal contractor to enter upon the towing path or banks opposite thereto for the purpose of examining or repairing the same. Whenever any canal or canal feeder is constructed through or upon any lands so as to render such lands inaccessible from a highway, except by the erection of a bridge over such canal or feeder, the owner of such lands, on permission being obtained from the superintendent of public works, may use so much of the towing path or the banks opposite thereto, or the banks of any feeder, as may be necessary to pass to and from such lands to a public highway, without damage to such banks or interference to navigation. Such use shall cease whenever the state or local authorities construct suitable bridges over said canals and feeders, enabling such owner to pass to and from such lands to a public highway.

A person who leads, rides or drives any horse or mule faster than a walk over any bridge belonging to or under the control of the state, over any canal, canal feeder, stream or river thereof, or drives any cattle across any such bridge at a faster rate than a walk, or permits more than twenty-five cattle to be upon such

bridge at any one time, shall forfeit to the state the sum of fifteen dollars, to be sued for by the superintendent of canal repairs, and when recovered to be accounted for by him to the commissioners of the canal fund.

Formerly L. 1894, ch. 338, § 176.

**§ 187. Quantity of water to be taken into level; waste-weirs.** No more water shall be taken into any level of any canal than shall be sufficient to supply such level during the days of the greatest business, and to supply any other level of the canal or other public work of the state dependent upon such level for a supply of water.

Every waste-weir upon the same level as the canal shall be constructed as nearly as may be consistent with the safety and convenience of the canals, of the same height, but in all cases so as to leave a depth of at least four feet of water in the level; and at least one waste-gate shall be constructed as nearly opposite to the mouth of every feeder taken into the canal as the convenient discharge of the water will permit.

Formerly L. 1894, ch. 338, § 177.

**§ 188. Regulations relating to the harbor at Whitehall.** The inspector and measurer of lumber and of boats and their cargoes at Whitehall, in the county of Washington, shall regulate and station all vessels, boats, rafts and other craft in the harbor of Whitehall, within the corporate limits of the village of Whitehall, and from time to time remove such vessels, boats or other craft as may not be employed or detained in discharging or receiving cargoes or loading, to accommodate other vessels, boats or other craft to load or unload; prevent all vessels, boats or other craft from obstructing for an unreasonable time the entrance of boats, rafts or other craft into the Champlain canal at Whitehall, and determine how far and in what instances the masters and others having charge of such vessels, boats, rafts or other craft shall accommodate each other in their respective situations and locations in such harbor.

A master or other person, having charge or control of any vessel, boat or raft within such limits, who neglects or refuses to obey the lawful direction of such inspector, or a person who resists or opposes him in the execution of his duties shall, for every such offense, forfeit and pay to the people of the state the sum of twenty-five dollars.

Formerly L. 1894, ch. 338, § 178.

**§ 189. Floating elevators.** Any person, joint company or stock corporation owning or leasing, in whole or in part, any



floating elevator used for loading grain, coal or sand, shall, upon application to and in the discretion of the superintendent of public works, be assigned a place for and permitted to keep said floating elevator in the waters, basins or canals of this state at such point as may be most convenient for and for such period of time as may be necessary for the transaction of the business of loading or unloading grain, coal or sand shipped or to be shipped on the canals; provided, however, that no obstruction to the free and uninterrupted use of the canals by boats navigating thereon shall be permitted. While such elevators are in operation, there shall be used in connection therewith an apron or other device to prevent such material from falling into such waters, basins or canals.

Formerly L. 1896, ch. 881, § 1.

**§ 190. Liability of boat for penalties; detention and sale thereof.** Every penalty and forfeiture prescribed by this article against the owner, master, boatman, navigator or other person having charge of any float, when incurred, shall be chargeable on such float, and an action for the recovery thereof may be brought against any person in the possession or having charge thereof at the time when it is commenced; and any court or judicial officer issuing the process for the commencement of such an action, may, by a clause to be inserted therein, direct the officer executing the same to detain such boat or float and the furniture and horses belonging thereto until such action is determined, or until adequate security is given for the payment of any judgment recovered. If such security be given, or the defendant in the action prevail, such court or officer shall order the boat or other float and property detained to be released. If no such security be given, and a judgment be recovered for such penalty or forfeiture, and not immediately paid, an execution shall be issued under which the property so detained may be sold in like manner as if the judgment had been obtained against the owner thereof.

Formerly L. 1894, ch. 338, § 179.

**§ 191. When bond must be given to secure detention of boat.** Whenever an action shall be brought to recover any penalty imposed by law for taking any rails, boards, planks or staves, from the banks or vicinity of a canal, in which a justice is authorized to direct the detention of any canal boat, he shall not indorse such direction on any warrant, unless a bond, as prescribed in this section, shall be executed and delivered to

---

§§ 192, 200, 201    Laws Repealed; When to Take Effect.    Arts. 10, 11

---

such justice. Such bond shall be in the penalty of at least one hundred dollars, with one or more sureties, to be approved by such justice, conditioned that such action shall be prosecuted to judgment with all convenient speed, and that if judgment be rendered in favor of the defendant, the obligors will pay the costs and charges which shall be adjudged against the plaintiff, and all damages which may ensue from the detention of such boat and the cargo thereof, and the crew navigating the same.

Formerly R. S., pt. 3, ch. 2, tit. 4, art. 2, §§ 23, 24, as added by L. 1828, ch. 20 (second meeting), § 1, ¶ 51.

**§ 192. Actions for penalties.** All actions for penalties and forfeitures imposed in this chapter, or for damages, in behalf of the state, shall be prosecuted in the name of the people of this state, by such persons and in such manner as the commissioners of the canal fund, in their regulations, direct. All money recovered in such actions shall be accounted for and paid over to such commissioners.

The imposition or recovery of any such penalty or forfeiture shall not be a bar to the recovery of any damages resulting to the state or an individual, because of such violation.

Formerly L. 1894, ch. 338, § 180.

## ARTICLE 11

### Laws Repealed; When to Take Effect

Section 200. Laws repealed.

201. When to take effect.

**§ 200. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

Formerly L. 1894, ch. 338, § 181.

**§ 201. When to take effect.** This chapter shall take effect immediately.

Formerly L. 1894, ch. 338, § 182.

Art. 11	Laws Repealed.	§ 200
---------	----------------	-------

## SCHEDULE OF LAWS REPEALED.

Revised Statutes.... Part 1, chapter 9, title 2, sections 10-12.  
 Revised Statutes.... Part 1, chapter 9, title 9,.....All  
 Revised Statutes.... Part 3, chapter 2, title 4, sections 23, 24.

Laws of	Chapter	Section
1811.....	188.....	All
1812.....	231.....	All
1814.....	200.....	43
1816.....	237.....	All
1817.....	262.....	2-4, 7, 8
1819.....	105.....	All
1820.....	202.....	All
1821.....	36.....	2-6
1821.....	240.....	14
1823.....	112.....	All
1823.....	218.....	All
1824.....	230.....	All
1824.....	279.....	All
1825.....	236.....	All
1825.....	271.....	All
1825.....	275.....	All
1826.....	314.....	1-19, 24-38
1827.....	219.....	1-29, 31-38, 40-43
1827.....	237.....	All
1827.....	334.....	All
1828.....	185.....	All
1828.....	290.....	All
1828.....	317.....	All
1828.....	20.....	15, ¶ 51 (2d Meet.)
1828.....	21.....	1, ¶¶ 241, 277, 306, 316, 384, 394, 451, 490, 511, 530, 537, 545 (2d Meet.)
1829.....	48.....	All
1829.....	72.....	All
1829.....	120.....	All
1829.....	135.....	All
1829.....	368.....	All
1829.....	376.....	3
1830.....	117.....	All
1830.....	293.....	All
1832.....	164.....	2, 3
1833.....	32.....	All
1833.....	80.....	All

§ 200	Laws Repealed.	Art. 11
Laws of	Chapter	Section
1833.....	196.....	All
1834.....	46.....	All
1834.....	139.....	All
1834.....	215.....	All
1834.....	276.....	17
1834.....	312.....	8
1835.....	21.....	All
1835.....	274.....	7
1836.....	84.....	All
1836.....	157.....	All
1836.....	257.....	All
1836.....	287.....	All
1836.....	451.....	All
1837.....	143.....	All
1837.....	451.....	All
1838.....	289.....	All
1838.....	292.....	All
1839.....	207.....	All
1839.....	262.....	All
1839.....	333.....	1
1840.....	201.....	All
1840.....	288.....	13-19
1840.....	292.....	All
1840.....	372.....	All
1841.....	160.....	All
1841.....	219.....	All
1841.....	274.....	All
1843.....	181.....	All
1844.....	278.....	All
1844.....	280.....	All
1845.....	6.....	All
1845.....	33.....	All
1846.....	246.....	All
1847.....	100.....	1, 2
1847.....	278.....	All
1848.....	72.....	All
1848.....	218.....	All
1849.....	214.....	2, 3
1849.....	348.....	All
1849.....	352.....	All
1849.....	363.....	All
1850.....	268.....	All

---

Art. 11	Laws Repealed.	§ 200
---------	----------------	-------

---

Laws of	Chapter	Section
1850.....	278.....	All
1850.....	371.....	All
1850.....	377.....	All
1851.....	57.....	All
1851.....	80.....	All
1851.....	181.....	5
1851.....	485.....	All
1852.....	246.....	All
1852.....	270.....	All
1853.....	52.....	All
1853.....	473.....	All
1854.....	38.....	All
1854.....	202.....	All
1854.....	327.....	All
1854.....	329.....	All
1854.....	332.....	All
1854.....	333.....	All
1854.....	338.....	All
1855.....	534.....	All
1855.....	535.....	1, 2, 4, 5
1855.....	554.....	All
1857.....	105.....	All
1857.....	538.....	All
1857.....	777.....	All
1859.....	16.....	All
1859.....	376.....	All
1859.....	495.....	All
1860.....	86.....	All
1860.....	213.....	1-5
1861.....	124.....	All
1861.....	332.....	All
1862.....	9.....	All
1862.....	164.....	3
1862.....	169.....	All
1862.....	348.....	All
1862.....	354.....	All
1862.....	415.....	All
1863.....	194.....	All
1864.....	252.....	All
1864.....	412.....	8
1865.....	477.....	All
1865.....	727.....	All

§ 200	Laws Repealed.	Art. 11
Laws of	Chapter	Section
1866.....	657.....	All
1866.....	794.....	All
1866.....	836.....	All
1867.....	71.....	All
1867.....	577.....	All
1867.....	752.....	All
1868.....	579.....	All
1870.....	55.....	All
1870.....	222.....	All
1870.....	321.....	All
1870.....	576.....	All
1870.....	655.....	All
1870.....	656.....	All
1871.....	653.....	All
1871.....	654.....	1, last two sentences
1871.....	668.....	All
1871.....	868.....	All
1871.....	903.....	All
1871.....	911.....	All
1872.....	550.....	All
1872.....	826.....	All
1873.....	480.....	All
1874.....	172.....	All
1875.....	260.....	1, last ¶
1875.....	499.....	All
1875.....	634.....	1, ¶ 71
1876.....	384.....	All
1876.....	385.....	All
1876.....	387.....	All
1876.....	388.....	All
1877.....	85.....	All
1877.....	309.....	4
1877.....	366.....	All
1877.....	371.....	All
1877.....	404.....	Part relating to abandonment of Seneca lake level, Chenango canal
1879.....	152.....	All
1879.....	269.....	All
1879.....	331.....	All
1879.....	522.....	Part relating to abandonment of Seneca lake level, Chenango canal

Art. 11

Laws Repealed.

§ 200

Laws of	Chapter	Section
1880.....	99.....	All
1880.....	161.....	All
1880.....	493.....	All
1881.....	27.....	All
1881.....	488.....	All
1881.....	536.....	All
1883.....	165.....	All
1883.....	244.....	All
1883.....	291.....	All
1884.....	294.....	All
1884.....	329.....	All
1884.....	336.....	1
1884.....	362.....	All
1885.....	92.....	All
1885.....	135.....	1
1885.....	355.....	All
1886.....	646.....	All
1887.....	113.....	All
1887.....	123.....	All
1887.....	169.....	All
1887.....	463.....	All
1887.....	528.....	All
1888.....	118.....	1, part from beginning of section and ending with "used for recording deeds"
1888.....	416.....	All
1889.....	110.....	All
1891.....	346.....	All
1891.....	366.....	All
1893.....	499.....	All
1894.....	338.....	All
1894.....	572.....	All
1896.....	188.....	All
1896.....	492.....	All
1896.....	881.....	All
1897.....	595.....	All
1898.....	75.....	All
1899.....	280.....	All
1900.....	211.....	All
1900.....	522.....	All
1901.....	413.....	All
1902.....	238.....	All

---

Laws of	Chapter	Section
1902.....	340.....	All
1904.....	14.....	All
1905.....	309.....	All
1906.....	257.....	All
1907.....	495.....	All
1908.....	88.....	All



# CIVIL RIGHTS LAW

---

## L. 1909, Ch. 14. "AN ACT relating to civil rights, constituting chapter six of the Consolidated Laws."

(In effect February 17, 1909.)

### CHAPTER 6 OF THE CONSOLIDATED LAWS

[This is a consolidation of general statutes the former location of which is noted under each section.]

- Article 1. Short title (§ 1).
2. Bill of rights (§§ 2-14).
  3. Privilege from arrest (§§ 20-26).
  4. Equal rights in places of public accommodation and amusement (§§ 40, 41).
  5. Right of privacy (§§ 50, 51).
  6. Laws repealed; when to take effect (§§ 60, 61).

#### ARTICLE 1

##### Short Title

Section 1. Short title.

§ 1. **Short title.** This chapter shall be known as the "Civil Rights Law."

[New.]

#### ARTICLE 2

##### Bill of Rights

- Section 2. Supreme sovereignty in the people.
3. Levying taxes and charges.
  4. Right to keep and bear arms.
  5. Military service by citizens.
  6. Exemption from military service.
  7. Quartering soldiers.
  8. Right of search and seizure.
  9. Freedom of elections.
  10. Justice to be administered without favor and speedily.
  11. Fines must be reasonable and imposed only for cause.

- Section 12. Rights of persons accused of crime.  
13. Right to serve on juries.  
14. Jurors not to be questioned for verdicts.

**§ 2. Supreme sovereignty in the people.** No authority can, on any pretence whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state.

Formerly R. S. pt. 1, ch. 4, § 1.

**§ 3. Levying taxes and charges.** No tax, duty, aid or imposition whatsoever, except such as may be laid by a law of the United States, can be taken or levied within this state, without the grant and assent of the people of this state, by their representatives in senate and assembly; and no citizen of this state can be by any means compelled to contribute to any gift, loan, tax, or other like charge, not laid or imposed by a law of the United States, or by the legislature of this state.

Formerly R. S., pt. 1, ch. 4, § 2.

**§ 4. Right to keep and bear arms.** A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms cannot be infringed.

Formerly R. S., pt. 1, ch. 4, § 3.

**§ 5. Military service by citizens.** No citizen of this state can be constrained to arm himself, or to go out of this state, or to find soldiers or men of arms, either horsemen or footmen, without the grant and assent of the people of this state, by their representatives in senate and assembly, except in the cases specially provided for by the constitution of the United States.

Formerly R. S., pt. 1, ch. 4, § 4.

**§ 6. Exemption from military service.** All such inhabitants of this state of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, are to be excused therefrom by paying to the state an equivalent in money; and the legislature is required to provide by law for the collection of such equivalent, to be estimated according to the expense, in time and money, of an ordinary able-bodied militiaman.

Formerly R. S. pt. 1, ch. 4, § 5.

**§ 7. Quartering soldiers.** No soldier can in time of peace be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Formerly R. S., pt. 1, ch. 4, § 6.

**§ 8. Right of search and seizure.** The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, ought not to be violated; and no warrants can issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Formerly R. S. pt. 1. ch. 4, § 11.

**§ 9. Freedom of elections.** All elections ought to be free; and no person by force of arms, malice, menacing, or otherwise, should presume to disturb or hinder any citizen of this state in the free exercise of the right of suffrage.

Formerly R. S., pt. 1, ch. 4, § 18.

**§ 10. Justice to be administered without favor and speedily.** Neither justice nor right should be sold to any person, nor denied, nor deferred; and writs and process ought to be granted freely and without delay, to all persons requiring the same, on payment of the fees established by law.

Formerly R. S., pt. 1, ch. 4, § 15.

**§ 11. Fines must be reasonable and imposed only for cause.** No citizen of this state ought to be fined or amerced without reasonable cause, and such fine or amercement should always be proportioned to the nature of the offense.

Formerly R. S., pt. 1. ch. 4, § 16.

**§ 12. Rights of persons accused of crime.** In all criminal prosecutions, the accused has a right to a speedy and public trial, by an impartial jury, and is entitled to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; and to have compulsory process for obtaining witnesses in his favor. An alien is not entitled to a jury, composed in part of aliens or strangers, in an action or special proceeding civil or criminal.

First sentence formerly R. S., pt. 1, ch. 4, § 14. Second sentence formerly Code Civil Procedure, § 1190 part.

**§ 13. Right to serve on juries.** No citizen of the state possessing all other qualifications which are or may be required or prescribed by law, shall be disqualified to serve as grand or petit juror in any court of this state on account of race, creed or color, and any person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor and be fined not less than one

hundred dollars nor more than five hundred dollars or imprisoned not less than thirty days, nor more than ninety days, or both such fine and imprisonment.

Formerly L. 1895, ch. 1042, § 3.

**§ 14. Jurors not to be questioned for verdicts.** A juror shall not be questioned, and is not subject to an action, or other liability civil or criminal, for a verdict rendered by him, in an action in a court of record, or not of record, or in a special proceeding before an officer, except by indictment, for corrupt conduct, in a case prescribed by law.

Formerly Code Civil Procedure, § 1192.

## ARTICLE 3

### Privilege from Arrest

Section 20. No imprisonment for non-payment of costs in certain cases.

21. No imprisonment for non-payment of money pursuant to judgment or order requiring payment of money due upon contract.

22. Privilege of officers and prisoner from arrest while passing through another county.

23. No person to be arrested in civil proceedings without a statutory provision.

24. Privilege from arrest of officers of courts of record.

25. Witness exempt from arrest.

26. Action against officer making arrest of exempt person.

**§ 20. No imprisonment for non-payment of costs in certain cases.** A person shall not be arrested or imprisoned, for the non-payment of costs, awarded otherwise than by a final judgment, or a final order, made in a special proceeding instituted by state writ, except where an attorney, counselor, or other officer of the court, is ordered to pay costs for misconduct as such, or a witness is ordered to pay costs on an attachment for non-attendance.

Formerly Code Civil Procedure, § 15.

**§ 21. No imprisonment for non-payment of money pursuant to judgment or order requiring payment of money due upon contract.** Except in a case where it is otherwise specially prescribed by law, a person shall not be arrested or imprisoned for disobedience to a judgment or order,

requiring the payment of money due upon a contract, express or implied, or as damages for non-performance of a contract.

Formerly Code Civil Procedure, § 16.

**§ 22. Privilege of officers and prisoner from arrest while passing through another county.** A prisoner conveyed to jail through another county pursuant to section one hundred and eighteen of the code of civil procedure, or the officer having him in custody, is not liable to arrest in any civil action or special proceeding, while passing through another county.

Formerly Code Civil Procedure, § 119.

**§ 23. No person to be arrested in civil proceedings without a statutory provision.** A person shall not be arrested in a civil action or special proceeding, except as prescribed by statute. The writ of ne exeat is abolished.

Formerly Code Civil Procedure, § 548.

**§ 24. Privilege from arrest of officers of courts of record.** An officer of a court of record, appointed or elected pursuant to law, is privileged from arrest, during the actual sitting, which he is required to attend, of a term of the court of which he is an officer, and no longer; but an attorney or counselor is not thus privileged, unless he is employed in a cause, to be heard at that term.

Formerly Code Civil Procedure, § 565.

**§ 25. Witness exempt from arrest.** A person duly and in good faith subpoenaed or ordered to attend, for the purpose of being examined, in a case where his attendance may lawfully be enforced by attachment or by commitment, is privileged from arrest in a civil action or special proceeding, while going to, remaining at, and returning from, the place where he is required to attend. An arrest, made contrary to the provisions of this section, is absolutely void and is a contempt of the court, if any, from which the subpoena was issued, or by which the witness was directed to attend.

Formerly Code Civil Procedure, § 860 and § 863 part.

**§ 26. Action against officer making arrest of exempt person.** An action may be maintained, by the person arrested, against the officer or other person making an arrest contrary to the provisions of the last section, in which the plaintiff is entitled to recover treble damages. A similar action

may also be maintained, in a like case, by the party in whose behalf the witness was subpoenaed, or the order procured, to recover the damages sustained by him, in consequence of the arrest. But a sheriff, or other officer, or person, is not so liable, unless the person claiming an exemption from arrest, makes, if required by the sheriff or officer, an affidavit, to the effect that he was legally subpoenaed or ordered to attend, and that he was not so subpoenaed or ordered by his own procurement, with the intent of avoiding arrest. In his affidavit he must specify the court or officer, the place of attendance, and the cause in which he was so subpoenaed or ordered. The affidavit may be taken before the officer arresting him, and exonerates the officer from liability for not making the arrest.

Formerly Code Civil Procedure, § 863 part and § 864.

#### ARTICLE 4

### Equal Rights in Places of Public Accommodation and Amusement

Section 40. Equal rights in places of public accommodation or amusement.

41. Penalty for violation.

**§ 40. Equal rights in places of public accommodation or amusement.** All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of inns, restaurants, hotels, eating-houses, bath-houses, barber-shops, theaters, music halls, public conveyances on land and water, and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens.

Formerly L. 1895, ch. 1042, § 1.

**§ 41. Penalty for violation.** Any person who shall violate any of the provisions of the foregoing section by denying to any citizens, except for reasons applicable alike to all citizens of every race, creed or color, and regardless of race, creed and color, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offense forfeit and pay a sum not less than one hundred dollars nor more than five hundred dollars to the person aggrieved thereby, to be recovered in any court of competent jurisdiction in the county where said

offense was committed; and shall, also, for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or shall be imprisoned not less than thirty days nor more than ninety days, or both such fine and imprisonment.

Formerly L. 1895, ch. 1042, § 2.

## ARTICLE 5

### Right of Privacy

Section 50. Right of privacy.

51. Action for injunction and for damages.

**§ 50. Right of privacy.** A person, firm or corporation that uses for advertising purposes, or for the purposes of trade, the name, portrait or picture of any living person without having first obtained the written consent of such person, or if a minor of his or her parent or guardian, is guilty of a misdemeanor.

Formerly L. 1903, ch. 132, § 1.

**§ 51. Action for injunction and for damages.** Any person whose name, portrait or picture is used within this state for advertising purposes or for the purposes of trade without the written consent first obtained as above provided may maintain an equitable action in the supreme court of this state against the person, firm or corporation so using his name, portrait or picture, to prevent and restrain the use thereof; and may also sue and recover damages for any injuries sustained by reason of such use, and if the defendant shall have knowingly used such person's name, portrait or picture in such manner as is forbidden or declared to be unlawful by the last section, the jury, in its discretion, may award exemplary damages.

Formerly L. 1903, ch. 132, § 2.

## ARTICLE 6

### Laws Repealed; When to Take Effect

Section 60. Laws repealed.

61. When to take effect.

**§ 60. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

[New.]

§§ 60, 61

Laws Repealed; When to Take Effect.

Art. 6

**§ 61. When to take effect.** This chapter shall take effect immediately.

## SCHEDULE OF LAWS REPEALED.

Revised Statutes.... Part 1, chapter 4, .... All  
 Revised Statutes.... Part 1, chapter 20, title 7 .... All

Laws of	Chapter	Section
1785.....	68.....	6-10
1787.....	1.....	All
1787.....	2.....	All
1788.....	40.....	All
1788.....	46.....	36
1790.....	28.....	All
1798.....	27.....	All
1799.....	62.....	All
1801.....	188.....	All
1804.....	40.....	All
1807.....	77.....	All
1809.....	44.....	2, 3
1810.....	115.....	All
1810.....	193.....	23, 24
R. L. 1813 ...	88.....	All
1813.....	203.....	29
1817.....	137.....	All
1819.....	141.....	All
1828.....	21.....	1, ¶¶ 1, 6, 280 (2d Meet.)
1841.....	247.....	All
1869.....	802.....	All
1873.....	186.....	All
1881.....	400.....	All
1883.....	36.....	All
1895.....	927.....	All
1895.....	1042.....	All
1903.....	132.....	All
1907.....	593.....	All

Code Civil Procedure, §§ 15, 16, 119, 548, 565, 860, 863, 864;  
 1190, second sentence; 1192



# CIVIL SERVICE LAW

---

**L. 1909, Ch. 15.** "An Act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the Consolidated Laws."

(In effect February 17, 1909.)

## CHAPTER 7 OF THE CONSOLIDATED LAWS

[Formerly L. 1899, Ch. 370, being chapter 3 of the General Laws.]

- Article 1. Short title; definitions (§§ 1, 2).  
2. General provisions (§§ 3-28).  
3. Classification of state employees (§§ 40-45).  
4. Laws repealed; when to take effect (§§ 60, 61).

### ARTICLE 1

#### Short Title; Definitions

- Section 1. Short title.  
2. Definitions.

**§ 1. Short title.** This chapter shall be known as the "Civil Service Law."

Formerly L. 1899, ch. 370, § 1, as am'd by L. 1900, ch. 195, § 1.

**§ 2. Definitions.** When used in this chapter,

1. The term "commission" or "state commission" means the state civil service commission.
2. The term "municipal commission" means the municipal civil service commission of a city.
3. The "civil service" of the state of New York or any of its civil divisions or cities includes all offices and positions of trust or employment in the service of the state or of such civil division or city, except such offices and positions in the militia and the military departments as are or may be created under the provisions of article eleven of the constitution.
4. The "state service" shall include all such offices and positions in the service of the state or of any of its civil divisions **except a city.**

**Explanation.**—For location and disposition of former sections of Civil Service Law see L. 1899, Ch. 370, in "Consolidated Schedule of Repeals," Vol. 7.

5. The "city service" shall include such positions in the service of any city.

6. The term "appointing officer" signifies the officer, commission, board or body having the power of appointment to subordinate positions in any office, court, department, commission, board or institution.

Formerly L. 1890, ch. 370, § 2.

## ARTICLE 2

### General Provisions

- Section 3. State civil service commission.
4. Officers and employees of the commission.
  5. Rooms and accommodations.
  6. The powers and duties of the commission.
  7. Attendance of witnesses; fees.
  8. Duties of public officers.
  9. Unclassified service; classified service.
  10. Rules for the classified state service.
  11. The classified city service.
  12. Classification.
  13. The exempt class.
  14. The competitive class.
  15. Exceptions from competitive examination.
  16. Promotion; transfer; reinstatement; reduction.
  17. The non-competitive class.
  18. The labor class in cities.
  19. Official roster; reports of appointing officers.
  20. Disbursing officers.
  21. Preferences allowed honorably discharged soldiers, sailors and marines.
  22. Power of removal limited.
  23. Compensation of veterans reinstated by order of the courts.
  24. Misdemeanor to obstruct right of examination; false representation; impersonation in examination.
  25. Recommendations for appointment or promotion.
  26. Political assessments prohibited.
  27. Officers or candidates not to promise influence; "public officer" and "public employee" defined.
  28. Taxpayer's action.

§ 3. State civil service commission. The governor is authorized to appoint, by and with the advice and consent of

the senate, three persons, not more than two of whom shall be adherents of the same political party, as civil service commissioners, and said three commissioners shall constitute the state civil service commission. They shall hold no other official place under the state of New York. The governor may remove any commissioner, and any vacancy in the position of commissioner shall be so filled by the governor, by and with the advice and consent of the senate, as to conform to said conditions for the first selection of commissioners. The three commissioners shall each receive a salary of three thousand dollars a year, and each of said commissioners shall be paid his necessary traveling expenses incurred in the discharge of his duty as a commissioner.

Formerly L. 1899, ch. 370, § 3, as am'd by L. 1900, ch. 66, § 1.

**§ 4. Officers and employees of the commission.** The commission may elect one of its members to be president, and may employ a chief examiner, a secretary and such other officers, clerks and examiners as it may deem necessary or proper to carry out the purposes of this chapter, and such employees shall hold office during the pleasure of the commission. The chief examiner shall be entitled to receive a salary at the rate of three thousand six hundred dollars a year, and he shall be paid his necessary traveling expenses incurred in the discharge of his duty. The secretary, and other officers, clerks and examiners shall receive salaries to be fixed by the commission, and the secretary shall also be paid his necessary traveling expenses incurred in the discharge of his duty. The commission may select suitable persons in the official service of the state or any of its civil divisions, after consulting the head of the department or office in which such persons serve, to act as examiners under its direction. Persons so selected shall be entitled to compensation from the commission for their necessary expenses occasioned by the service actually rendered, in addition to the regular service required in the department or office where they are regularly employed. The compensation of examiners shall not exceed five dollars per day, except in the case of special and expert examiners employed in the preparation of questions and rating of candidates; the commission shall not expend or authorize the expenditure of moneys for any purpose in excess of the sums appropriated therefor by law.

Formerly L. 1899, ch. 370, § 4.

**§ 5. Rooms and accommodations.** It shall be the duty of the trustees of public buildings to cause suitable and convenient rooms and accommodations to be assigned or provided, and to be furnished, heated and lighted, at the capitol in the city of Albany,

for carrying on the work and examinations of said commission, and said commission may order the necessary stationery, postage stamps, and official seal and other articles to be supplied, and the necessary printing to be done for its official use. It shall be the duty of the officers of the state of New York or of any civil division thereof, at any place where examinations are directed by the commission or its rules to be held, to allow the reasonable use of public buildings, and to heat and light the same for holding such examinations, and in all proper ways to facilitate the same.

Formerly L. 1899, ch. 370, § 5.

**§ 6. The powers and duties of the commission.**

The state civil service commission shall

1. Prescribe, amend and enforce suitable rules and regulations for carrying into effect the provisions of this chapter and of section nine of article five of the constitution of the state of New York, as herein provided. The rules prescribed by the state and municipal commissions pursuant to the provisions of this chapter shall have the force and effect of law.

2. Keep minutes of its own proceedings and records of its examinations and other official action.

3. Make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter and the rules and regulations prescribed thereunder, concerning the action of any examiner or subordinate of the commission and any person in the public service, in respect to the execution of this chapter, and in the course of such investigations each commissioner and the secretary and the chief examiner shall have power to administer oaths.

4. Have power to subpoena and require the attendance in this state of witnesses and the production thereby of books and papers pertinent to the investigation and inquiries hereby authorized and to examine them and such public records as it shall require in relation to any matter which it is required to investigate. And for the purposes of the examination hereby directed, the commission possesses all the powers conferred by the legislative law upon a committee of the legislature or by the code of civil procedure upon a board or committee, and may invoke the power of any court of record in the state to compel the attendance and testifying of witnesses and the production thereby of books and papers as aforesaid.

5. Make an annual report to the governor for transmission to the legislature, showing its own action, the rules and regulations and the exceptions thereto in force, and the practical effects thereof

and any suggestions it may approve for the more effectual accomplishment of the purposes of this chapter.

6. Meet in Albany at least once in each calendar month, except the month of August, and hold such other meetings as the needs of the public service may require. A majority of the members of the commission shall constitute a quorum.

Formerly L. 1899, ch. 370, § 6.

**§ 7. Attendance of witnesses; fees.** Witnesses and officers to subpoena and secure the attendance of witnesses before said commission, shall be entitled to the same fees as are allowed witnesses in civil cases in courts of record. Such fees need not be prepaid, but the comptroller shall draw his warrant for the payment of the amount thereof, when the same shall have been certified to by the president of the commission, and duly proved by affidavit or otherwise to the satisfaction of the said comptroller; and all state, county, town, municipal and other officers and their deputies, clerks, subordinates and employees shall afford the said board all reasonable facilities in conducting the inquiries specified in this chapter, and give inspection to said board of all books, papers and documents belonging, or in any way appertaining to the respective offices, and shall also produce said books and papers, and shall attend and testify when required to do so by said commission.

Formerly L. 1899, ch. 370, § 26

**§ 8. Duties of public officers.** It shall be the duty of all officers of the state of New York or of any civil division or city thereof to conform to and comply with and to aid in all proper ways in carrying into effect the provisions of this chapter, and the rules and regulations prescribed thereunder and any modification thereof. No officer or officers having the power of appointment or employment shall select or appoint any person for appointment, employment, promotion or reinstatement except in accordance with the provisions of this chapter and the rules and regulations prescribed thereunder. Any person employed or appointed contrary to the provisions of this chapter or of the rules and regulations established thereunder, shall be paid by the officer or officers so employing or appointing, or attempting to employ or appoint him, the compensation agreed upon for any services performed under such appointment or employment, or in case no compensation is agreed upon, the actual value of such services, and any expenses incurred in connection therewith, and shall have a cause of action against such officer or officers or any of them for such sum

or sums and for the costs of the action. No public officer shall be reimbursed by the state or any of its civil divisions for any sums so paid or recovered in any such action.

Formerly L. 1899, ch. 370, § 7.

**§ 9. Unclassified service; classified service.** The civil service of the state and of each of its civil divisions and cities shall be divided into the unclassified service and the classified service. The unclassified service shall comprise all elective offices, all offices filled by election or appointment by the legislature on joint ballot; all persons appointed by name in any statute; all legislative officers and employees, all offices filled by appointment by the governor, either upon or without confirmation by the senate, except officers and employees in the executive offices; all election officers, the head or heads of any department of the government, and persons employed in or who seek to enter the public service as superintendents, principals or teachers in a public school or academy or in a state normal school or college. The classified service shall comprise all positions not included in the unclassified service. All appointments or employments in the classified service, except those of veterans of the civil war, honorably discharged from the military or naval service of the United States, shall be for a probationary term not exceeding the time fixed in the rules.

Formerly L. 1899, ch. 370, § 8, as am'd by L. 1902, ch. 270, § 1.

**§ 10. Rules for the classified state service.** The commission shall from time to time make rules for the classification of the offices, places and employments in the classified service of the state, and from time to time rules for the classification of the offices, places and employments in such civil divisions thereof, except cities, as after due inquiry by the commission shall be found practicable, and for appointments and promotions therein and examinations therefor, not inconsistent with the constitution and the provisions of this chapter, and shall amend the same from time to time. No examination or registration shall be required of persons to be employed as laborers in the state service. Such rules and any modifications thereof, shall take effect when approved by the governor. Due notice of the contents of such rules, and of any modifications thereof, shall be given by mail to appointing officers and heads of departments affected thereby, and such rules shall be printed for public distribution. Subject to the provisions of this chapter and of the rules established thereunder, the commission shall make regulations for and have control of examinations for the service of the

state and the civil divisions thereof, except cities, and shall supervise and preserve the records of the same, but such examinations shall be held at least once a year in each of the following places: Albany, Amsterdam, Auburn, Binghamton, Buffalo, Dunkirk, Elmira, Geneva, Hornell, Ithaca, Jamestown, Johnstown, Kingston, Lockport, Malone, Middletown, Newburg, New York, Ogdensburg, Olean, Oneonta, Oswego, Plattsburg, Poughkeepsie, Rochester, Saratoga, Syracuse, Utica and Watertown; and shall cover in each place all offices and positions for which competitive examinations are required, except such examinations as require special tools, machinery, appliances or laboratory facilities.

Formerly L. 1899, ch. 370, § 9.

**§ 11. The classified city service.** The mayor of each city in this state shall appoint and employ suitable persons to prescribe, amend and enforce rules for the classification of the offices, places and employments in the classified service of such city, and for appointments and promotions therein and examinations therefor; and for the registration and selection of laborers for employment therein, not inconsistent with the constitution and the provisions of this chapter, and shall amend the same from time to time. Such persons shall be municipal civil service commissioners and shall constitute the municipal civil service commission of such city. All appointments or designations of municipal civil service commissioners shall be made in such manner that not more than two-thirds of such commissioners in any city shall at any time be adherents of the same political party. Such rules herein prescribed and established, and all regulations now existing for appointment and promotion in the civil service of said city, and any subsequent modification thereof, whether prescribed under the authority of a general law or of any special or local law, shall be valid and take or continue in effect only upon the approval of the mayor of the city and of the state civil service commission. The authority by this section conferred shall not be so exercised as to take from any policeman or fireman any right or benefit conferred by law, or existing under any lawful regulation of the department in which he serves. All examinations herein authorized shall be public, and all rules shall be published, and, with all the proceedings and papers connected with said examinations, shall be at all times subject to the inspection of said state commission and its agents; and said commission shall set forth in its report the character and practical effects of such examinations, together with its

views as to the improvement and extension of the same, and also copies of all rules made under the authority hereby conferred. Subject to the provisions of this chapter and of said rules, the municipal commission of any city shall make regulations for and have control of examinations and registrations for the service of such city, and shall supervise and preserve the records of the same. In case for any reason, the mayor of any city within sixty days after he has the power to appoint, fails to appoint such municipal commissioners, the state commission shall appoint them to hold office until the expiration of the term of the mayor then in office and until their successors are appointed and qualify. It shall be the duty of such persons to prepare and to procure the approval of the rules herein provided for, and, if they fail to do so within sixty days after their appointment, the state commission shall forthwith make said rules. It shall be the duty of such persons to make reports from time to time to the state commission, whenever said commission may request, of the manner in which this law, and the rules and regulations thereunder, have been and are administered, and the results of their administration in such city, and of such other matters as said commission may require, and annually on or before the fifteenth day of January, to make such a report to said commission; and it shall be the duty of said state commission in its annual report to set out either these reports, or a sufficient abstract or summary thereof, to give full and clear information as to their contents. A copy of the roster of the classified civil service of such city shall be transmitted to the state commission with the annual report aforesaid, and shall be filed in the office of said commission as a public record. The mayor may at any time remove any municipal civil service commissioner appointed by him. Said state commission may also, by unanimous vote of the three commissioners, with the written approval of the governor, remove any municipal civil service commissioner appointed or employed under the authority of this section, for incompetency, inefficiency, neglect of duty or violation of the provisions of this chapter, or of the rules and regulations in force thereunder, or of any of them, specifying in writing the particulars of the incompetency, inefficiency, neglect of duty or violation charged, and filing the same as a public document in the office of the city clerk, or if there be no city clerk, in the office of the clerk of the board of aldermen, and a certified transcript thereof in the office of the state civil service commission, first giving such commissioner an opportunity to make a personal explanation in self-defense. Whenever a municipal civil service commissioner has been removed



by the unanimous vote of the three state commissioners, with the written approval of the governor, or whenever any municipal commissioner shall resign or be removed by the mayor pending an investigation by the state commission of the administration of the civil service of the city in which such person is a municipal commissioner, or whenever any municipal commissioner shall resign or be removed by the mayor pending a hearing by the state commission of charges preferred against such municipal commissioner, the state commission and not the mayor of such city shall have power to appoint persons to fill such vacancies, and such persons so appointed by the state commission shall hold office as municipal civil service commissioners of such city until the expiration of the term of the mayor then in office and until their successors are appointed and qualify. Said state commission may at any time, by unanimous vote of the three commissioners, amend or rescind any rule, regulation or classification prescribed under the provisions of this section, provided that said state commission shall state the reasons for such action in writing, and file the same and a certified transcript thereof as a public document as hereinbefore provided, and give an opportunity to the municipal civil service commissioners concerned to make a personal explanation and to file papers in opposition to such action. The said state commission, however, shall not take such action upon any ground other than that the provisions or purposes of this chapter are not properly or sufficiently carried out by such rule, regulation or classification, nor without specifying in writing and detail in what particular such provisions or purposes are not carried out, nor shall said state commission exempt from competitive examination any position or place or employment in any city without the consent of the municipal commission of such city.

Formerly L. 1899, ch. 370, § 10, as am'd by L. 1900, ch. 675, § 1.

**§ 12. Classification.** The offices and positions in the classified service of the state or of any civil division or city thereof for which civil service rules shall be established pursuant to this chapter, shall be arranged in four classes to be designated as the exempt class, the competitive class, the non-competitive class and, in cities, the labor class.

Formerly L. 1899, ch. 370, § 11.

**§ 13. The exempt class.** The following positions shall be included in the exempt class:

1. The deputies of principal executive officers authorized by law to act generally for and in place of their principals;
2. One secretary of each officer, board and commission authorized by law to appoint a secretary;

3. One clerk, and one deputy clerk, if authorized by law, of each court, and one clerk of each elective judicial officer ;

4. In the state service, all unskilled laborers and such skilled laborers as are not included in the competitive class or the non-competitive class ; and in addition thereto there may be included in the exempt class all other subordinate offices for the filling of which competitive or non-competitive examination may be found to be not practicable. But no office or position shall be deemed to be in the exempt class unless it is specifically named in such class in the rules, and the reasons for each such exemption shall be stated separately in the annual reports of the commission. Not more than one appointment shall be made to or under the title of any such office or position, unless a different number is specifically mentioned in such rules. Appointments to positions in the exempt class may be made without examination.

Formerly L. 1899, ch. 370, § 12.

**§ 14. The competitive class.** The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examination, and shall include all positions now existing, or hereafter created, of whatever functions, designations or compensation, in each and every branch of the classified service, except such positions as are in the exempt class, the non-competitive class or the labor class. Appointments shall be made to or employment shall be given in all positions in the competitive class that are not filled by promotion, reinstatement, transfer or reduction under the provisions of this chapter, and the rules in pursuance thereof, by appointment from among those graded highest in open competitive examinations conducted by the state or municipal commission, except as herein otherwise provided. The term of eligibility shall be fixed for each eligible list at not less than one nor more than four years. Appointment shall be made from the eligible list most nearly appropriate for the group in which the position to be filled is classified, and a new list shall be created for a stated position or group of positions only when there is no appropriate list existing from which appointment may be made. No person shall be appointed or employed under any title not appropriate to the duties to be performed, and no person shall be transferred to, or assigned to perform the duties of, any position subject to competitive examination, unless he shall have previously passed an open competitive examination equivalent to that required for such position, or unless he shall have served with fidelity for at least three years in a similar position. Appoint-

ments to positions in the state service, the duties of which are confined to a locality outside of Albany county, shall, so far as practicable, be made from residents of the judicial district including such locality. The examinations shall be public and shall be practical in their character and shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of that service into which they seek to be appointed. Such commissions shall prepare lists of preliminary requirements and subjects of examination for the several positions or groups of positions in the competitive class and shall publish their rules and such information, and advertise such examinations in such manner as the nature of the examinations may require. Each of such commissions shall require intending competitors to file in its office a reasonable length of time before the date of any examination, a formal application in which the applicant shall state under oath:

1. His full name, residence and post-office address.
2. His age and the place and date of his birth.
3. His health and physical capacity for the public service.
4. His right of preference by reason of military or naval service.
5. His business or employment, and residence for at least the previous five years.
6. Such other information as may reasonably be required touching the applicant's merit and fitness for the public service.

Blank forms for such applications shall be furnished by said commissions without charge to all persons requesting the same. Such commissions may require in connection with such application such certificates of citizens, physicians, public officers or others having knowledge of the applicant, as the good of the service may require. Such commissions may refuse to examine an applicant, or after examination to certify an eligible, who is found to lack any of the established preliminary requirements for the examination or position for which he applies; or who is physically so disabled as to be rendered unfit for his performance of the duties of the position to which he seeks appointment; or who is addicted to the habitual use of intoxicating beverages to excess; or who has been guilty of a crime or of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has intentionally made a false statement of any material fact, or practiced, or attempted to practice, any deception or fraud in his application, in his examination, or in securing his eligibility or appointment. When the position to be filled involves fiduciary responsibility,

the appointing officer, where permitted by law, may require the appointee to furnish a bond or other security and shall notify the state or municipal commission of the amount and necessary details thereof.

Formerly L. 1899, ch. 370, § 13.

**§ 15. Exemptions from competitive examination.**

Positions in the competitive class may be filled without examination as follows:

1. Whenever there are urgent reasons for filling a vacancy in the competitive class and there is no list of persons eligible for appointment after competitive examination, the appointing officer may nominate a person to the state or municipal commission for non-competitive examination, and if such nominee shall be certified by such commission as qualified after such non-competitive examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination, but such provisional appointment shall not continue for a longer period than two months, nor shall successive temporary appointments be made to the same position under this subdivision.

2. In case of a vacancy in a position in the competitive class where peculiar and exceptional qualifications of a scientific, professional or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can be best filled by the selection of some designated person of high and recognized attainments in such qualities, the state or municipal commission may suspend the provisions of the rule requiring competition in such case, but no such suspension shall be general in its application to such place, and all such cases of suspension shall be reported in the annual reports of such commissions with the reasons for the same.

3. When the services to be rendered by an appointee in the state service are for a temporary period not to exceed one month and the need of such service is important and urgent, the appointing officer may select for such temporary service any person on the proper list of those eligible for a permanent appointment without regard to his standing on such list.

Formerly L. 1899, ch. 370, § 14, as am'd by L. 1902, ch. 355, § 1.

**§ 16. Promotion; transfer; reinstatement; reduction.** Vacancies in positions in the competitive class shall be filled, so far as practicable, by promotion from among persons holding positions in a lower grade in the department, office or institution in which the vacancy exists. Promotions shall be based

upon merit and competition and upon the superior qualifications of the person promoted as shown by his previous service, due weight being given to seniority. For the purposes of this section an increase in the salary or other compensation of any person holding an office or position within the scope of the rules in force hereunder beyond the limit fixed for the grade in which such office or position is classified, shall be deemed a promotion. No promotion, transfer or reinstatement shall be made from a position in one class to a position in another class unless the same be specially authorized by the state or municipal commission, nor shall a person be promoted or transferred to a position for original entrance to which there is required by this chapter or the rules an examination involving essential tests or qualifications different from or higher than those required for original entrance to the position held by such person, unless he shall have passed the examination or attained a place upon the eligible list for such higher position.

Formerly L. 1899, ch. 370, § 15.

**§ 17. The non-competitive class.** The non-competitive class shall include such positions as are not in the exempt class or the labor class and which it is impracticable to include in the competitive class. Appointments to positions in the non-competitive class shall be made after such non-competitive examination as is prescribed by the rules.

Formerly L. 1899, ch. 370, § 16.

**§ 18. The labor class in cities.** The labor class in cities shall include unskilled laborers and such skilled laborers as are not included in the competitive class or the non-competitive class. Vacancies in the labor class in cities shall be filled by appointment from lists of applicants registered by the municipal commissions. Preference in employment from such lists shall be given according to date of application. There shall be separate lists of applicants for different kinds of labor or employment, and the commissions may establish separate labor lists for various institutions and departments. Where the labor service of any department or institution extends to separate localities, the commissions may provide separate registration lists for each district or locality. The commissions shall require an applicant for registration for the labor service to furnish such evidence or pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, skill, capacity and experience in the trade or employment for which he applies.

Formerly L. 1899, ch. 370, § 17.

**§ 19. Official roster; reports of appointing officers.**

No person shall be appointed to or employed in any position in the classified service of the state or of any civil division or city thereof for which rules have been prescribed pursuant to the provisions of this chapter, until he has passed an examination or is shown to be especially exempted from such examination in conformity with such rules and the provisions of this chapter. It shall be the duty of each appointing officer of the state or any such civil division thereof, except cities, to report to the state civil service commission forthwith upon such appointment or employment the name of such appointee or employee, the title and character of his office or employment, the date of the commencement of service by virtue thereof and the salary or compensation thereof, and to report from time to time and upon the date of official action in or knowledge of each case, any separation of a person from the service, or other change therein, and such other information as the commission may require, in order to keep the roster hereinafter mentioned. The commission shall keep in its office an official roster of the classified civil service of the state and of each of the civil divisions thereof for which rules have been prescribed pursuant to this chapter, except cities, and shall enter thereon the name of each and every person who has been appointed to, employed, promoted or reinstated in any position in such service, upon such evidence as it may require or deem satisfactory that such person was appointed to, promoted or reinstated in the service in conformity with the provisions of law and the rules prescribed pursuant to this chapter. The official roster shall show opposite or in connection with each name the date of appointment, employment, promotion or reinstatement, the compensation of the position, the date of commencement of service, and date of transfer in or separation from service by dismissal, resignation, cancellation of appointment or death. In like manner the municipal commission of each city shall keep in its office an official roster of the classified civil service of such city, and shall enter thereon the name of each and every person who has been appointed to, employed, promoted or reinstated in any position in such service, upon such evidence as it may require or deem satisfactory that such person was appointed to, or employed, promoted or reinstated in the service in conformity with the provisions of law and of the rules, and it shall be the duty of each appointing officer of such city to report to such municipal commission in like manner as is hereinbefore provided for reports from appointing officers to the state commission.

Formerly L. 1899, ch. 370, § 18.

**§ 20. Disbursing officers.** It shall be unlawful for the comptroller or other fiscal officer of the state or any civil division or city thereof for which civil service rules have been prescribed pursuant to this chapter, to draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the treasurer or other disbursing officer of the state or such civil division or city thereof, for the payment of, or for the treasurer or other disbursing officer of the state or of such civil division or city thereof, to pay any salary or compensation to any officer, clerk or other person in the classified service of the state or of such civil division or city thereof, unless an estimate, payroll or account for such salary or compensation, containing the names of the persons to be paid, shall bear the certificate of the state civil service commission, or in case of the service of a city, the certificate of the municipal civil service commission of such city, that the persons named in such estimate, payroll or account have been appointed or employed or promoted in pursuance of law and of the rules made in pursuance of law. Any officer, clerk or other person entitled to be certified by said commission, or either of them, to the comptroller, treasurer or other fiscal or disbursing officer of the state or any city or civil division thereof, as having been appointed or employed in pursuance of law and of the rules made in pursuance of law, and refused such certificate, may maintain a proceeding by mandamus to compel such commission or commissions to issue such certificate. Any sums paid contrary to the provisions of this section may be recovered from any officer or officers making such appointment in contravention of the provisions of law and of the rules made in pursuance of law, or any officer signing or countersigning, or authorizing the signing or countersigning of any warrant for the payment of the same, and from the sureties on his official bond, in an action in the supreme court of the state, maintained by a citizen resident therein, who is assessed for and is liable to pay, or within one year before the commencement of the action, has paid a tax therein. All moneys recovered in any action brought under the provisions of this section must, when collected, be paid into the treasury of the state or such civil division thereof, except that the plaintiff in any such action shall be entitled to receive for his own use the taxable costs of such action. *Am'd by L. 1909, ch. 240, § 8.*

Formerly L. 1899, ch. 370, § 19.

**§ 21. Preferences allowed honorably discharged soldiers, sailors and marines.** In every public depart-

ment and upon all public works of the state of New York and of the cities, counties, towns and villages thereof, honorably discharged soldiers, sailors and marines from the army and navy of the United States in the late civil war who are citizens and residents of this state, shall be entitled to preference in appointment and promotion without regard to their standing on any list from which such appointment or promotion may be made to all competitive and non-competitive positions provided their qualifications and fitness shall have been ascertained as provided in this chapter and the rules and regulations in pursuance thereof; and a person thus preferred shall not be disqualified from holding any position in the civil service on account of his age or by reason of any physical disability provided such age or disability does not render him incompetent to perform the duties of the position applied for. Whenever any list of eligible persons, prepared under authority of this chapter, shall contain the names of honorably discharged soldiers, sailors and marines entitled to preference as aforesaid, any reference in this chapter or in the rules and regulations in pursuance thereof to the persons standing highest on such list shall be deemed to indicate those standing highest of those entitled to preference by the provisions of this section and such persons shall be given preference on any list of registered applicants for employment in the labor service, in accordance with the dates of their several applications as though such applications had been filed prior to those of any persons on such lists not entitled to the preference provided by this section. A refusal to allow the preference provided for in this and the next succeeding section to any honorably discharged soldier, sailor or marine or a reduction of his compensation intended to bring about his resignation shall be deemed a misdemeanor, and such honorably discharged soldier, sailor or marine shall have a right of action therefor in any court of competent jurisdiction for damages, and also a remedy by mandamus for righting the wrong.

Formerly L. 1899, ch. 370, § 20, as am'd by L. 1902, ch. 270, § 1.

**§ 22. Power of removal limited.** Every person whose rights may be in any way prejudiced contrary to any of the provisions of this section shall be entitled to a writ of mandamus to remedy the wrong. No person holding a position by appointment or employment in the state of New York or in the several cities, counties, towns or villages thereof who is an honorably discharged soldier, sailor or marine, having served as such in the Union army



or navy during the war of the rebellion, or who is an honorably discharged soldier, sailor or marine, having served as such in the volunteer army or navy of the United States during the Spanish war or who shall have served the term required by law in the volunteer fire department of any city, town or village in the state, or who shall have been a member thereof at the time of the disbandment of such volunteer fire department shall be removed from such position except for incompetency or misconduct shown after a hearing upon due notice upon stated charges, and with the right to such employee or appointee to a review by a writ of certiorari. If the position so held by any such honorably discharged soldier, sailor or marine or volunteer fireman shall become unnecessary or be abolished for reasons of economy or otherwise, the said honorably discharged soldier, sailor or marine or volunteer fireman holding the same shall not be discharged from the public service, but shall be transferred to any branch of the said service for duty in such position as he may be fitted to fill, receiving the same compensation therefor, and it is hereby made the duty of all persons clothed with power of appointment to make such transfer effective. The burden of proving incompetency or misconduct shall be upon the person alleging the same. In every county of the state wholly included within the limits of a city but not comprising the whole of such city, no regular clerk or head of a bureau or person holding a position in the classified state civil service, subject to competitive examination, shall be removed until he has been allowed an opportunity of making an explanation; and in every case of a removal the true grounds thereof shall be forthwith entered upon the records of the department of the office in which he has been employed, and a copy filed with the state civil service commission. In case of a removal, a statement showing the reasons therefor shall be filed in the department or office where such clerk, head of a bureau or person had been employed. Whenever such offices, positions or employments in every county of the state hereinbefore specified are abolished or made unnecessary, it shall be the duty of the head of the department or office in which such persons had been employed, to furnish the names of the person or persons affected to the state civil service commission, with a statement in the case of each of the date of his original appointment in the service. It shall be the duty of the state civil service commission forthwith to place the names of said persons upon a list of suspended employees for the office or position or for the class of work in which they have been employed, or for any corresponding or similar office, position or class of work, and to certify the said persons for rein-

statement or re-employment in the order of their original appointment before making certification from any other list. The failure of any person on any such list for reinstatement or re-employment to accept after reasonable notice, an office or position in the same county and at the same salary or wages as the position formerly held by him, shall be held to be a relinquishment of his right to reinstatement as herein stated. Nothing in this section shall be construed to apply to the position of private secretary, cashier or deputy of any official or department.

Formerly L. 1899, ch. 370, § 21, as am'd by L. 1902, ch. 270, § 1 and L. 1904, ch. 697, § 1.

**§ 23. Compensation of veterans reinstated by order of the courts.** Any honorably discharged soldier, sailor or marine, who having served as such in the Union army or navy during the war of the rebellion, shall have been, or may hereafter be removed from any position held by him by appointment or employment in the state of New York or in the several cities, counties, towns or villages thereof in contravention or violation of any provision of section twenty-two of this article and who shall have been restored to such position or employment either by a peremptory writ of mandamus of the supreme court or by final order on a writ of certiorari, as authorized by said section twenty-two, shall be entitled to receive and shall receive from said state or the city, county, town or village thereof under which said position or employment was held by him, the same compensation therefor from the date of such unlawful removal to the date of his said restoration to said position or employment which he would have been entitled by law to have received in such position or employment but for such unlawful removal, and such veteran shall be entitled to a writ of mandamus to enforce the payment thereof, but such compensation or salary or wages, due in such position or employment, shall be subject to the provisions of sections four hundred seventy-four and four hundred seventy-five of the judiciary law for services rendered in either or both said special proceedings but otherwise shall be paid only directly to such veteran.

Formerly L. 1901, ch. 533, § 2, as am'd by L. 1904, ch. 637, § 1.

**§ 24. Misdemeanor to obstruct right of examination; false representation; impersonation in examination.** Any commissioner, or examiner, or any other person who shall wilfully by himself or in co-operation with other persons, defeat, deceive or obstruct any person in respect of his or her right of examination, or registration, according to any

rules or regulations prescribed pursuant to the provisions of this chapter, or who shall wilfully and falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified, pursuant to the provisions of this chapter, or aid in so doing, or who shall wilfully make any false representations concerning the same, or concerning the person examined, or who shall wilfully furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified, or who shall personate any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration, or application or request to be examined or registered, shall for each offense be deemed guilty of a misdemeanor.

Formerly L. 1899, ch. 370, § 22.

**§ 25. Recommendations for appointment or promotion.** No recommendation or question under the authority of this chapter shall relate to the political opinions or affiliations of any person whatever; and no appointment or selection to or removal from an office or employment within the scope of the rules established as aforesaid, shall be in any manner affected or influenced by such opinions or affiliations. No person in the civil service of the state or of any civil division or city thereof, is for that reason under any obligation to contribute to any political fund or to render any political service, and no person shall be removed or otherwise prejudiced for refusing so to do. No person in the said civil service shall discharge or promote or reduce, or in any manner change the official rank or compensation of any other person in said service, or promise or threaten so to do for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose. No person in said service shall use his official authority or influence to coerce the political action of any person or body, or to interfere with any election.

Formerly L. 1899, ch. 370, § 23.

**§ 26. Political assessments prohibited.** No officer, agent, clerk or employee under the government of the state of New York or any civil division or city thereof shall, directly or indirectly, use his authority or official influence to compel or induce any other officer, clerk, agent or employee under said government, or any civil division or city thereof, to pay or promise to pay any political assessment, subscription or contribution. Every said

officer, agent, clerk or employee who may have charge or control in any building, office or room occupied for any purpose of said government, or any said division or city thereof, is hereby authorized to prohibit the entry of any person, and he shall not knowingly permit any person to enter the same for the purpose of therein making, collecting, receiving or giving notice of any political assessment, subscription or contribution; and no person shall enter or remain in any said office, building or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding or collecting a political assessment, nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription or contribution; and no person shall prepare or make out, or take any part in preparing or making out, any political assessment, subscription or contribution with the intent that the same shall be sent or presented to or collected of any officer, agent or employee subject to the provisions of this chapter, under the government of the state of New York, or that of any civil division or city thereof, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment of any said officer, agent or employee. Any person who shall be guilty of violating any provision of this section shall be deemed guilty of a misdemeanor.

Formerly L. 1899, ch. 370, § 24.

**§ 27. Officers or candidates not to promise influence; "public officer" and "public employee" defined.** Whoever, while holding any public office, or in nomination for, or while seeking a nomination or appointment for any public office, shall corruptly use or promise to use, whether directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon the consideration or condition that the vote or political influence or action of the last-named person, or any other, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery or an attempt at bribery. And whoever, being a public officer, or having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer, shall corruptly use, or promise, or threaten to use any such authority or influence, directly or indirectly, in order to coerce or persuade the

vote or political action of any citizen or the removal, discharge or promotion of any officer or public employee, or upon any other corrupt consideration, shall also be guilty of bribery or of an attempt at bribery. Every person found guilty of such bribery, or an attempt to commit the same, as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars nor more than three thousand dollars, or to be imprisoned not less than ten days nor more than two years, or to both said fine and said imprisonment in the discretion of the court. The phrase "public officer" shall be held to include all public officials in this state, whether paid directly or indirectly from the public treasury of the state, or from that of any civil division thereof, or by fees or otherwise; and the phrase "public employee" shall be held to include every person not an officer who is paid from any said treasury.

Formerly L. 1899, ch. 370, § 25.

**§ 28. Taxpayer's action.** The right of any taxpayer to bring an action to restrain the payment of compensation to any person appointed to or holding any office, place or employment in violation of any of the provisions of this chapter, shall not be limited or denied by reason of the fact that said office, place or employment shall have been classified as, or determined to be, not subject to competitive examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers, in accordance with the civil service rules in force at the time of such payments.

Formerly L. 1899, ch. 370, § 27.

## ARTICLE 3

### Classification of State Employees

Section 40. Application.

41. Classification of employees in grades.
42. Salaries for each grade.
43. Extra salary or compensation prohibited.
44. Temporary service.
45. Appointments and promotions.

**§ 40. Application.** The provisions of this article shall apply to all clerks, bookkeepers, stenographers, copyists, messengers and other employees whose duties are of a clerical character

in all the state departments, bureaus, commissions and offices, except those otherwise fixed by law, or whose salaries were January first, nineteen hundred and one, more than the maximum fixed herein.

Formerly L. 1901, ch. 521, § 1.

**§ 41. Classification of employees in grades.** All clerks, bookkeepers, stenographers, copyists, messengers, pages or other employees performing clerical service in the state departments, bureaus, divisions, commissions and other offices excepting deputies, heads, chiefs and assistant heads and chiefs of divisions or bureaus shall be classified in one of the following grades, in accordance with the appropriations made by the legislature for such purpose.

Formerly L. 1901, ch. 521, § 2.

**§ 42. Salaries for each grade.** The annual salaries of employees for each grade shall not be to exceed the following: First grade, three hundred sixty dollars; second grade, four hundred eighty dollars; third grade, six hundred dollars; fourth grade, seven hundred twenty dollars; fifth grade, nine hundred dollars; sixth grade, twelve hundred dollars; seventh grade, fifteen hundred dollars; eighth grade, eighteen hundred dollars; ninth grade, twenty-one hundred dollars; tenth grade, twenty-four hundred dollars.

Formerly L. 1901, ch. 521, § 3.

**§ 43. Extra salary or compensation prohibited.** No person holding a position or employed in any department, bureau, commission or office to which this article applies and for which a definite salary or compensation has been appropriated or designated, shall receive any extra salary or compensation in addition to that so fixed.

Formerly L. 1901, ch. 521, § 4.

**§ 44. Temporary service.** All departments, bureaus, commissions or offices which have been granted an appropriation for temporary clerical service, may appoint in accordance with the provisions of this article employees in any of the grades heretofore specified below the eighth grade, which employees shall be paid from the special appropriation made for such purpose, but from no other fund.

Formerly L. 1901, ch. 521, § 5.

**§ 45. Appointments and promotions.** Original appointment to the position of clerk, bookkeeper, stenographer, copyist or messenger shall be made so far as practicable to the lowest grade established in the department, bureau, commission or office in which the appointment is made, and no position above such grade

shall be filled by original appointment of a person not in the service, if there is employed in the same office or department in a similar position in a lower grade any person who is competent to perform the duties of the higher position who can be promoted. Promotion shall be made by successive grades so far as practicable, and no person shall be promoted to a position in the higher grade who has not served at least six months in the next lower grade.

Formerly L. 1901, ch. 521, § 6.

**ARTICLE 4**

**Laws Repealed; When to Take Effect**

Section 60. Laws repealed.

61. When to take effect.

**§ 60. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

Formerly L. 1899, ch. 370, § 29.

**§ 61. When to take effect.** This chapter shall take effect immediately.

Formerly L. 1899, ch. 370, § 30.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1883.. . . . .	354.. . . . .	All
1884.. . . . .	312.. . . . .	All
1884.. . . . .	357.. . . . .	All
1884.. . . . .	410.. . . . .	All
1886.. . . . .	29.. . . . .	All
1887.. . . . .	464.. . . . .	All
1888.. . . . .	119.. . . . .	All
1890.. . . . .	67.. . . . .	All
1892.. . . . .	577.. . . . .	All
1894.. . . . .	354.. . . . .	All
1894.. . . . .	681.. . . . .	All
1894.. . . . .	716.. . . . .	All
1894.. . . . .	717.. . . . .	All
1895.. . . . .	344.. . . . .	All
1896.. . . . .	821.. . . . .	All
1897.. . . . .	428.. . . . .	All
1898.. . . . .	184.. . . . .	All
1898.. . . . .	186.. . . . .	All
1899.. . . . .	370.. . . . .	All
1900.. . . . .	66.. . . . .	All

---

§ 60	Laws Repealed.		Art. 4
Laws of	Chapter	Section	
1900.....	195.....	All	
1900.....	675.....	All	
1901.....	521.....	All	
1901.....	533.....	All	
1902.....	270.....	All	
1902.....	355.....	All	
1904.....	637.....	All	
1904.....	697.....	All	



# COUNTY LAW

---

## L. 1909, Ch. 16. "AN ACT in relation to counties constituting chapter eleven of the Consolidated Laws."

(In effect February 17, 1909.)

### CHAPTER 11 OF THE CONSOLIDATED LAWS

[Formerly L. 1892, Ch. 686, being chapter 18 of the General Laws.]

- Article**
1. Short title (§ 1).
  2. Counties as corporations (§§ 2-5).
  3. Boards of supervisors (§§ 10-44).
  4. Clerks of boards of supervisors (§§ 50-54).
  5. Duties of boards of supervisors relating to highways and bridges (§§ 60-80).
  6. County jails (§§ 90-101).
  7. Dogs (§§ 110-136).
  8. County treasurers (§§ 140-153).
  9. County clerks (§§ 160-169).
  10. Sheriffs and coroners (§§ 180-195).
  11. District attorneys (§§ 200-205).
  12. County attorneys (§ 210).
  13. Superintendents of the poor (§§ 220, 221).
  14. County judge, surrogate, special county judge and special surrogate (§§ 230-233).
  15. Miscellaneous (§§ 240-248).
  16. Laws repealed; when to take effect (§§ 260, 261).

### ARTICLE 1

#### Short Title

Section 1. Short title.

**§ 1. Short title.** This chapter shall be known as the "County Law."

Formerly L. 1892, ch. 686, § 1 part.

---

**Explanation.**—For location and disposition of former sections of the County Law see L. 1892, Ch. 686, in "Consolidated Schedule of Repeals," Vol. 7.

**ARTICLE 2****Counties as Corporations**

Section 2. Application of this chapter.

3. County a municipal corporation.

4. Actions and contracts in corporate name.

5. Disposition of property, apportionment of debts and collection of judgments on alteration of boundary.

**§ 2. Application of this chapter.** This chapter shall not apply to the county of New York, except as hereinafter specifically provided.

Formerly L. 1892, ch. 686, § 1 part.

**§ 3. County a municipal corporation.** A county is a municipal corporation, comprising the inhabitants within its boundaries, and formed for the purpose of exercising the powers and discharging the duties of local government, and the administration of public affairs conferred upon it by law.

Formerly L. 1892, ch. 686, § 2.

**§ 4. Actions and contracts in corporate name.** An action or special proceeding for or against a county, or for its benefit, and upon a contract lawfully made with it, or with any of its officers or agents authorized to contract in its behalf, or to enforce any liability created, or duty enjoined upon it, or upon any of its officers or agents for which it is liable, or to recover damages for any injury to any property or rights for which it is liable, shall be in the name of the county. All contracts or conveyances, by or in behalf of, or to a county, shall be deemed to be in the name of the county, whether so stated or not in the contract or conveyance.

Formerly L. 1892, ch. 686, § 3.

**§ 5. Disposition of property, apportionment of debts and collection of judgments on alteration of boundary.** When a county is divided or its boundary changed, its real property shall become the property of the county, within whose limits it lies after the change. The personal property and debts of such county shall be apportioned between the counties interested, by the supervisors thereof, or by the committees of their respective boards appointed for that purpose, subject to the approval of such boards; and the debts shall be charged on each county, according to such apportionment.

Any judgment recovered previous to such division, or after such division in proceedings instituted previous thereto, in the county court or before any justice of the peace may be collected by execution to be issued to the sheriff of the county where such judgment shall have been rendered, or to a constable thereof, as the case may require, who shall execute the same as if such division had not been made; and such judgments may be revived, and the like proceedings had thereon, as if such county had not been divided.

Formerly L. 1892, ch. 686, § 4. R. S., pt. 3, ch. 8, tit. 17, § 35, incorporated.

### ARTICLE 3

#### Boards of Supervisors

- Section 10. Meeting and organization of boards of supervisors.
11. Penalty for neglect.
  12. General powers.
  13. Limitation of credit.
  14. Resolutions authorizing issue of obligations.
  15. Legalization of informal acts.
  16. Correction of assessments, and returning and refunding of illegal taxes.
  17. Powers, how exercised.
  18. Publication of acts of board.
  19. Printing and distribution of proceedings of board.
  20. Designation of newspapers for publication of session laws.
  21. Compensation for publication of local laws.
  22. Election notices and official canvass.
  23. Compensation of supervisors.
  24. Form and presentation of accounts against the county.
  25. Additional requirements.
  26. County records.
  27. Examination of witnesses and officers by the board.
  28. Committee of board.
  29. Adjournment.
  30. Filing and enforcement of undertaking.
  31. Location of county buildings.
  32. Proceedings on petition.
  33. How submitted to vote.
  34. After destruction of poor-house, petition for change of site.

- Section 35. Alteration and erection of towns.  
 36. First election in new town.  
 37. Establishment of disputed town lines.  
 38. Fire districts outside of incorporated villages.  
 39. Effect of incorporation of village within limits of fire district.  
 40. Soldiers' monument.  
 41. Temporary loans; issue of obligations therefor.  
 42. Supervisors to furnish necessaries for term of county court.  
 43. Board may establish county laboratory.  
 44. Compensation and removal of bacteriologist and assistants.

**§ 10. Meeting and organization of boards of supervisors.** The supervisors of the cities and towns in each county, when lawfully convened, shall be the board of supervisors of the county. They shall meet annually, at such time and place as they may fix, and may hold special meetings at the call of the clerk, on the written request of a majority of the board, and whenever required by law. A majority of the board shall constitute a quorum. They may adjourn from time to time, and their meetings shall be public. At the annual meeting they shall choose one of their number chairman for the ensuing year. In his absence at any meeting they shall choose a temporary chairman to serve during such absence. They shall appoint a clerk to serve during their pleasure, and until his successor is appointed; and shall fix his compensation. They may compel the attendance of absent members at their meetings, make rules for the conduct of their proceedings, and impose and enforce penalties for the violation thereof, not exceeding fifty dollars for each offense.

The provisions of this section relating to the appointment of a clerk and the fixing of his compensation shall not apply to counties having a population of over fifty thousand inhabitants and less than fifty-four thousand inhabitants according to the last federal enumeration.

Formerly L. 1892, ch. 686, § 10. Last sentence written from L. 1903, ch. 266, § 6, as added by L. 1904, ch. 574, § 1.

**§ 11. Penalty for neglect.** If any supervisor shall refuse or neglect to perform any of the duties which are or shall be required of him by law, as a member of the board of supervisors, he shall for every such offense forfeit the sum of two hundred and fifty dollars to the county. For a refusal or neglect to

perform any other duty required of him by law, he shall for every such offense forfeit a like sum to the town.

Formerly L. 1892, ch. 686, § 11.

**§ 12. General powers.** The board of supervisors shall:

1. Have the care and custody of the corporate property of the county.

2. Audit all accounts and charges against the county, and direct annually the raising of sums necessary to defray them in full.

Formerly L. 1892, ch. 686, § 12, subd. 2, as am'd by L. 1908, ch. 410, § 1.

3. Annually direct the raising of such sums in each town as shall be necessary to pay its town charges.

4. Cause to be assessed, levied and collected, such other assessments and taxes as shall be required of them by any law of the state.

5. Fix the salaries and compensation of county treasurers, district attorneys and superintendents of the poor of their county, which shall be a county charge, and not be changed during the term of any such officer; and prescribe the mode of appointment, and fix the number, grade and pay of the clerks, assistants and employees in such offices, when not otherwise fixed by law, which shall be a county charge.

6. Borrow money when they deem it necessary, for the erection of county buildings, and for the purchase of sites therefor, on the credit of the county, and for the funding of any debt of the county not represented by bonds, and issue county obligations therefor, and for other lawful county uses and purposes; and authorize a town in their county to borrow money for town uses and purposes on its credit, and issue its obligations therefor, when, and in the manner, authorized by law.

7. Make such laws and regulations as they may deem necessary for the destruction of wild and noxious animals and weeds within the county.

8. Provide for the protection and preservation, subject to the laws of the state, of wild animals, birds and game, and fish and shell-fish, within the county; and prescribe and enforce the collection of penalties for the violation thereof.

9. Divide any school commissioner's district within the county which contains more than two hundred school districts, and erect therefrom an additional school commissioner's district, and when such district shall have been formed, a school commissioner for the district shall be elected in the manner provided by law for the election of school commissioners.

10. Fix and regulate the time of opening and closing the county offices daily, except Sundays and holidays, where such time is not fixed by law.

11. Contract, at such times and upon such terms as the board may by resolution determine, with the authorities of any other county for the reception into the penitentiary of such county, and the custody and employment at hard labor therein, of any person convicted within their county of any offense, other than a felony, and sentenced to imprisonment in a county jail, or penitentiary, for a term exceeding sixty days.

12. Cause an action to be brought upon the undertaking of any county officer, whenever a breach thereof shall occur.

Subds. 3-12 were formerly L. 1892, ch. 686, § 12, subds. 3-12.

13. Purchase, lease or otherwise acquire, for the use of the county, necessary real property for courthouses, jails, almshouses, asylums and other county buildings, and for other county uses and purposes; and erect, alter, repair or construct, any necessary buildings or other improvements thereon for necessary county use, and cause to be levied, collected and paid, all such sums of money as they shall deem necessary therefor; to select such name as they may deem proper and appropriate for the almshouse of such county and thereafter to designate such almshouse by the name so selected; and sell, lease or apply to other county use, the sites and buildings, when a site is changed; and if sold, apply the proceeds to the payment for new sites, buildings and improvements.

Formerly L. 1892, ch. 686, § 12, subd. 13 as am'd by L. 1906, ch. 318, § 1.

14. To make one or more jury districts and to make such regulations in respect to the holding of the terms of courts as shall be necessary by reason of such change.

Formerly L. 1892, ch. 686, § 12, subd. 14.

15. To contract at such times and on such terms as the board may by resolution determine with the sheriff of the county, when he is not by law in receipt of a salary as such sheriff, for the board, maintenance and care and custody of prisoners committed to the county jail of his county, or in the penitentiary of such county, when used as a jail and in charge of the sheriff.

Formerly L. 1892, ch. 686, § 12, subd. 15, as added by L. 1900, ch. 130, § 1.

16. To raise by tax a sum not exceeding one thousand dollars in any year to aid in carrying out the provisions of the forest, fish and game law.

Formerly L. 1892, ch. 686, § 12, subd. 16, as added by L. 1900, ch. 296, § 1.

17. The board of supervisors of Chautauqua county shall have power to determine that a sheriff thereafter elected in such county shall receive a salary instead of fees, and may fix such salary, or if the sheriff of such county shall thereafter be made a salaried office to determine that a sheriff thereafter elected shall receive the fees prescribed by law, as compensation for his services, instead of his salary. In case the office of sheriff of such county is made a salaried office, in pursuance of this subdivision, the sheriff shall collect all fees and perquisites to which he is entitled, in pursuance of law, except such as are payable by the county, and shall at least once in each month pay the same to the county treasurer, and such fees and perquisites shall become part of the general fund of the county.

Formerly L. 1892, ch. 686, § 12, subd. 17, as added by L. 1901, ch. 255, § 1.

18. The board of supervisors of each county may raise by tax on real and personal property, subject to taxation in such county, not more than five thousand dollars, to be expended in the repair and construction of sidepaths in such county. The county treasurer of each county where such sum has been raised shall place the same to the credit of the sidepath fund, provided by section four, chapter one hundred and fifty-two of the laws of eighteen hundred and ninety-nine as amended by chapter six hundred and forty of the laws of nineteen hundred, and it shall be expended and paid out according to the provisions of said last named chapter.

Formerly L. 1892, ch. 686, § 12, subd. 18, as added by L. 1903, ch. 465, § 1.

19. Whenever a judgment has been rendered in the court of claims in favor of any county against the state of New York, and the time to appeal therefrom has expired or the attorney-general has issued a certificate that there has been no appeal and that no appeal will be taken by the state from such judgment, the board of supervisors of such county may sell, assign, transfer or set over such judgment to the comptroller, who may purchase the same as an investment for the various trust funds of the state or canal debt sinking fund, or to any person, firm, association or corporation desiring to purchase such judgment, for a sum not less than the amount for which same was rendered with accrued interest, but no judgment so acquired by the state shall be deemed merged or satisfied thereby. And such board of supervisors may designate and authorize its chairman and clerk, the treasurer of the county and the attorney of record procuring the entry

of such judgment, or any or either of them to execute in the name of the county and deliver to the party purchasing such judgment the necessary release, transfer or assignment required in law to complete such sale, setting over, transfer or assignment.

Formerly L. 1892, ch. 686, § 12, subd. 19, as added by L. 1905, ch. 244, § 1.

20. The board of supervisors shall annually fix and determine the compensation to be allowed and paid to officers for the conveyance of juvenile delinquents to the houses of refuge and state industrial schools, and no other or greater amount than that so fixed and determined shall be allowed and paid for such service.

Formerly L. 1859, ch. 254, § 1.

21. The board of supervisors shall have power to direct the payment, by justices of the peace, of all fines and penalties imposed and received by them, to the supervisors of their respective towns, on the first Monday in each month, and to direct justices of the peace to make a verified report of all fines and penalties collected by them to the board of town auditors of their respective towns on the Tuesday preceding the annual town meeting. Upon such payment as herein prescribed to the supervisor of any town, he shall immediately pay over such part of such fines and penalties to any person or corporation who shall be entitled to receive the same by virtue of any statute, special or otherwise. The residue of such amount shall be applied to the support of the poor of such town. This subdivision shall not apply to the county of Kings.

Formerly L. 1894, ch. 685, § 1.

22. The board of supervisors may contract with the sheriff of their county, or the jailer of the common jail therein, for the support and maintenance of such persons as may be confined in such jail upon any writ or process in any civil action or proceeding in the nature of a civil action. Such sheriff or jailer shall attach to all bills rendered for such support and maintenance, a list, under oath, of the number and names of the persons to whom such support and maintenance was furnished, and the length of time each person was so supported. This subdivision shall not be construed as repealing any present provisions of law relating to the care, custody, support or maintenance of such prisoners in the counties of Kings and Monroe.

Formerly L. 1875, ch. 251, §§ 2, 3.

23. The board of supervisors of a county in which a law library is maintained by the state shall, upon the request of a



judge of the court of appeals who resides therein, provide and maintain for his use, suitable and commodious offices, approved by him. In case of the refusal or neglect of such board of supervisors to provide and maintain such offices the expense of the same pursuant to the judiciary law shall be a county charge.

Formerly Code Civil Procedure, § 203 part.

24. The board of supervisors of any county, except Kings, Queens, Livingston, Monroe, Cortland, Oswego, Westchester and Onondaga, may, in their discretion, provide for the employment of a stenographer for the county court thereof, and said board of supervisors must fix his compensation and provide for the payment thereof in the same manner as other county expenses are paid.

Formerly Code Civil Procedure, § 358 part.

25. The board of supervisors of each county must provide for the payment of the sums, chargeable upon the treasury of the county, for the salary, fees, or expenses of a stenographer or assistant stenographer; and all laws relating to raising money in a county, by the board of supervisors thereof, are applicable to those sums.

Formerly Code Civil Procedure, § 88.

**§ 13. Limitation of credit.** An issue of town or county obligations shall not be authorized when such issue, with the amounts issued and outstanding under any previous or other authority of the board, shall exceed ten per centum of the assessed valuation of the real estate of such town or county, as it shall appear on the last assessment-rolls thereof, except that in towns such obligations may be issued in excess of such amount with the assent of a majority of the electors of such town whose credit is proposed to be given, voting on the question at a regular town meeting of such town; but in no case shall the amount of such town obligations, issued and outstanding, exceed one-third of such assessed valuation. This section shall not include any case where special authority has been given by the legislature to issue such town obligations in excess of the amounts herein authorized.

Formerly L. 1892, ch. 686, § 13, as am'd by L. 1893, ch. 251, § 1.

**§ 14. Resolutions authorizing issue of obligations.** Every resolution of any such board, authorizing the issue of such obligations, shall specify the form thereof, the place of payment, in annual instalments or otherwise, within a period not exceeding thirty years from the date of such obligation, and the rate of

interest to be paid thereon, not exceeding the legal rate; and no such obligation shall be sold for less than par. Such resolution shall also contain a provision requiring adequate security to be given by the officer or board of officers authorized to issue such obligations, for the faithful performance of his or their duty in issuing the same, and the lawful application of the funds arising therefrom, and of the funds which may be raised by tax for the payment thereof, which may come into their hands.

Formerly L. 1892, ch. 686, § 14.

**§ 15. Legalization of informal acts.** Any such board may, by a two-thirds vote of all its members, legalize the informal acts of any town meeting or village election within such county, and the regular acts of any one or more town or village officers, performed in good faith, and within the scope of their authority.

Formerly L. 1892, ch. 686, § 15.

**§ 16. Correction of assessments, and returning and refunding of illegal taxes.** Any such board may correct any manifest clerical or other error in any assessment or returns made by any one or more town officers to such board, or which may, or shall have properly come before such board for its action, confirmation or review; and cause to be refunded to any person the amount collected from him of any tax illegally or improperly assessed or levied, and upon the order of the county court, it shall refund any such tax. In raising the amount so refunded, or necessary to supply the deficiency caused by the correction of any error in such assessment, such board shall, in the same or next ensuing tax-levy, adjust and apportion such amount upon the property of the several towns and wards of the county as shall be just, taking into consideration the portion of the state, county, town and ward included therein, and the extent to which such town or ward has been benefited thereby.

Such board shall ascertain, fix and determine the amount which any person or corporation is equitably entitled to receive back from any town, for taxes paid while the boundary line between towns was in dispute and cause the same to be levied and collected.

Formerly L. 1892, ch. 686, § 16.

**§ 17. Powers, how exercised.** Every act or resolution of the board shall require for its passage the assent of a majority of the supervisors elected, unless otherwise required by law. Every act or resolution of such board in the exercise of its legislative

powers shall have a title prefixed, concisely expressing its contents, followed by a reference to the law or laws conferring the authority to pass the act or resolution, the number of votes, both for and against its passage, and, when the assent of any supervisor is required, that such assent was given; and all acts or resolutions so passed shall be numbered in the order of their passage, and certified by the chairman and clerk, and within six weeks after the close of each session, such resolutions shall be published in the newspapers in the county appointed to publish the session laws of the legislature.

Formerly L. 1892, ch. 686, § 17.

**§ 18. Publication of acts of board.** All acts passed by the boards of supervisors of the several counties of this state, shall be published in two newspapers representing respectively the two principal political parties into which the people of the counties are divided, after such manner, and at such compensation as the several boards of supervisors may provide, the same to be a county charge, payable in the manner provided in section forty-eight of the legislative law for the publication of local laws enacted by the legislature, provided that the rate of compensation shall not be less than the rate fixed by said section for the publication of laws of a local nature, enacted by the legislature.

Formerly L. 1892, ch. 715, § 6.

**§ 19. Printing and distribution of proceedings of board.** Each board of supervisors shall cause as many copies of the proceedings of its sessions as it may deem necessary, certified by its chairman and clerk, to be printed as a county charge, in a pamphlet volume, as soon as may be after each session, for exchange with other boards, and for the members of the board and other town and county officers. At least three copies of such printed volume shall be forwarded to and filed in each town clerk's office and in the county clerk's office. In counties containing cities of the first class, the publication of the proceedings of the board of supervisors may be ordered to be made in a daily newspaper, the work to be done by contract, let to the lowest bidder, after an opportunity to bid therefor has been given to the proprietors of all the daily newspapers printed in the English language in said county; such bid may include the printing and binding in pamphlet volumes of such number of copies of the proceedings of such board as may be required, and also the printing of pamphlet copies thereof for the use of the members of said

board at its sessions. Such printed proceedings shall contain a summary statement of all bills against the county, presented to the board and audited and allowed or disallowed, indicating the amount allowed or disallowed. The board of supervisors may as often as it shall deem necessary, cause to be printed and distributed in like manner, in the same volume or otherwise, its county laws, combined with suitable forms and instructions thereunder.

Whenever the proceedings of the board of supervisors of any county are printed in a volume by authority of the board of supervisors, the volume so printed, and duly certified by the chairman and clerk of the said board of supervisors to be a true record of such proceedings, shall be and constitute the book of records of the said board.

Formerly L. 1892, ch. 686, § 18, as am'd by L. 1899, ch. 203, § 1. L. 1884, ch. 327, § 1 incorporated.

**§ 20. Designation of newspapers for publication of session laws.** The members of the board of supervisors in each county representing, respectively, each of the two principal political parties into which the people of the county are divided or a majority of such members representing respectively, each of such parties, shall designate in writing a paper fairly representing the political party to which they respectively belong, regard being had to the advocacy by such paper of the principles of its party and its support of the state and national nominees thereof, and to its regular and general circulation in the towns of the county, to publish the session laws and concurrent resolutions of the legislature required by law to be published, which designation shall be signed by the members making it and filed with the clerk of the board of supervisors. If a majority of the members of the board representing either of such parties can not agree upon a paper or shall fail to make a designation of a paper or papers as above provided, then and in such case, the paper or papers last previously designated in behalf of the party or parties whose representatives, or a majority of them, have failed to agree shall be held to be duly designated to publish the laws for that year, and any designation of a paper or papers made contrary to the provisions of this section shall be void. If there shall be but one paper published in the county, then, in that case, the laws shall be published in that paper. If either of the two principal parties into which the people of the county are divided shall have no representative among the members of the board of supervisors, then, and in that event, the newspaper last legally designated in behalf of such party, not having a representative among the mem-

bers of the board of supervisors, shall be held to be duly designated to publish the laws for that year. The clerk of each board of supervisors as soon as such designation is made shall forward to the secretary of state a notice stating the name and address of such newspapers as have been selected for the publication within the county of the laws and concurrent resolutions of the legislature, or if there is but one newspaper in such county he shall before the first day of January in each year, forward to the secretary of state a notice stating the name and address of such newspaper, and that it is the only newspaper published in the county.

Formerly L. 1892, ch. 686, § 19 part, as am'd by L. 1898, ch. 349, § 1; L. 1900, ch. 400, § 1, and L. 1905, ch. 496, § 1.

**§ 21. Compensation for publication of local laws.**

The charge for the publication of laws of a local nature in the newspapers designated to publish said laws shall be paid by the several counties of the state in which said laws may be published in the manner and at the compensation prescribed by section forty-eight of the legislative law.

Formerly L. 1845, ch. 280, § 2. part, as amended by L. 1892, ch. 715, § 2.

**§ 22. Election notices and official canvass.**

Such boards, except in the counties of Erie and Kings, shall, in like manner, designate two newspapers, representing respectively each of the two principal political parties into which the electors of the county are divided, in which shall be published the election notices issued by the secretary of state, and the official canvass, and fix the compensation therefor, which shall be a county charge.

Formerly L. 1892, ch. 686, § 22.

**§ 23. Compensation of supervisors.**

For the services of supervisors, except in the counties of Albany, Broome, Columbia, Erie, Montgomery, Niagara, Oneida, Onondaga, Rensselaer, Schenectady, Steuben and Westchester, each supervisor shall receive from the county compensation at the rate of four dollars per day for each calendar day's actual attendance at the sessions of their respective boards, and mileage at the rate of eight cents per mile, for once going and returning from his residence to the place where the sessions of the board shall be held, by the most usual route, for each regular and special session. In the counties of Niagara, Schenectady and Steuben each supervisor shall receive an annual salary, in the county of Niagara of three hundred dollars, in the county of Schenectady of five hundred dollars and

in the county of Steuben of one hundred and fifty dollars, in lieu of any per diem compensation. Each supervisor, except in the counties of Albany, Broome, Columbia, Erie, Montgomery, Niagara, Oneida, Onondaga, Rensselaer, Schenectady and Westchester, may also receive compensation from the county at the rate of four dollars per day while actually engaged in any investigation or other duty, which may be lawfully committed to him by the board; except for services rendered when the board is in session, and, if such investigation or duty require his attendance at a place away from his residence, and five miles or more distant from the place where the board shall hold its sessions, his actual expenses incurred therein. No other compensation or allowance shall be made to any supervisor for his services, except such as shall be by law a town charge, except that in the county of Niagara each supervisor, while heretofore or hereafter actually engaged in any investigation, or in the performance of any other duty, which shall have been legally delegated to him by the board of supervisors, except when the board is in session, shall be entitled to receive in addition to the compensation hereinbefore provided, his actual expenses incurred therein. The board of supervisors of any county may also allow to each member of the board for his services in making a copy of the assessment-roll, three cents for each written line for the first one hundred lines, two cents per line for the second hundred written lines, and one cent per line for all written lines in excess of two hundred, and one cent for each line of the tax-roll actually extended by him.

This section shall not apply to counties having a population of over fifty thousand inhabitants and less than fifty-four thousand inhabitants according to the last federal enumeration.

Formerly L. 1892, ch. 686, § 23, as am'd by L. 1893, ch. 724, § 1; L. 1895, ch. 480, § 1; L. 1900, ch. 529, § 1; L. 1905, ch. 20, § 1; L. 1907, ch. 482, § 1 and L. 1908, ch. 438, § 1. Last sentence is from L. 1904, ch. 574, § 1.

**§ 24. Form and presentation of accounts against the county.** No account shall be audited by a board of supervisors, or by a committee thereof, or by superintendents of the poor, unless it shall be made out in items and accompanied with an affidavit that the items of such accounts are correct, and that the disbursements and services charged therein have been in fact made or rendered, or are necessary to be made or rendered at that session of the board, and stating that no part of the amount claimed has been paid or satisfied. But any such account so presented and

verified may be disallowed in whole or in part, and the board or such superintendents may require any other or further evidence of the truth or propriety thereof. Each such account shall be numbered from one upwards in the order of presentation, and a memorandum of the time of presentation and the name of the claimant, and if assigned, the name of each assignor or assignee shall be entered in the proceedings of the board. No such account, after being so presented, shall be withdrawn without the unanimous consent of the board except to be used as evidence in an action or proceeding, and after being so used it shall be forthwith returned.

Formerly L. 1892, ch. 686, § 24.

**§ 25. Additional requirements.** Boards of supervisors may make such additional regulations and requirements, not in conflict with law, concerning the keeping and rendering of official accounts and reports of its county and town officers, and the presentation and auditing of bills presented to their board or to the town boards of their county, as they may deem necessary for the efficiency of the service and the protection of the interests of the public.

Formerly L. 1892, ch. 686, § 25.

**§ 26. County records.** Such boards shall have the general charge of the books and records of the county, subject to the legal rights of the officers using or having custody of the same, and shall provide for their safe-keeping. They may authorize county officers having the official custody or control of any such books and records, or of maps and papers, to cause copies thereof to be made and certified for the public use; and it shall be their duty to cause the same to be made and certified whenever by reason of age or exposure, or any casualty, the same shall be necessary. Any officers making such transcripts or copies shall be paid such sum therefor as may be just; but such payment shall not exceed a sum to be certified by the county judge, or a justice of the supreme court of the judicial district, as reasonable therefor. Such board of supervisors shall not accept and pay for any such services, until the work shall be examined and approved as to its manner and form of execution, by such judge or justice; nor shall any board of supervisors order any such work to be done until such judge or justice, after an examination, shall certify that such work is necessary for the security and safety of the public records.

Formerly L. 1892, ch. 686, § 26.

**§ 27. Examination of witnesses and officers by the board.** Any such board may require the attendance of witnesses and may examine any person as a witness upon any subject or matter within its jurisdiction, or examine any officer of the county, or a town therein, in relation to the discharge of his official duties, or to the receipt or disbursement by him of any moneys, or concerning the possession or disposition by him of any property belonging to the county, or to use, inspect or examine, any book, account, voucher or document in his possession or under his control, relating to the affairs or interest of such county or town.

Formerly L. 1892, ch. 686, § 27.

**§ 28. Committee of board.** When any such board shall have appointed any member or members thereof, a committee upon any subject or matter of which the board has jurisdiction, and shall have conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all the powers herein given to, and imposed upon the chairman of the board of supervisors.

The chairman of any committee appointed by a board of supervisors is authorized to administer an oath to any person presenting an account or claim before such committee to be audited, as to services rendered and the correctness of such claim.

Formerly L. 1892, ch. 686, § 28. L. 1836, ch. 506, § 3 incorporated.

**§ 29. Adjournment.** Such board or committee may adjourn from time to time, and such committee may hold meetings in pursuance of such adjournments, or on call of the chairman thereof, during the recess, or after the final adjournment of the board of supervisors; but where a warrant shall have been issued as provided by section eight hundred and fifty-five of the code of civil procedure and not returned, such adjournment of the board or committee at whose instance it was issued, shall be to a time and place certain, of which notice shall be given by the chairman, to the judge before whom the warrant shall be returnable; and if the person against whom it was issued shall be arrested, he may, in the discretion of the judge who issued the warrant, be discharged from custody, upon entering into an undertaking to the county, with two sureties to be approved by such judge, to the effect that he will appear and submit to an examination before such board or committee, as required, at the time and place to which it shall have been adjourned, or pay to the county treasurer such sum of money as such judge may direct.

Formerly L. 1892, ch. 686, § 29.



**§ 30. Filing and enforcement of undertaking.** Such undertaking shall be filed in the clerk's office of the county, and if default shall be made in the condition thereof, the district attorney of the county may sue and collect the sum therein mentioned, and the money, when received, and all moneys received for fines and penalties before such boards or committees, shall be paid into the treasury of the county.

Formerly L. 1892, ch. 686, § 30.

**§ 31. Location of county buildings.** The board of supervisors may, except in the county of Kings, by a majority vote of all the members elected thereto, fix or change the site of any county building, and the location of any county office; but the site or location of no county building or office shall be changed when the change shall exceed one mile, and shall be beyond the boundaries of the incorporated village or city, where already situated, except upon a petition of at least twenty-five freeholders of the county, describing the buildings or office, the site or location of which is proposed to be changed, and the place at or near which it is proposed to locate such new building or office; which petition shall be published once in each week for six weeks immediately preceding an annual or special meeting of such board, in three newspapers of the county, if there be so many, otherwise, in all the newspapers published in the county as often as once a week. With such petition shall also be published a notice, signed by the petitioners, to the effect that such petition will be presented to the board of supervisors at the next meeting thereof. The board of supervisors of any county may acquire a new site or location for the county almshouse, erect suitable buildings thereon, and remove the inmates of the existing almshouse thereto, upon a majority vote of all the members elected to said board at a regular session thereof or at a special session called for that purpose, in any case where the state board of charities shall have certified to said board of supervisors that in the opinion of a majority of said state board of charities such change is necessary to the proper care of the inmates of such institution; in which case it shall not be necessary to receive or publish the petition hereinbefore provided or to submit the question of change or removal to the electors of such county as provided in sections thirty-two and thirty-three of this chapter; provided, however, that no site or location shall be selected or acquired by such board of supervisors which shall not have been approved by said state board of charities.

Formerly L. 1892, ch. 686, § 31, as am'd by L. 1899, ch. 133, § 1.

**§ 32. Proceedings on petition.** On the presentation of such petition and notice, with due proof of their publication, if a majority of all the members elected to such board vote in favor of a resolution for the removal of the site of the buildings described in such petition, to the site also therein described, or the change of the location of its county offices or any of them, said board shall thereupon direct that such resolution, together with the notice that the question of such removal will be submitted to the electors of the county at the ensuing general election, be published in at least two newspapers published in the county to be designated by the board, once in each week for six consecutive weeks immediately preceding such general election. Such resolution and notice shall be published accordingly.

Formerly L. 1892, ch. 686, § 32.

**§ 33. How submitted to vote.** The question of the removal of the site of such buildings, or the change of the location of any such office, shall thereupon be voted on by the electors of the county at such general election by ballot. If a majority of the ballots cast shall be in favor of such removal, the proceedings of such board of supervisors shall be deemed ratified by the electors, and the change of the site of such buildings, or the removal of such offices, shall be made accordingly; but the old site and the buildings thereon shall be continued and used until new buildings upon the new site have been provided and accepted by the board of supervisors.

Formerly L. 1892, ch. 686, § 33.

**§ 34. After destruction of poor-house, petition for change of site.** Whenever any county poor-house or almshouse shall have heretofore been, or shall hereafter be destroyed by fire or otherwise, twelve or more resident freeholders of the county may present to the chairman of the board of supervisors of the county a petition for the change of site of such county poor-house. If the annual meeting of the board of supervisors is to be held at any time within three months following the presentation of such petition to the chairman, he shall cause the same to be presented to such annual meeting for the consideration and action of such board; but if an annual meeting of the board is not to be held within three months following the presentation of such petition to the chairman, he shall, upon the presentation of such petition to him, cause a special meeting of such board to be convened for the purpose of considering and acting upon such

petition. Such meeting may be called upon a notice signed by the chairman, directed to the members of the board and stating the time, place and object of the meeting, which shall be served upon each member of the board, either personally or by leaving it at his residence with some person of suitable age and discretion, at least three days before the time when such meeting is to be held, or by mail at least ten days before such time. The chairman shall call such meeting to be held upon some day within thirty days from the time of the presentation of the petition to him. At any such special meeting or at any annual meeting at which such petition shall be presented for the consideration and action of the board, the board may by a vote of two-thirds of all the members thereof, determine by resolution, to change the site of any such county poor-house, and to purchase a new site and farm for such county-house and for the support, care and maintenance of the poor of the county, and to sell and convey the old site of the county poor-house and the farm connected therewith. The board shall also, by resolution, direct that every such resolution, with a notice signed by the chairman and clerk of the board, that the question of such sale and disposal of the old site and farm, and the purchase of a new site and farm for the county poor-house, and for the support, care and maintenance of the poor of the county, will be submitted to the electors of the county, at the ensuing town meeting to be held in the several towns thereof, shall be published in at least six newspapers published in the county designated by the board, if there be that number, if not, in all the newspapers of the county, at least one full week immediately preceding such town meeting, and posted for at least ten days before the town meeting in at least six public places in each town in the county. If the annual town meetings of the county are not to be held within three months after the passage of such resolution, the board shall, by resolution, direct that a special town meeting shall be held in each town of the county, on a day to be specified therein, at which such questions will be submitted to the electors of the county. Every resolution of the board calling such special town meeting shall be published in at least six newspapers of the county, to be designated by the board, for the period of at least four successive weeks immediately preceding the time when such special town meetings are to be held; or if a less number of newspapers than six are published in the county, such resolution shall be published in all the newspapers thereof. At any annual or special town meeting at which such question shall be submitted to the electors of the county, the vote shall be by ballot, which

shall be in this form: "In favor of the sale and disposal of the present county poor-house site and farm; and of the purchase of a new site and farm"; or, "Against the sale and disposal of the present county poor-house site and farm, and the purchase of a new site and farm." The ballots shall be provided and delivered by the county clerk of the county; and the expense thereof shall be a county charge. The officers presiding at such town meeting shall canvass the votes cast thereat and make a correct statement of the number cast in favor of and the number cast against the question submitted, and certify the same in duplicate; one of which shall immediately be filed in the town clerk's office, and the other of which shall, within twenty-four hours after the conclusion of such canvass, be filed in the county clerk's office. Within twenty-four hours after the statements of the canvass of votes in all the towns of the county shall have been filed with the county clerk, he shall canvass and compile a statement of the whole number of votes cast in the county upon the question submitted, and of the number cast in favor of and against such question, respectively, and make and record a certificate of such result in his office; and within twenty-four hours thereafter cause a certified copy thereof to be delivered to the chairman of the board of supervisors, if a majority of the electors of a county voting upon such question at such town meetings shall have voted in favor of the question submitted. The chairman of the board, upon the receipt of the certified copy of such certificate from the county clerk, shall call a special meeting of the board, to be held at some time to be designated by him, not more than thirty days thereafter, and of which meeting notice shall be given to each member of the board, either personally or by mail, at least ten days before the time of the meeting. If the annual meeting of the board is to be held within such period of thirty days a special meeting shall not be called. At any special meeting of the board, called and convened as herein provided, or at any annual meeting convened within such period of thirty days, such board of supervisors shall have full power and authority to sell and dispose of the site and farm then owned and used by the county for the support, care and maintenance of its poor, and to select, locate and purchase a new site or farm for the county poor-house, and for the support, care and maintenance of the poor of the county, and to raise all necessary sums of money upon the taxable property of the county to defray the expense and cost of the purchase of such new site and farm, and to carry out the provisions of this section over and above the amount that shall be

realized from the sale and disposal of the old site and farm, and such moneys as may be in the hands of the county treasurer of the county applicable to such purchase. And the board may also, at any such meeting, provide for the erection of a new county poor-house, and other buildings to be used in connection therewith, and for the levy of a tax upon the taxable property of the county, to raise the necessary sums of money to defray the expense thereof. In case there shall be no chairman of the board of supervisors at a time when any notice required by this section is to be served, or any call of a meeting to be made by such chairman, the clerk of the board of supervisors, if there be one, or, if not, any member of the board of supervisors designated by such petitioners, shall serve the notices and call the meetings required by this section to be served or called by the chairman.

This section shall not apply to Kings county.

Formerly L. 1891, ch. 5, §§ 1, 2.

**§ 35. Alteration and erection of towns.** Any such board may, at an annual meeting thereof, by a vote of two-thirds of all the members elected thereto, on the application of at least twelve freeholders of each of the towns to be affected, divide or alter the bounds of any town in the county, or erect a new town therein. Notice of such application, signed by such freeholders, shall be posted in five conspicuous public places in each of such towns for four weeks next preceding a presentation of such application to the board; and a copy of such notice shall be published for at least six consecutive weeks next preceding the meeting of the board to which the application is to be made, in three newspapers published in the county, if there be so many, otherwise in all the newspapers published in the county as often as once a week. Such applicants shall present to the board with such application and notice, due proof of the posting and publishing of such notice, and furnish the board with a map and survey of such towns, showing the proposed alteration. The board shall designate the name of any new town so erected. If the application be granted, a copy of such map, with a certified statement of the action of the board thereto annexed, shall be filed in the office of the secretary of state, who shall cause such statement to be printed and published with the laws of the next legislature.

Formerly L. 1892, ch. 686, § 34.

**§ 36. First election in new town.** The board shall designate the time and place of holding the first town meeting in a new town so erected, and appoint three electors thereof, who shall post notice of such town meeting, signed by the chairman or clerk

of the board of supervisors, in four conspicuous public places in such town, at least fourteen days before holding the same. Such electors shall preside at such town meeting, appoint a clerk, open and keep the polls, and exercise the same powers as justices of the peace when presiding at town meetings; but if such electors shall refuse or neglect to serve, the electors of the town present shall substitute one of their number for each one so neglecting or refusing to serve; and the posting of the notice of such meeting shall be valid if done by any elector of the town. Nothing herein shall affect the rights, or abridge the term of office of any town officer in any town, but they shall hold and exercise the offices in the town in which they shall respectively reside after the change or alteration.

Formerly L. 1892, ch. 686, § 35.

**§ 37. Establishment of disputed town lines.** Such board may establish and define boundary lines between the several towns of the county. A notice of intention to apply to the board to establish and define such boundary line, particularly describing the same, and the line as proposed to be acted upon by such board, signed by a majority of the members of the town board of some one of the towns to be affected thereby, shall be published for four consecutive weeks next preceding the meeting of the board at which the application is to be presented, in three newspapers published in the county in, or nearest to such towns, if so many, otherwise in all the newspapers published in the county as often as once a week. A copy of such notice shall also be served personally, at least fifteen days before the meeting of such board, on the supervisor and town clerk of each of the other towns to be affected thereby. A copy of the resolution, as adopted by the board, which shall contain the courses, distances and fixed monuments specified in such boundary line or lines, together with a map of the survey thereof, with the courses, distances and fixed monuments referred to therein, plainly and distinctly marked and indicated thereon, shall be filed in the office of the secretary of state within thirty days after the adoption of such resolution, who shall cause the same to be printed and published with the laws of the next state legislature after the adoption thereof.

Formerly L. 1892, ch. 686, § 36.

**§ 38. Fire districts outside of incorporated villages.** Each board of supervisors may, on the written, verified petition of the taxable inhabitants of a proposed fire district outside of an incorporated village or city, and within the county,

whose names appear on the last preceding assessment-roll of the town wherein such proposed fire district is located, as owning or representing more than one-half of the taxable real property of such district, or as owning or representing more than one-half of the taxable real property of such district owned by the residents thereof, establish such district as a fire district. No such district shall extend in any direction to exceed one mile from the nearest engine or hose or hook and ladder house located within the district. When any two or more fire districts, established as above provided, not within an incorporated village, adjoin each other, the board of supervisors of the county in which said districts are located, may, upon a written, verified petition of the taxable inhabitants of each of said districts whose names appear on the last preceding assessment-roll of the town or towns within which said fire districts are located, as owning or representing more than one-half of the taxable real property of each of said districts, or as owning or representing more than one-half of the taxable real property of each of said districts owned by the residents thereof, consolidate such fire districts and establish the same into one fire district. The trustees of such fire district hereinafter provided may establish, equip and maintain such engine, hose or hook and ladder houses as they may deem necessary. When any such fire district has been established or consolidated in the manner above provided, the legal voters thereof may elect not less than three nor more than five residents thereof to be the fire commissioners for a term of five years or such less term as a majority of such voters at the time of any such election may express on their ballots; and may also elect a treasurer in such fire district for a term of three years, who shall be entitled to receive and have the custody of the funds of the district and pay out the same for the purposes herein provided for, on the order of the fire commissioners, which treasurer before entering on the duties of his office, shall give such security as the board of supervisors may require. The first election for such fire commissioners and treasurer shall be called by the clerk of the town within which any such district shall be established, or when any such district is within more than one town within the county, by the clerks of such towns jointly and concurrently, within thirty days from the establishment or consolidation of such fire district or districts, and upon such notice and in the same manner as required for special town meetings. All subsequent elections shall be called in the same manner by the clerk or clerks of the town or towns, not less than thirty days prior to the expiration of the term of office of any such commissioners or of the treasurer;

special elections to fill any vacancies shall be called in the same manner within thirty days after any such vacancy shall occur. Any such district when established or consolidated shall be known by such name as the fire commissioners thereof may adopt at their first meeting for the organization, and thereafter such fire commissioners shall be authorized and empowered to purchase apparatus for the extinguishment of fires therein; rent or purchase suitable real estate and buildings or erect, alter or repair buildings, for the keeping and storing of the same; and to procure supplies of water, and have control and provide for the maintenance and support of a fire department in such district; and shall have power to organize fire, hook, hose, ladder, axe and bucket fire patrol companies; and to appoint a suitable number of able and respectable inhabitants of said district as firemen and to prescribe the duties of the firemen and the rules and regulations for the government of all companies and of the fire department in such district; and who shall have power to make any and all contracts within the appropriations voted by the resident taxpayers of the district for the purpose of carrying out the authorization and powers herein granted. Such fire commissioners may expend in any one year for any or all the purposes above specified a sum or sums not exceeding the total of one hundred dollars, and make a contract for a supply of water for fire purposes for a period not to exceed five years, without any appropriation voted therefor by the taxpayers of such district. For the purpose of giving effect to these provisions the fire commissioners are hereby authorized whenever a tax shall be voted to be collected in instalments for the purposes of carrying out the authorization and powers herein granted, to borrow so much of the sum voted as may be necessary at a rate of interest not exceeding six per centum per annum and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district and be paid at maturity; and such bonds shall not be sold below par; due notice of the time and place of the sale of such bonds shall be given at least ten days prior thereto; the payment or collection of the last instalment shall not be extended beyond ten years from the time when such vote was taken. Whenever the fire commissioners in any such fire district shall submit a request in writing for an appropriation of any sum of money for the purposes herein authorized, the clerk or clerks of the town or towns in which such fire district shall be located, shall call a meeting of the resident taxpayers of the district for the purpose of voting upon the question of appropriating such money, such meeting to be called by a notice



posted conspicuously in at least two of the most public places in such fire district, at least ten days before the holding of any such meeting, which notices shall state the time, place and purpose of the meeting. At any such meeting such resident taxpayers may appropriate the amount requested by the fire commissioners, or any less amount, and may determine that the sum so appropriated or some part thereof shall be raised by instalments. When any such appropriation is made, or when any amount less than the sum of one hundred dollars shall have been expended by such fire commissioners, as above authorized, the amount appropriated or expended and the amount contracted to be paid yearly for the supply of water for fire purposes, shall be assessed, levied and collected on such district, in the same manner, at the same time and by the same officers as the taxes of the town in which the district is located, are assessed, levied and collected, and when collected shall be paid over immediately by the supervisor of the town to the treasurer of the fire district; and the town shall be responsible for any and all sums so collected until the same shall be paid over to such treasurer. Such fire commissioners shall before the annual meeting of the board of supervisors present to the supervisor of the town or towns in which such fire district is situated an itemized and verified statement in duplicate of the amount expended by them during the preceding year, without an appropriation having been made therefor by the taxpayers of such district. The supervisor shall file one of such duplicates in the office of the town clerk, and one shall be presented by him to the board of supervisors. All meetings of any such district called for the election of officers, or for the appropriation of money, shall be presided over by a resident taxpayer to be designated by the fire commissioners, except that the first meeting after any such fire district shall have been established shall be presided over by a resident taxpayer selected by the legal voters at the meeting; and all elections for fire commissioners and for treasurer shall be by ballot, in the same manner as is provided for the election of other town officers. Such meetings shall be open to receive ballots for not less than two hours, which hours shall be stated in the notice. There shall be one inspector to receive ballots and one clerk to record the names of the voters. The chairman, inspector and clerk shall receive the sum of three dollars each for their services as such. The board of supervisors in any county in which any such fire district shall have been heretofore or shall be hereafter established, may at any time, upon the written verified petition of the taxable inhabitants of any such district, whose

names appear upon the last preceding assessment-roll of the town within which such district is located as owning or representing more than one-half of the taxable real property of such district, or as owning or representing more than one-half of the taxable real property in such district owned by the residents thereof, discontinue such district as a fire district, and upon such action being taken by the supervisors, the fire commissioners of such district, where it is wholly within a village incorporated since said district was formed, shall turn over to any fire corporation organized by the trustees of said village all the property thereof, such village to pay all the debts thereof, and in other than such last-named districts the fire commissioners shall proceed to sell the property belonging to such district at public sale; three notices of such sale shall be posted conspicuously in three of the most public places in the district, for a period of thirty days prior to the sale, and the proceeds of such sale shall be paid over by the treasurer of the district to the supervisor of the town and the sum so paid over shall be credited to the taxable real property located in such district, in the next succeeding assessment of town taxes. Whenever any portion of any such fire district heretofore or hereafter established shall be incorporated into the corporate limits of any incorporated village or city, the board of supervisors of the county in which such district is located shall, upon the written verified petition of more than one-half in assessed valuation of the taxable inhabitants of such incorporated portion of the fire districts, change the boundaries of such district in such manner as shall exclude such incorporated portion of the district, and thereafter such incorporated portion of the district shall not be entitled to the protection, nor liable to be assessed or taxed for the support of the fire department of such district. Where any two fire districts not within any incorporated village adjoin each other, the boundary line between such districts may be changed by the board of supervisors of the county in which they are located, upon a written verified petition of the taxable inhabitants of the portion of the fire district applied to be changed, whose names appear upon the last preceding assessment-roll of the town within which said portion of said fire district is located, as owning or representing more than one-half of the taxable property of such portion of said fire district, or as owning or representing more than one-half of the taxable real property of such portion of said fire district owned by the residents thereof, provided the taxable inhabitants of both said fire districts and within the county, whose names appear upon the last preceding assess-

ment-roll of the town or towns, owning or representing more than one-half of the taxable property of said district, or as owning or representing more than one-half of the taxable real property of such fire districts owned by the residents thereof, shall consent in writing to such change.

Formerly L. 1892, ch. 686, § 37, as am'd by L. 1895, ch. 937, § 1; L. 1896, ch. 902, § 1; L. 1897, ch. 329, § 1; L. 1902, ch. 142, § 1; L. 1903, ch. 196, § 1 and L. 1906, ch. 249, § 1.

**§ 39. Effect of incorporation of village within limits of fire district.** Whenever any fire district is located entirely within the corporate limits of two or more villages by virtue of the incorporation of such villages after the establishment of such fire district, and the said villages or either of them has not been excluded from the limits or boundaries of such fire district in accordance with the provisions of section thirty-eight of this chapter, the town board and the board of fire commissioners of such fire district, shall meet together on the Friday next preceding the annual meeting of the board of supervisors and estimate the amount necessary for the support of the fire department within such fire district, the purchase, lease and maintenance of suitable real estate and buildings for the keeping and storing of the same for the purchase of the water supply for fire purposes and for the payment of debts and accounts which may have become due and shall certify the same to the board of supervisors of the county, which said estimated amount shall, in the same manner as the expenses of the town are raised, be assessed, levied and collected only from the property within such fire district. The collector shall pay the sums thus collected to the supervisor of the town who shall pay the same to the treasurer of the fire district upon the order of the board of fire commissioners.

Formerly L. 1892, ch. 686, § 37-a, as added by L. 1904, ch. 277, § 1.

**§ 40. Soldiers' monument.** Any such board may also, by a vote of two-thirds of its members, raise and appropriate such moneys as it may deem necessary, for the erection within the county of public monuments, in commemoration of the federal soldiers and sailors in the late war of the rebellion, or of any other public person or event, and for repairing and remodeling such monuments; all moneys so raised shall be expended by direction of the board of supervisors; but no county officer shall receive any compensation for services rendered pursuant to this section.

Formerly L. 1892, ch. 686, § 38.

**§ 41. Temporary loans; issue of obligations therefor.** Whenever moneys are borrowed by a county on tempo-

rary loans, pursuant to a resolution duly adopted by the board of supervisors of such county, in anticipation of the taxes of the current fiscal year and for the purposes for which such taxes are levied as provided by section five of the general municipal law, the notes, certificates of indebtedness or other county obligations issued for the moneys so borrowed shall be signed by the county treasurer and countersigned by the county clerk. The county clerk shall enter in a book in his office, to be provided therefor at the expense of the county, the date of each such note, certificate of indebtedness or other county obligation, the amount for which it was issued, the time when payable, and a general statement as to the resolution of the board of supervisors authorizing the issue thereof.

Formerly L. 1892, ch. 686, § 39, as added by L. 1904, ch. 20, § 1.

**§ 42. Supervisors to furnish necessities for term of county court.** Except where other provision is made therefor by law, the board of supervisors of each county must provide each court of record, appointed to be held therein, with proper and convenient rooms and furniture, together with attendants, fuel, lights, and stationery suitable and sufficient for the transaction of its business; and, upon an order of the court, for suitable and proper food and lodging and expenses for a jury kept together either during the progress of the trial or after their retirement for deliberation. If the supervisors shall neglect so to do, the court may order the sheriff to make the requisite provision; and the expense incurred by him in carrying the order into effect, when certified by the court, is a county charge.

Formerly Code Civil Procedure, § 31 part.

**§ 43. Board may establish county laboratory.** The board of supervisors of any county shall have the power, by the vote of a majority of said board, to establish a county laboratory and to appoint a thoroughly trained and competent county bacteriologist to have charge of such laboratory, and such assistants as may be required.

Formerly L. 1892, ch. 686, § 40, as added by L. 1908, ch. 255, § 1.

**§ 44. Compensation and removal of bacteriologist and assistants.** Such board of supervisors shall have, by like vote, power to fix the compensation of such county bacteriologist and to remove him from office; fix the compensation of such assistants and remove them from office; also to provide any necessary supplies, equipments, and samples not otherwise provided. Such board of supervisors may from time to time make such rules and regulations concerning the duties and liabilities of

such officers as said board may deem for the best interests of the county. Provided that the board of supervisors of any county having no county bacteriologist may, and such board is hereby authorized and empowered to make a contract with a county having such county bacteriologist and county laboratory, or with a city having a city bacteriologist and city laboratory, for the performance of such services as said board may deem necessary in the interests of public health.

Formerly L. 1892, ch. 686, § 41, as added by L. 1936, ch. 255, § 1.

## ARTICLE 4

### Clerks of Boards of Supervisors

Section 50. Duties.

51. Annual statement.
52. Report of county indebtedness.
53. Statement of railroad, telegraph, telephone and electric-light taxes.
54. Forfeiture.

**§ 50. Duties.** Clerks of boards of supervisors shall:

1. Record in books provided for the purpose all the proceedings of such board.
2. Make regular entries of all their resolutions or decisions.
3. Record the vote of each supervisor on any question submitted to the board, when the law authorizing the vote requires an entry of the yeas and nays, and in other cases if required by any member present.
4. File and preserve all accounts acted upon by the board.
5. Designate upon every account audited and allowed by the board the amount so audited and allowed, and the items or amount disallowed; and deliver to any person who may demand it, a certified copy of any account on file in his office, on receiving from such person eight cents per folio therefor.
6. Keep the books and papers of the board open to public inspection without charge.
7. Transmit to the librarian of the state library at Albany, a copy of the proceedings of such board, annually, and within twenty days after the same shall be published.
8. Prepare the tax-rolls under the direction of the board.
9. Perform such other duties as may lawfully be required of him by the board.

Formerly L. 1892, ch. 686, § 50.

**§ 51. Annual statement.** The clerk shall annually, on or before the first day of January, make out and certify, and within two weeks cause to be published in a newspaper printed in the county, with the abstract of accounts furnished by town auditors, a statement for the preceding year, containing:

1. An abstract of all county accounts presented to the board at its last annual meeting, allowed or disallowed, with the amount claimed and allowed, and the name of each person presenting the same, and the general nature of the account.

2. The amount, items and nature of all compensation, audited by the board to each member thereof.

3. The number of days the board was in session, and the distance traveled by each member in attending the same.

Formerly L. 1892, ch. 686, § 51.

**§ 52. Report of county indebtedness.** The clerk shall annually on or before the second Monday in December, or such other date, not later than the third Monday in January thereafter, as the board of supervisors of any county shall by resolution thereof determine, transmit to the state comptroller by mail, in the form which the comptroller shall prescribe, a certified statement of all the indebtedness of his county, and of each town, city, village and school district therein, and of the aggregate valued amount of real and personal estate in each town or ward, as corrected by the board of supervisors, and it shall be the duty of the person or persons charged with the issue or payment of such indebtedness to transmit a statement of the same to the said clerk annually, on or before the first day of November. The provisions of this section shall also apply to the county of New York.

Formerly L. 1892, ch. 686, § 52, as am'd by L. 1895, ch. 310, § 1 and L. 1908, ch. 478, § 1.

**§ 53. Statement of railroad, telegraph, telephone and electric-light taxes.** The clerk shall, within five days after the making out, or issuing of the annual tax-warrant by the board of supervisors, prepare and deliver to the county treasurer of his county, a statement showing the title of all railroad corporations and telegraph, telephone and electric-light lines in such county, as appear on the last assessment-roll of the towns or cities therein, the valuation of the property, real and personal, of such corporation and line in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in his county.

Formerly L. 1892, ch. 686, § 53.

**§ 54. Forfeiture.** 1. Any such clerk, or any person or persons required under this article to make any report, return or statement who shall refuse or neglect to make the same, shall forfeit to the county the sum of one hundred dollars, to be recovered by the district attorney thereof in the name of the county, and whenever such failure or neglect is caused by any such clerk, person or persons required to make such report, return or statement under the provisions of section fifty-two of this article, such district attorney shall forthwith proceed to obtain such forfeiture on notice in writing by the state comptroller of such failure or neglect; but such clerk shall not be subject to such forfeiture, in case he certify to the said comptroller, on or before the second Monday in December, the name or names of such person or persons who have refused or neglected to furnish him with the information necessary to make such report, return or statement required by said section fifty-two of this article; provided, however, that any such report, return or statement, which may have been made after said second Monday in December, shall be furnished by said clerk to the comptroller immediately upon its receipt.

2. The costs awarded upon the collection of such recoveries may be retained by the district attorney for his own use.

Formerly L. 1892, ch. 686, § 54, as am'd by L. 1897, ch. 406, § 1.

## ARTICLE 5

### Duties of Boards of Supervisors Relating to Highways and Bridges

- Section 60. Limitation of article.
61. County highways and bridges.
  62. Location and construction of bridges.
  63. County aid to towns for the construction and repair of bridges.
  64. Construction by county of destroyed bridges.
  65. Apportionment of expenses when a bridge is intersected by town or county lines.
  66. County's share of expenses to be raised and paid to the commissioners of highways of the towns.
  67. Towns authorized to construct a bridge outside of a boundary line.
  68. Bridges over county lines.
  69. Towns authorized to purchase roads or toll bridges.
  70. Streets outside of city limits.
  71. Survey and records of highways.

Section 72. Regulation of toll-rates.

73. Highways in counties of more than 300,000 acres of unimproved land.

74. Appropriation of certain non-resident highway taxes.

75. Balance of state appropriations.

76. Alteration of state roads.

77. Further powers.

78. Powers as to tires on vehicles.

79. Abandoned turnpike, plank and macadamized roads.

80. Boundary lines.

**§ 60. Limitation of article.** This article shall not apply to bridges on the Hudson river below Waterford, or on the East river, or over the waters forming a part of the boundaries of the state.

Formerly L. 1892, ch. 686, § 60.

**§ 61. County highways and bridges.** A board of supervisors shall, on the application of twenty-five resident taxpayers, when satisfied that it is for the interest of the county, lay out, open, alter or discontinue a county highway therein, or cause the same to be done, and construct, repair or abandon a county bridge therein, or cause the same to be done, when the board shall deem the authority conferred on commissioners of highways insufficient for that purpose, or that the interests of the county will be promoted thereby. All expenses so incurred shall be a county charge. Such powers shall not be exercised unless the applicants therefor shall prove to the board the service of a written notice, personally or by mail, on a commissioner of highways of each town in the county, at least twelve days prior to the presentation of such application, specifying therein the object thereof; and when the application is to lay out a highway, or construct a bridge, the route or location thereof; and in all other cases, a designation of the highway or bridge to be affected thereby. *Am'd by L. 1909, ch. 240, § 9.*

Formerly L. 1892, ch. 686, § 61.

**§ 62. Location and construction of bridges.** The board may authorize the location, change of location and construction of any bridge, applied for by any town or towns, jointly, or by other than a municipal corporation, created under a general law, or by any corporation or individual for private purposes; and if a public bridge, erected other than by a municipal corporation, establish the rates of toll for crossing such bridge; but if such bridge is to cross a navigable stream, provision shall be made in the resolution or permission authorizing the same, for the erection



and maintenance of a suitable draw, to prevent any obstruction of the navigation of such stream; and if a private bridge, provision shall be made that the draw shall be kept open as may be required to permit all vessels to pass without loss of headway. When such bridge shall be intersected by the line of counties, the action of the board of supervisors of each county shall be necessary to give the jurisdiction herein permitted. But this section shall not apply to a pier bridge erected or to be erected over the Mohawk river above the state dam by a corporation organized under the transportation corporations law, provided such corporation shall comply with all the provisions of said transportation corporations law applicable thereto; such a corporation, without further proceeding, shall have the right to erect and maintain piers in said river for the purposes of such a bridge.

Formerly L. 1892, ch. 686, § 62, as am'd by L. 1898, ch. 225, § 1.

**§ 63. County aid to towns for the construction and repair of bridges.** If the board of supervisors of any county shall deem any town in the county to be unreasonably burdened by its expenses for the construction and repair of its bridges, the board may cause a sum of money, not exceeding two thousand dollars in any one year, to be raised by the county and paid to such town to aid in defraying such expenses.

Formerly L. 1892, ch. 686, § 63.

**§ 64. Construction by county of destroyed bridges.** If any bridge within a county, or intersected by any boundary line of a county, shall be destroyed by the elements, and the board of supervisors of the county shall deem that the expenses of the construction of a new bridge at or near the site of the bridge so destroyed would be too burdensome upon the town or towns within such county, which would otherwise be liable therefor, the board of supervisors of any such county may provide for the construction and completion of a bridge and all necessary approaches thereto, at or near the site of the bridge so destroyed. If the bridge so destroyed shall have been constructed by a corporation created under a general law, and the site thereof, and the approaches thereto, or either, shall be the property of such corporation, such board of supervisors may purchase the interest of such corporation, or any other person, in such site or approaches, if such purchase can be accomplished upon reasonable terms; but if such site or approaches can not be lawfully acquired by such purchase, or otherwise, upon reasonable terms, such board may acquire title to premises on either side of such

site, and provide for the construction of a bridge and approaches thereto, at such place, at the expense of the county, or of the two counties jointly, as the case may be, provided such bridge shall be so located as not to increase the distance to be traveled upon the highway to reach each end of such bridge more than five rods. Any board of supervisors providing for the construction of any such bridge may determine by resolution whether the expenses of the maintenance and repair thereof shall thereafter be a county charge, or a charge upon such town or towns.

Formerly L. 1892, ch. 686, § 64.

**§ 65. Apportionment of expenses when a bridge is intersected by town or county lines.** If any public free bridge, intersected by the boundary line of a county, shall also be intersected by the boundary line of two or more towns in such county, the board of supervisors of such county shall apportion as it shall deem equitable, between such towns, their respective shares of the expenses of the construction, maintenance and repair of such bridge, and the amount to be received by each town, of the money raised by the county to be paid toward defraying the expenses of constructing and repairing such bridge.

The provisions of chapter four hundred and thirty-nine of the laws of eighteen hundred and eighty-one shall apply and continue in force so far as relates to or affects any bridges constructed thereunder before the sixth day of May, eighteen hundred and ninety.

Formerly L. 1892, ch. 686, § 65. L. 1890, ch. 287, § 1, incorporated.

**§ 66. County's share of expenses to be raised and paid to the commissioners of highways of the towns.** The board of supervisors shall cause to be raised and collected the amount to be paid by the county to any town toward the expenses of a bridge and when collected the same shall be paid to the commissioners of highways of the town, to be applied by them toward the payment of such expenses.

Formerly L. 1892, ch. 686, § 66.

**§ 67. Towns authorized to construct a bridge outside of a boundary line.** The board of supervisors of any county may authorize any town, on a vote of a majority of the electors thereof voting at a regular town meeting, to appropriate a sum, or pledge its credit, to partly or wholly construct and maintain a bridge outside the boundaries of the town or county, or from or within the boundary line of any town into another town or county, but forming a continuation of highways leading from

such town or county, and deemed necessary for the public convenience.

Formerly L. 1892, ch. 686, § 67.

**§ 68. Bridges over county lines.** The board shall provide for the care, maintenance, preservation and repair of any draw or other bridge intersecting the boundary line of counties or towns, which bridge is by law a joint charge on such counties or towns, or on the towns in which it is situated; and to severally apportion, as it may deem equitable, the expenses thereof on the towns respectively liable therefor, or on the respective counties when liable; but when such bridge shall span any portion of the navigable tide-waters of this state, forming, at the point of crossing, the boundary line between two counties, such expense shall be a joint and equal charge upon the two counties in which the bridge is situated, and the board of supervisors in each of such counties shall apportion such expense among the several towns and cities in their respective counties, or upon any or either of such towns and cities, as in their judgment may seem proper; and if there be in either of said counties, a city, the boundaries of which are the same as the boundaries of the county, then it shall be the duty of the common council of such city, to perform the duty hereby imposed upon the boards of supervisors; but no town or city not immediately adjacent to such waters at the points spanned by said bridge shall be liable for a larger proportion of such expense than the taxable property of such town or city bears to the whole amount of taxable property of such county. The board of supervisors of such counties or, in any city embracing the entire county and having no board of supervisors, the common council, shall have full control of such bridges. No such bridge shall be constructed unless the board of supervisors in each of such counties, and the common council of the city whose boundaries are the same as the boundary of the other county adjacent to such waters, shall first by resolution determine that such bridge is necessary for public convenience, in which case such common council, with the consent of the mayor, may authorize the issue of bonds for the purpose of constructing such bridge, to be issued as other bonds are issued in said city. Whenever any bridge now spanning any such navigable tide-waters or hereafter erected across any such navigable tide-waters, shall be condemned by the United States authorities as an obstruction to navigation, and shall be ordered removed, the county and city authorities having charge of such bridge, if they shall determine that such bridge shall be rebuilt, shall, as soon as practicable after such determination, cause plans to be prepared for the erect-

tion of the new bridge and the removal of any bridge so condemned as aforesaid, and within a reasonable time after the approval of any such plans by the United States authorities, the proper officers shall proceed with the construction of said new bridge. In case of any unreasonable delay on the part of the officer or officers charged with the duty of construction of such new bridge, such duty may be enforced by mandamus upon the application of any citizen interested in its performance.

Formerly L. 1892, ch. 686, § 68, as am'd by L. 1896, ch. 995, § 1.

**§ 69. Towns authorized to purchase roads or toll bridges.** The board may authorize a town or towns to purchase for public use, any plank road, turnpike, toll road or toll bridge in such town, and may authorize the company owning the same, to sell the same, or any part thereof, or the franchise thereof, and may authorize such town or towns to borrow such sums of money as may be necessary therefor for or on the credit of such towns, after the same shall have been directed by a vote of a majority of the electors at a town meeting, or special town meeting as provided in section ninety-seven of the highway law.

Formerly L. 1892, ch. 686, § 69-a, as added by L. 1903, ch. 469, § 2.

**§ 70. Streets outside of city limits.** When any territory in a county containing an incorporated city of one hundred thousand inhabitants or upward, lying outside the limits of such city, has been mapped into streets and avenues pursuant to law, the board of supervisors may authorize the establishment of a plan for the grade of such streets and avenues; the alteration of such plan of grades, or of any plan thereof that shall have been established by law; the laying out, opening, grading, constructing, closing and change of line or width, of any one or more of them, and provide for the assessment on property intended to be benefited thereby, and fixing assessment districts therefor, and for the levy, collection and payment of the amount of damages sustained and the charges and expenses incurred, or which may be necessary to incur in carrying out such provisions; the laying out of new or additional streets and avenues upon the established map or plan thereof, the acceptance by town officers of conveyances of lands, for public highways, the naming and changing of names of streets and avenues laid down on said map or plan, and the numbering or renumbering of houses and building lots fronting on such streets and avenues. But such last named power in regard to the alteration of said map or plan, laying out, opening, grading, constructing, closing and change of line, of such streets

or avenues, or the numbering or naming thereof, or defraying the expenses thereof, shall only be exercised on the petition of the property owners, who own more than one-half of the frontage on any such street or avenue, or on a certificate of the town board and commissioners of highways of the town, that the same is, in their judgment, proper and necessary for the public interest. If the streets and avenues, in respect to which such action is proposed to be taken, shall lie in two or more towns, a like certificate shall be required of the town board and commissioners of highways, of each town. Before making such certificate, such town board, or boards and commissioners of highways, shall give ten days' notice by publication in one of the daily papers of the county, and by conspicuously posting in six public places in each of such towns, of the time and place at which they will meet to consider the same, at which meeting the public, and all persons interested, may appear and be heard in relation thereto. No such street or avenue shall be laid out, opened or constructed, upon or across any lands acquired by the right of eminent domain, and held in fee for depot purposes by any railroad corporation, or upon or across any lands now held by a corporation formed for the purpose of improving the breed of horses, without the consent of such corporations. No town officer shall charge anything for his services under this section, nor shall any charge be made against any such town or the property therein, for the expense of the publication of the notice herein required.

Formerly L. 1892, ch. 686, § 71. L. 1892, ch. 289, § 1 incorporated.

**§ 71. Survey and records of highways.** The board may authorize and direct the commissioners of highways of any town to cause a survey to be made, at the expense of the town, of any or all of the highways therein, and to make or complete a systematic record thereof, or to revise, collate and rearrange existing records of highways, and correct and verify the same by new surveys and to establish the location of highways by suitable monuments. Such records so made, or revised, corrected and verified, shall be deposited with the town clerk of the town, and shall thereafter be the lawful records of the highways which they describe; but shall not affect rights pending in any judicial proceeding commenced before the deposit of such revised records with the town clerk.

Formerly L. 1892, ch. 686, § 72.

**§ 72. Regulation of toll rates.** Such boards shall have power by a vote of two-thirds of all the members elected to

authorize an alteration, reduction or change of the rates of toll charged or received by any turnpike, plank or gravel road, or other toll road within such county, or by any bridge company or ferry within such county, or, if within more than one county, then by joint action with the supervisors of such counties, provided such alteration shall be asked for by the directors, trustees or owners of such road, bridge or ferry; but that no increase of toll shall be so authorized unless notice of intention to apply for such increase shall have been published in each of the newspapers published in such county, once in each week for six successive weeks next before the annual election of supervisors in such county; and any alteration in rates of toll authorized by any board of supervisors may be changed or modified by any subsequent board, on their own motion, by a like vote of two-thirds of all the members elected to such board; but nothing herein contained shall affect or abridge the powers of any city.

Formerly L. 1892, ch. 686, § 73.

**§ 73. Highways in counties of more than 300,000 acres of unimproved land.** The board may establish separate highway districts in counties containing more than three hundred thousand acres of unimproved unoccupied forest lands, for the purpose of constructing highways through such lands; such highway districts to be established upon the application of the owners of more than one-half of the non-resident lands therein. Any such highway district shall consist of contiguous tracts or parcels of land, and may include parts of one or more towns; and they may be changed, altered or abolished at any time by the board. Such board may appoint one or more commissioners to lay out and construct such highways in any such district, and prescribe the powers and duties, and direct the manner in which highway taxes shall be assessed, levied and collected upon the lands within the district, and the manner of expenditure thereof.

They may also authorize such commissioners to borrow money on such terms as they may deem just, but not exceeding the amount of ten years' highway taxes upon such lands; and may, for the purpose of repaying such loan, set apart and appropriate the highway taxes upon such lands, for a period not exceeding ten years from the time of making such loan.

Formerly L. 1892, ch. 686, § 74.

**§ 74. Appropriation of certain non-resident highway taxes.** The board may, upon the application of the owners representing a majority in value, as shall be ascertained from the last annual assessment-roll of the real estate lying along

the line of any highway, laid out through unimproved lands, in cases not provided for in the last preceding section, authorize the appropriation of the non-resident highway tax on the lands lying along such line, for the improvement of such highways.

Formerly L. 1892, ch. 686, § 75.

**§ 75. Balance of state appropriations.** The board may direct the expenditure of any non-resident highway or bridge tax, set apart by an act of the legislature, in counties wherein such non-resident lands are situated, when the official life of commissioners appointed to receive and expend such taxes has expired.

Formerly L. 1892, ch. 686, § 76.

**§ 76. Alteration of state roads.** The board may authorize the commissioners of highways of any town in their county to alter or discontinue any road or highway therein, which shall have been laid out by the state under the same conditions that would govern their actions in relation to highways that have been laid out by local authorities.

Formerly L. 1892, ch. 686, § 77.

**§ 77. Further powers.** The board may make such other local and private laws and regulations concerning highways, alleys, bridges and ferries within the county, and the assessment and apportionment of highway labor or taxes therefor, not inconsistent with law, as it may deem necessary and proper, when the purposes of such laws and regulations can not be accomplished under the foregoing provisions, or the general laws of the state.

Formerly L. 1892, ch. 686, § 78.

**§ 78. Powers as to tires on vehicles.** The board of supervisors may enact local and private laws regulating the width of tires used on vehicles built to carry a weight of fifteen hundred pounds or upwards, and may provide penalties for the violation thereof.

Formerly L. 1892, ch. 686, § 79, as added by L. 1894, ch. 644, § 1, and am'd by L. 1899, ch. 155, § 1.

**§ 79. Abandoned turnpike, plank and macadamized roads.** Boards of supervisors shall have power to provide for the use of abandoned turnpike, plank or macadamized roads within any town as public highways; but jurisdiction in such a case shall not be exercised without the assent of two-thirds of all the members elected to such board, to be determined by yeas and nays, which shall be entered on its minutes.

Formerly L. 1892, ch. 686, § 80, as added by L. 1895, ch. 756, § 1.

**§ 80. Boundary lines.** Wherever the words "upon its borders" are used in this article in reference to the boundary line between two towns, the same are and were intended and shall be construed to mean "upon," "along," and "across its borders."

Formerly L. 1892, ch. 686, § 81, as added by L. 1900, ch. 163, § 1.

## ARTICLE 6

### County Jails

- Section 90. Use of jails.  
 91. Rooms therein.  
 92. Custody and control of prisoners.  
 93. Food and labor.  
 94. Reading matter; divine service.  
 95. Record of commitments.  
 96. Commitment by United States courts.  
 97. Keepers to present calendars to courts.  
 98. Prisoner to be discharged if unable to pay fine.  
 99. Houses of detention for women, children and witnesses.  
 100. County work-houses.  
 101. Who may visit jails and work-houses.

**§ 90. Use of jails.** Each county jail shall be used,

1. For the detention of persons duly committed to secure their attendance as witnesses in any criminal case;
2. For the detention of persons charged with crime, and committed for trial or examination;
3. For the confinement of persons duly committed for any contempt, or upon civil process;
4. For the confinement of persons convicted of any offense, other than a felony, and sentenced to imprisonment therein, or awaiting transportation under sentence to imprisonment in another county.
5. The buildings, now used as the jails of the counties of the state, shall continue to be the jails of those counties respectively, until other buildings have been designated or erected for that purpose, according to law.

Formerly L. 1892, ch. 686, § 90. Code Civil Procedure, § 121 part, incorporated.

**§ 91. Rooms therein.** Each county jail shall contain,

1. A sufficient number of rooms for the confinement of persons committed on criminal process, or detained for trial, or examina-



tion as witnesses in a criminal case, separately from prisoners under sentence;

2. A sufficient number of rooms for the separate confinement of persons committed on civil process, or for contempt;

3. A sufficient number of rooms for the solitary confinement of prisoners under sentence.

Formerly L. 1892, ch. 686, § 91.

**§ 92. Custody and control of prisoners.** Each sheriff shall receive and safely keep, in the county jails of his county, every person lawfully committed to his custody for safe-keeping, examination or trial, or as a witness, or committed or sentenced to imprisonment therein, or committed for contempt. He shall not, without lawful authority, let any such person out of jail. Persons in custody on civil process, or committed for contempt, or detained as witnesses, shall not be put or kept in the same room with persons detained for trial or examination upon a criminal charge, or with convicts under sentence. Persons detained for trial or examination upon a criminal charge shall not be put or kept in the same room with convicts under sentence. Minors shall not be put or kept in the same room with adult prisoners. A woman detained in any county jail or penitentiary upon a criminal charge, or as a convict under sentence, shall not be kept in the same room with a man; and if detained on civil process, or for contempt, or as a witness, she shall not be put or kept in the same room with a man, except with her husband, in a room in which there are no other prisoners. If a woman committed to any county jail or penitentiary is then the mother of a nursing child in her care, under one year of age, or if a child be born to such woman after her said commitment, such child may accompany its mother to and remain in such institution until it is two years of age, or until the mother's discharge from custody before the child reaches that age. The sheriff, superintendent or other officer in charge of any county jail or penitentiary shall cause such child, when it attains the age of two years, while its mother is still in custody, or at the expiration of the extension of such time hereinafter mentioned, to be placed in an asylum for children in this state, or may commit such child to the care and custody of some relative or proper person willing to assume such care; provided, however, that the said child shall continue to remain with its said mother in such jail or penitentiary after it becomes two years of age for such a period as the physician employed to treat and visit prisoners in said jail or penitentiary certifies in writing to be necessary or advisable. If such woman at the time of such

commitment shall be the mother of, and have in her exclusive care, a child more than one year of age which might otherwise be left without care or guardianship, the justice or magistrate committing such woman shall cause such child to be committed to such asylum as may be provided for such purposes, or to the care and custody of some relative or proper person willing to assume such care. All persons confined in a county jail or penitentiary shall, as far as practicable, be kept separate from each other, and shall be allowed to converse with their counsel, or religious adviser, under such reasonable regulations and restrictions as the keeper of the jail may fix. Convicts under sentence shall not be allowed to converse with any other person, except in the presence of a keeper. The keeper may prevent all other conversation by any other prisoner in the jail when he shall deem it necessary and proper.

Formerly L. 1892, ch. 686, § 92, as am'd by L. 1906, ch. 426, § 1 and L. 1907, ch. 275, § 1.

**§ 93. Food and labor.** Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner committed to his jail for imprisonment under sentence, to be constantly employed at hard labor when practicable, during every day, except Sunday, and the board of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of such counties or towns, villages and cities therein; and to make rules and regulations for their employment; and the said board of supervisors are hereby

authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this state are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors.

Formerly L. 1892, ch. 686, § 93, as am'd by L. 1896, ch. 826, § 1.

**§ 94. Reading matter; divine service.** Each keeper shall provide a bible to be kept in each room of the jail in his charge, and he shall permit the persons therein confined to be supplied with other suitable and proper books and papers, and if practicable, he shall cause divine service to be conducted for the benefit of the prisoners, at least once each Sunday, if there shall be room in the prison that may be safely used for that purpose.

Formerly L. 1892, ch. 686, § 94.

**§ 95. Record of commitments.** Each keeper shall keep in a book to be provided at the expense of the county a daily record of the commitments and discharges of all prisoners delivered to his charge, which shall contain the date of entrance, name, offense, term of sentence, fine, age, sex, place of birth, color, social relations, education, secular and religious, for what and by whom committed, how and when discharged, trade or occupation, whether so employed when arrested, number of previous convictions. The book containing such record shall be a public record, and shall be delivered by each sheriff to his successor, and kept on file in the office of the sheriff or keeper.

Formerly L. 1892, ch. 686, § 95, as am'd by L. 1904, ch. 83, § 1.

**§ 96. Commitment by United States courts.** Such keeper shall receive and keep in his jail every person duly committed thereto, for any offense against the United States, by any court or officer of the United States, until he shall be duly discharged; the United States supporting such person during his confinement; and the provisions of this article, relative to the mode of confining prisoners and convicts, shall apply to all persons so committed by any court or officer of the United States.

Formerly L. 1892, ch. 686, § 96.

**§ 97. Keepers to present calendars to courts.** Such keeper shall present to the court at the opening of every term of the supreme court, and at every term of the county court, having a grand jury, to be held in his county, a calendar stating:

1. The name of every prisoner then detained in such jail.

2. The time when he was committed, and by virtue of what precept.

3. The cause of his detention.

Formerly L. 1892, ch. 686, § 97.

**§ 98. Prisoner to be discharged if unable to pay fine.** When any person shall be confined in a jail for the non-payment of a fine, not exceeding two hundred and fifty dollars, imposed for any criminal offense, and against whom no other cause of detention shall exist, on satisfactory proof being made to the county court of the county in which such prisoner may be confined, that he is unable, and has been ever since his conviction, to pay such fine, the court may in its discretion, order his discharge.

Formerly L. 1892, ch. 686, § 100.

**§ 99. Houses of detention for women, children and witnesses.** The board of supervisors of any county, except the county of Kings, may procure, by lease or purchase, a suitable place or places, other than the jail, for the safe and proper keeping and care of women and children charged with crime not punishable by death or imprisonment in state prison for a term exceeding five years or with second offense, and persons detained as witnesses, to be termed houses of detention; and when so provided, any magistrate in the county shall commit women and girls, and boys under sixteen years of age, and all persons held as witnesses thereto, instead of the jail. The sheriff shall have the same charge and control of such house, and shall be entitled to the same compensation for the care and keeping of prisoners therein, as in the county jail.

Formerly L. 1892, ch. 686, § 101.

**§ 100. County work-houses.** The board of supervisors of any county may establish and maintain a work-house for the confinement of persons convicted within the county of crimes and criminal offenses, the punishment for which is imprisonment in the county jail, and may provide for the imprisonment and employment therein of all persons sentenced thereto, and any court or judicial officer may sentence such person to such work-house instead of to the county jail.

Formerly L. 1892, ch. 686, § 102.

**§ 101. Who may visit jails and work-houses.** The following persons may visit at pleasure all county jails and work-houses: The governor and lieutenant-governor, secretary of

state, comptroller and attorney-general, members of the legislature, judges of the court of appeals, justices of the supreme court and county judges, district attorneys and every minister of the gospel having charge of a congregation in the town in which such jail or work-house is located. No other person not otherwise authorized by law shall be permitted to enter the rooms of a county jail or work-house in which convicts are confined, unless under such regulations as the sheriff of the county shall prescribe.

Formerly L. 1892, ch. 686, § 103.

## ARTICLE 7

### Dogs

- Section 110. Tax on dogs.
111. Rate of taxation when not fixed by the board.
  112. Owner to deliver description.
  113. Tax, how collected.
  114. Application of proceeds of tax and other moneys
  115. Collector's fees.
  116. When payment of tax to be proved.
  117. Liability of owners of dogs for injuries.
  118. Duties and powers of fence viewers.
  119. Certificate to be evidence.
  120. Duties of town board.
  121. Tax to pay orders for sheep or angora goats killed.
  122. When owners shall refund.
  123. Dogs chasing sheep or angora goats to be killed.
  124. Owner to kill dog after notice.
  125. When justice may order dog killed.
  126. Who deemed owner of dog.
  127. Penalties, collection and application of.
  128. Adoption by county of dog registration provisions.
  129. Payment of fees; issue of tags; definition of dog.
  130. Duties of assessors.
  131. Duty of town clerk.
  132. Penalties; actions therefor.
  133. Seizure of dogs not tagged or registered.
  134. Value to be recovered.
  135. Disposition of registration fees and penalties.
  136. Actions for injury or destruction of unregistered dogs.

**§ 110. Tax on dogs.** Each board of supervisors, except in counties having a population of eight hundred thousand or over,

may fix and impose a tax on dogs within the several cities and towns in its county. The board of supervisors of any such county may fix or impose a tax upon dogs in any town therein at a different rate than that imposed upon dogs in other towns in such county, upon the written application of the town board of such town. Such application shall specify the rate of tax to be imposed in such town. Such taxes shall be assessed, collected and applied in the manner provided by sections one hundred and thirteen and one hundred and fourteen of this chapter. If they do not exercise the powers herein conferred, the following provisions, so far as they relate to the taxation of dogs and the manner of collecting the same, shall apply to such county and the towns therein. The provisions of sections one hundred and ten to one hundred and twenty-seven, both inclusive, shall not affect cities of the second class.

Formerly L. 1892, ch. 686, § 110, as am'd by L. 1895, ch. 332, § 1 and L. 1905, ch. 261, § 1.

**§ 111. Rate of taxation when not fixed by the board.** Except in the county of Kings, the county of Westchester and the city of Buffalo, there shall be annually levied and collected the following tax on dogs over four months old: Upon every bitch owned or harbored by any one or more persons, or by any family, three dollars; upon every additional bitch owned or harbored by the same person or persons or family, five dollars; upon every dog other than a bitch owned or harbored by one or more persons, or by any family, fifty cents; and upon every additional dog, other than a bitch, owned or harbored by the same person or persons or family, two dollars.

Formerly L. 1892, ch. 686, § 111.

**§ 112. Owner to deliver description.** The owner and possessor of every dog liable to such tax, shall, whenever required by any assessor, deliver to him a written description of every such dog owned or possessed by him. For every neglect or refusal so to do, and for every false statement made in any description so furnished, he shall forfeit five dollars, to be recovered by the supervisor of the town.

Formerly L. 1892, ch. 686, § 112.

**§ 113. Tax, how collected.** The assessors of every town, city or ward, shall annex to the assessment-roll of real and personal estate therein, made by them annually, the name of each and every person liable to the tax imposed thereby, together with the number of bitches and dogs for which such person is assessed,

and return the same to the supervisors of their respective towns, cities or wards, to be laid by each supervisor before the board of supervisors, to be assessed and collected in the same manner as other state, county and town taxes are collected; and if any person duly assessed, shall refuse or neglect to pay the tax so assessed, within five days after demand thereof, it shall be lawful for any person, and it shall be the duty of the collector to kill the dog so taxed.

Formerly L. 1892, ch. 686, § 113.

**§ 114. Application of proceeds of tax and other moneys.** The collector of each town shall pay over the taxes so collected to the supervisor of the town, and the moneys so collected and paid over shall, in each town, constitute a town fund for paying the damages arising in such town from dogs killing or injuring sheep or angora goats; and such moneys, or the balance thereof, which shall remain in the hands of the supervisor of any town for the period of one year, may, by a vote of the town board of any town, be appropriated for the purpose of building and repairing highways and bridges or for the payment of the contingent expenses of such town.

If such town fund applicable to the payment of such damages becomes exhausted and claims for damages are thereafter presented, the supervisor may certify the fact to the treasurer of any village in his town, in which a resolution of the board of supervisors is in force pursuant to the provisions of sections one hundred and twenty-eight to one hundred and thirty-six of this chapter, and shall thereupon be entitled to receive from said treasurer the amount of all such unpaid claims, or so much thereof as may then be in the hands of such treasurer applicable to such purposes and accumulated since the close of the last preceding fiscal year of such village; and the moneys thus received by the supervisor shall be applied to the payment of such damages.

Formerly L. 1892, ch. 686, § 114, as am'd by L. 1900, ch. 560, § 1; L. 1902, ch. 38, § 1, and L. 1907, ch. 294, § 1.

**§ 115. Collector's fees.** Each collector shall be allowed to retain a commission of ten dollars on every hundred dollars collected, and at that rate upon all sums collected by him pursuant to this article, and upon filing his affidavit of the fact with the supervisor, be entitled to retain, as a further compensation from the moneys collected by him, the sum of one dollar for every dog or bitch killed by him under the provisions of this article.

Formerly L. 1892, ch. 686, § 115.

**§ 116. When payment of tax to be proved.** In any action brought for the killing of any dog, it shall be incumbent on

the plaintiff in such action to prove that the tax imposed upon such dog, if any, by the provisions of this article, has been paid.

Formerly L. 1892, ch. 686, § 116.

**§ 117. Liability of owners of dogs for injuries.** The owner or possessor of any dog that shall kill or wound any sheep or lambs, or angora goats or kids, shall be liable for the value of such sheep or lamb, or angora goat or kid, to the owner thereof, without proving notice to the owner or possessor of such dog, or knowledge by him that his dog was mischievous or disposed to kill sheep or angora goats.

Formerly L. 1892, ch. 686, § 117, as am'd by L. 1902, ch. 38, § 2.

**§ 118. Duties and powers of fence viewers.** The owner of any sheep or lambs, or angora goats or kids, that may be killed or injured by dogs, may apply to any two fence viewers of the town, village or city where such sheep or lambs, or angora goats or kids were killed or injured, who shall inquire into the matter, and examine witnesses in relation thereto, and if they shall be satisfied that the same were killed by dogs, and in no other way, they shall certify such fact, the number of sheep or angora goats killed, and the number injured, and the value of the sheep or angora goats killed or injured immediately previous to such killing or injury, the value of the sheep or angora goats after being so killed or injured, together with the amount of their fees.

Formerly L. 1892, ch. 686, § 118, as am'd by L. 1902, ch. 38, § 3.

**§ 119. Certificate to be evidence.** Such certificate shall be presumptive evidence of the facts therein contained, in any civil action or proceeding.

Formerly L. 1892, ch. 686, § 119.

**§ 120. Duties of town board.** Such certificate shall be presented to the town board at its second annual meeting for audit; and if such board shall be satisfied by the oath of the person claiming such damages that he has not been able to discover the owner or possessor of the dog or dogs, by which such damage was done, or that he has failed to recover his damages of such owner or possessor, it shall give an order on the supervisor of the town for the amount which it shall allow, who shall pay such order out of the funds arising from the provisions of this article.

Formerly L. 1892, ch. 686, § 120.

**§ 121. Tax to pay orders for sheep or angora goats killed.** Whenever the amount of the orders for damages, given by the town board to the owners of sheep or angora goats killed



or injured by dogs, shall exceed the amount of the dog fund in the hands of the supervisor of such town, the town board may, in its discretion, add to the accounts of such town, the amount of such orders then due and unpaid, but the amount so added shall not exceed the sum of three hundred dollars in any one year.

Formerly L. 1892, ch. 686, § 121, as am'd by L. 1897, ch. 171, § 1, and L. 1902, ch. 38, § 4.

**§ 122. When owner shall refund.** If, after receiving the amount of such damages from the supervisor, the owner of the sheep or angora goats so killed or injured shall receive or recover the value or any part thereof, from the owner or possessor of the dog or dogs doing the damage, he shall repay to the supervisor the sum so recovered. In case of his refusal or neglect, the supervisor shall bring an action therefor against him in the name of the town, which sum, when received, shall be returned to the dog fund of the town.

Formerly L. 1892, ch. 686, § 122, as am'd by L. 1902, ch. 38, § 5.

**§ 123. Dogs chasing sheep or angora goats to be killed.** Any person may kill any dog which he shall see wrongfully chasing, worrying or wounding any sheep or angora goats.

Formerly L. 1892, ch. 686, § 123, as am'd by L. 1902, ch. 38, § 6.

**§ 124. Owner to kill dog after notice.** The owner or possessor of every dog, to whom notice shall be given of any injury done by his dog to any sheep or angora goat, or of his dog having chased or worried any sheep or angora goat, shall, within forty-eight hours after such notice, cause such dog to be killed; for every neglect so to do, he shall forfeit two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until his dog shall be killed, unless it shall satisfactorily appear to the court before which an action shall be brought for the recovery of the said penalties, that it was not in the power of such owner or possessor to kill such dog.

Formerly L. 1892, ch. 686, § 124, as am'd by L. 1902, ch. 38, § 7.

**§ 125. When justice may order dog killed.** If any dog shall attack any person peaceably traveling on any highway, or his horse or team, or any domestic animal peaceably traveling on any highway in charge of any such person, and complaint thereof be made to a justice of the peace, such justice shall inquire into the complaint, and if satisfied of its truth, and that such dog is dangerous, he shall order the owner or possessor of such dog to kill him immediately. The owner or possessor of any dog, who shall refuse or neglect to kill him within forty-eight hours after

having received such order, shall forfeit the sum of two dollars and fifty cents, and the further sum of one dollar and twenty-five cents for every forty-eight hours thereafter, until such dog is killed.

Formerly L. 1892, ch. 686, § 125. L. 1890, ch. 203, § 1, incorporated.

**§ 126. Who deemed owner of dog.** Every person in possession of any dog, or who shall suffer any dog to remain about his house for the space of twenty days, previous to the assessment of a tax, or previous to any injury, chasing or worrying of sheep or angora goats, or any such attack made by a dog, shall be deemed the owner of the dog for all the purposes of this article.

Formerly L. 1892, ch. 686, § 126, as am'd by L. 1902, ch. 38, § 8.

**§ 127. Penalties, collection and application of.** The penalties imposed by this article for failure to kill dogs as prescribed therein shall be collected by the supervisor of the town where they are incurred, upon complaint being made to him of such failure, in the manner provided by the town law for the recovery of penalties given by law to a town for its use. Such penalties when so collected shall be paid into the town fund provided by this article for the payment of damages incurred by dogs killing sheep or angora goats in such town.

Formerly L. 1892, ch. 686, § 127, as added by L. 1896, ch. 680, § 1 and am'd by L. 1902, ch. 38, § 9.

**§ 128. Adoption by county of dog registration provisions.** The board of supervisors of any county may, by resolution adopted at an annual meeting, determine that the provisions of sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, of this article shall apply to such county, or to any specified town or village therein, after a date to be designated in such resolution, which date shall be subsequent to the last publication of the resolution as herein required, but no such resolution shall be adopted affecting any town or village in such county separately, except upon the written application of the town board of such town or the trustees of such village. Such resolution shall also prescribe the annual registration fee to be paid within such county, or within the several towns or villages specially affected by it, for every dog over four months old. A certified copy of such resolution shall be filed in the offices of the secretary of state and of the county clerk of such county, and also in the office of the clerk of the town or village affected by any such resolution if it relates to a single town or village; and such resolution, together with sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, of this article, shall

be published once in each week for six successive weeks in at least two newspapers published in the county to be designated by the board of supervisors, one of which shall be a newspaper published in the town or village specially affected, if such resolution relates to a single town or village and there be a newspaper published therein. After the date specified in such resolution, which shall be subsequent to such publication, no taxes upon dogs shall be assessed in any town or village in such county affected by such resolution, and the board of supervisors may at any subsequent meeting thereof prescribe a different annual registration fee, but must publish such change at least once each week for three successive weeks in at least two newspapers to be designated by the board of supervisors, but such registration fee must be uniform in any one year in all the towns and villages of the county to which such sections of this article are then applicable. The board of supervisors of such county may thereafter, by resolution adopted, filed and published in like manner, determine that the provisions of such sections shall not apply to such county, or to any separate town or village therein to which such provisions have been made to apply as aforesaid, and after the date specified in such resolution the provisions of law for assessment and collection of taxes on dogs shall apply to such county or to any separate town or village affected by the resolution last above mentioned, as if the resolution applying such sections had not been adopted.

When a resolution is in force which applies such sections to any town and to any village therein, separately, it shall be deemed to mean that the said sections apply, in respect to such town, to that portion thereof only which is outside of the corporate limits of such village and to the dogs owned or harbored in such outside territory. None of the provisions of this or of the ensuing sections of this article shall apply to any village situate in two or more counties, or to any village in two or more towns, unless a resolution is in force which applies such sections to all parts of the towns in which such villages are situate.

Formerly L. 1892, ch. 686, § 128, as added by L. 1901, ch. 455, § 1. and am'd by L. 1902, ch. 158, § 1; L. 1906, ch. 212, § 1; L. 1907, ch. 294, § 2, and L. 1908, ch. 373, § 1.

**§ 129. Payment of fees; issue of tags; definition of dog.** Within thirty days after the date specified in any such resolution making sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, of this article applicable to any county or to some specified town or village, every person resident within a town or village to which such resolution applies, owning or harboring a dog over four

months old shall pay to the town clerk of the town or the clerk of the village in which he resides the registration fee prescribed by such resolution; and every person who shall thereafter acquire or harbor such a dog for which such registration fee has not been paid shall pay such fee within ten days after acquiring or harboring the same. A fee so paid shall entitle such dog to registration until the thirty-first day of December following such payment; and thereafter on or before the tenth day of January in each year a like fee shall be paid by a person owning or harboring such dog. Upon the receipt thereof, the town or village clerk, as the case may be, shall enter in a book kept for that purpose the name of such owner or person, a description of such dog, and the date of the payment of the registration fee; and shall furnish for the use of such dog a suitable metallic tag stamped with the year of issuance and with a number corresponding with the registration number of such dog. Such tag shall be worn by such dog at all times during the year for which the registration fee shall be so paid. The town or village clerk, as the case may be, shall furnish a duplicate of such tag, whenever the same shall be lost, upon payment of the cost thereof. The expense of procuring such tags shall be paid in the same manner as other town or village charges, respectively, from the moneys received from the registration fees. The term "dog," as used in sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, of this article, includes bitch.

Formerly L. 1892, ch. 686, § 129, as added by L. 1901, ch. 455, § 1 and am'd by L. 1902, ch. 158, § 2; L. 1906, ch. 212, § 1, and L. 1907, ch. 294, § 2.

**§ 130. Duties of assessors.** The assessors of each town in such county shall annually, at the time of the completion of their assessment-rolls as provided by law, make a list containing the name of every person resident within their town liable to pay a registration fee for dogs as provided by section one hundred and twenty-nine of this article, together with the number of dogs owned or harbored by such person, and forthwith deliver such list signed by them to the town clerk.

If a resolution of the board of supervisors is separately in force in any village providing for a registration of dogs therein, then the assessors or assessing officers of such village shall in like manner file with the village clerk a like list of the dogs owned or harbored by the residents thereof.

Formerly L. 1892, ch. 686, § 130, as added by L. 1901, ch. 455, § 1, and am'd by L. 1907, ch. 294, § 3.

**§ 131. Duty of town clerk.** The clerk of each town or village wherein said resolution is applicable, in such county,

when he shall be informed by such list or otherwise that there is any dog which has not been registered, shall forthwith bring an action as prescribed in the next section against the owner of such dog or the person harboring the same, or he shall forthwith give written notice to any constable of the town, or if in a village then to any policeman or other peace officer thereof, requiring him to take such dog into his possession, and dispose of the same as prescribed in section one hundred and thirty-three of this article.

Formerly L. 1892, ch. 686, § 131, as added by L. 1901, ch. 455, § 1 and am'd by L. 1906, ch. 212, § 2, and L. 1907, ch. 294, § 4.

**§ 132. Penalties; actions therefor.** Every person liable to pay a registration fee for a dog who shall fail to pay the same as herein provided, or who shall knowingly permit any dog, owned or harbored by him, to be at large without wearing a tag issued by the town or village clerk, shall forfeit the sum of five dollars, to be recovered in an action brought before a justice of the peace of the town wherein the person owning or harboring such dog may be, in the name of the town or village in which such dog is required to be registered, upon the complaint of the town or village clerk, respectively, as the case may be; and the justice before whom a judgment for such penalty is recovered shall direct, in the execution issued upon such judgment, that, in case of the failure to collect the whole of such judgment besides costs, the dog for which such registration fee has not been so paid, or which has been so permitted to be at large, shall be taken into the possession of the constable receiving such execution and forthwith killed by shooting, and thereupon it shall be the duty of such constable to take such dog into his possession and forthwith kill the same. A judgment so recovered shall not constitute a bar to a further action to recover such penalty brought subsequent to the recovery of such judgment so long as such violation shall continue, nor shall the recovery or collection of such judgment exempt the person against whom the same is recovered from a compliance with any provision of sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, of this article.

Formerly L. 1892, ch. 686, § 132, as added by L. 1901, ch. 455, § 1 and am'd by L. 1907, ch. 294, § 5.

**§ 133. Seizure of dogs not tagged or registered.** Each constable in such county where such resolution shall be made applicable to the whole county and each constable in the town or policeman or peace officer in the village to which such resolution shall be made applicable, where such resolution shall be made applicable to one or more towns or villages only, shall, after the expiration of such thirty days from the date specified in such resolu-

tion, seize and keep in his possession, until disposed of as herein provided, every dog running at large in his county, town or village, respectively, and not wearing such tag, and every dog of which he shall be informed by the clerk of his town or village by written notice. He shall forthwith post a notice in a conspicuous place in the office of the town clerk, or clerk of the village, as the case may be, containing a description of the dog so seized, and a statement of the time of seizure thereof, and that the said dog will be killed at the end of seventy-two hours from the time of posting such notice, stating the hour of such posting, unless the same is registered and the fee for seizing the same as herein provided is paid within such time, and shall also serve a copy of the notice so posted, at least forty-eight hours before such dog shall be killed, upon the owner or person harboring such dog, provided that he be known to such constable, policeman or peace officer, or can with reasonable diligence be ascertained by him within said county, personally or by leaving the same at his last known place of residence with a person of suitable age and discretion. Such officer shall at the end of seventy-two hours from the time of posting and after so serving such notice kill such dog by shooting, unless the same shall, before the expiration of that time, be registered and a tag procured for the same as provided in section one hundred and twenty-nine, and in addition thereto, the sum of two dollars be paid to such officer for his fees, in which case such dog shall be released. Every officer shall be entitled to receive a fee of one dollar for each dog seized and killed by him under the provisions of this section or of section one hundred and thirty-two of this article, to be paid as other town charges are paid from moneys received from registration fees.

Formerly L. 1892, ch. 686, § 133, as added by L. 1901, ch. 455, § 1, and am'd by L. 1902, ch. 158, § 3; L. 1906, ch. 212, § 3, and L. 1907, ch. 294, § 6.

**§ 134. Value to be recovered.** The value of any dog destroyed by any constable except as herein provided may be recovered by the owner of such dog from either such constable or the town wherein such dog is destroyed.

Formerly L. 1892, ch. 686, § 134, as added by L. 1901, ch. 455, § 1.

**§ 135. Disposition of registration fees and penalties.** The town clerk shall at the end of every calendar month pay to the supervisor all fees received by him during such month for the registration of dogs and bitches under this article, less the sum of twenty-five cents for each dog and bitch registered, which may be retained by him as his fee therefor. Any village clerk receiving such fees or the proceeds of penalties provided for

by this chapter shall pay over the same monthly, less such registration fees, to the village treasurer, and the latter shall retain the same in a separate fund until the close of the fiscal year of such village, excepting that he shall, from time to time, pay therefrom to the supervisor of the town in which such village is located any portion thereof which the supervisor certifies to be needed for satisfying claims for the killing or injuring of sheep in such town after the other moneys in the hands of the supervisor, applicable to such purposes, have been exhausted. Any part of such fund in the hands of a village clerk and treasurer not so paid out and remaining in their hands at the close of such fiscal year shall belong to the village and may be applied to such village purpose as the trustees thereof may direct. A justice of the peace before whom a penalty is recovered as provided in section one hundred and thirty-two of this article, if the complaint was made by a town clerk, shall forthwith pay one-half thereof, when collected, to the supervisor, and one-half to the town clerk for his fees in making the complaint in the action in which such penalty is recovered. The money paid to the supervisor pursuant to this section on account of registration fees and penalties, or paid to him by any village clerk under the provisions of this section, shall, except as otherwise provided herein, be applied for the same purposes as provided by law with respect to taxes collected upon dogs. If the complaint in any action for such penalty was made by a village clerk, then the whole of such penalty shall be paid to such clerk to be thereafter applied as hereinabove in this section provided.

Formerly L. 1892, ch. 686, § 135, as added by L. 1901, ch. 455, § 1, and am'd by L. 1907, ch. 294, § 7.

**§ 136. Actions for injury or destruction of unregistered dogs.** No person shall hereafter maintain an action for an injury to or the destruction of any dog, unless it shall affirmatively appear that such dog has been duly registered as provided by section one hundred and twenty-nine of this article. Nothing in sections one hundred and twenty-eight to one hundred and thirty-six, both inclusive, shall apply to an incorporated city of the state.

Formerly L. 1892, ch. 686, § 136, as added by L. 1901, ch. 455, § 1.

## ARTICLE 8

### County Treasurers

Section 140. Election, appointment, term of office and undertaking of county treasurer.

141. Deputy county treasurers in certain counties.

- Section 142. General powers and duties.  
 143. Time for making report extended.  
 144. Designate banks of deposit.  
 145. Depositary to give undertaking.  
 146. Treasurer not relieved from liability.  
 147. Moneys drawn, for what claims.  
 148. Delivery of books and funds to successor.  
 149. Penalty for neglect to report.  
 150. Extension of time for the collection of taxes.  
 151. Late county treasurer may maintain action for recovery of moneys.  
 152. County treasurer as trustee of cemetery lots.  
 153. Court may direct action on bond of county treasurer.

**§ 140. Election, appointment, term of office and undertaking of county treasurer.** There shall continue, (1) to be elected in each of the counties except in the counties of Kings, Queens and Richmond, a county treasurer, who shall hold his office for three years from and including, in the county of Monroe, the first Tuesday of October, and in the other counties, the first day of January, succeeding his election, and until his successor is duly elected and qualified; (2) to be appointed by the governor, by and with the consent of the senate, if in session, a county treasurer, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including, in the county of Monroe, the first Monday of October, and in the other counties, the last day of December, succeeding his appointment, and until his successor shall be duly elected and qualified. Every person elected or appointed to the office of county treasurer shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, give an undertaking to the county, with three or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk, otherwise with the approval of the county judge and county clerk, and in such sum as such board or judge and clerk approving the same shall direct, to the effect that such person shall faithfully execute the duties of his office, and shall pay over according to law, and account for all moneys, property and securities which shall come to his hands as treasurer, and render a just and true account thereof to the board of supervisors when required, and obey all orders and directions of a competent court relating thereto. When, in the opinion of the board of supervisors, the moneys intrusted to such person as treasurer shall be unsafe, or the surety insufficient, such board may require from such treasurer a new



or further undertaking to the same effect as at first, and with like sureties; and if such county treasurer shall fail to renew such undertaking as required within twenty days after he shall be notified by such board of such request, such omission shall work a forfeiture of his office and the same shall become vacant. Such undertaking, with the approval indorsed thereon, shall be filed in the office of the county clerk. The sureties and county therein named shall be liable to the state for the payment to the state treasurer, according to law, of all moneys belonging to the state, which shall come into his hands as county treasurer, and for the rendering of a just and true account thereof to the state comptroller.

Formerly L. 1892, ch. 686, § 140, as am'd by L. 1893, ch. 222, § 1.

**§ 141. Deputy county treasurers in certain counties.** The county treasurer of any county, having a population of less than fifty thousand according to the last preceding state or federal census, may, when authorized by a resolution of the board of supervisors, appoint and at pleasure remove a deputy county treasurer, who shall perform all the duties and possess all the powers of a county treasurer, during his absence, or inability to act. The compensation of such deputy shall be paid by the treasurer out of the fees or salary allowed to him by law and shall not be a county charge. The appointment of such deputy shall not release the treasurer, from any liability in relation to the moneys in his hands or under his control, or in any manner affect such liability, but any default by such deputy shall be deemed a default of such treasurer, and he shall be liable therefor. The undertaking of the county treasurer required by section one hundred and forty of this chapter given after this chapter takes effect shall cover the acts and default of such deputy. In all other cases the county treasurer shall, before said deputy enters upon the discharge of his duties, give an undertaking with three or more sufficient sureties to the effect that such deputy shall faithfully execute the duties of his office and shall not make default therein, the amount thereof to be fixed and the same to be approved as provided in section one hundred and forty of this chapter for the fixing of the amount and the approval of the undertaking of the county treasurer.

Formerly L. 1892, ch. 686, § 141-a, as added by L. 1905, ch. 276, § 1.

**§ 142. General powers and duties.** The county treasurer shall:

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, and apply them, and render an account thereof, as required by law.

2. Keep a true account of the receipt and expenditure of all such moneys, in books prepared for the purpose, at the expense of the county.

3. Yearly, and at such other times as the board of supervisors shall by resolution require, make a true, written statement of his accounts generally, verified by his oath to be in all respects true, and file the same with the clerk of the county, and transmit a copy thereof by mail to the comptroller and state treasurer.

4. On or before the first day of March in each year transmit to the state comptroller a statement of all moneys received by him during the preceding year for penalties belonging to the people of the state; and at the same time, pay to the treasurer of the state, the amount of such penalties, after deducting his compensation, in the same manner as state taxes are directed to be paid.

5. On or before the fifteenth day of April in each year pay to the treasurer of the state one-half of the state tax raised and paid over to him; and on or before the fifteenth day of May, the other half, retaining the compensation to which he may be entitled, which shall not in any case exceed the sum of two thousand dollars. If any county treasurer shall not pay over the state tax as herein directed, the comptroller shall charge on all sums withheld, such rate of interest as shall be sufficient to repay all expenditures incurred by the state in borrowing money, equivalent to the amount so withheld, and such additional rate as he shall deem proper, not exceeding ten per centum, from the first day of April in each year, which shall be regarded as funds in the hands of the county treasurer, belonging to the state, and for which his sureties and county shall be liable.

6. Within ten days after the first day of July in each year, make and file in the office of the clerk of his county, a special report, which shall contain a statement of all moneys or securities in his hands belonging to infants, or other persons, for whom invested, and how invested, with a particular description of such securities, containing a statement of the amount due thereon for principal and interest, with a statement of his account with each infant, up to the first day of July preceding the date of such report, the amount of fees charged by him, the amount in his hands invested and uninvested, and to whom the same belongs; and if he has in his hands any money not invested, such report shall state the amount thereof, the length of time the same has been in his hands uninvested, and the reasons therefor; and whether the moneys so uninvested are for principal and interest, and the length of time any principal sum thereof shall have remained so uninvested, during the year preceding the date of such report; which report he shall verify to be in all respects true.

7. Exhibit to the board of supervisors, at their annual meeting, or whenever they direct, all his books and accounts, and all vouchers relating thereto, to be audited and allowed.

Formerly L. 1892, ch. 686, § 141, as am'd by L. 1896, ch. 281, § 1.

**§ 143. Time for making report extended.** The time for making and filing any report herein required, may be extended twenty days by a justice of the supreme court, upon good cause shown; but no order shall be made, unless notice of the application of the same shall have been served on the district attorney of the county; and no such order shall be of any force or effect, until the original order signed by the justice, with the papers on which the same was granted, shall have been filed in the office of the county clerk.

Formerly L. 1892, ch. 686, § 142.

**§ 144. Designate banks of deposit.** Each county treasurer shall, within twenty days after he shall have entered upon the duties of his office, except in counties whose boards of supervisors shall otherwise direct, designate by written instrument in duplicate, one copy of which shall be filed in the office of the county clerk, and the other in the office of the state treasurer, one or more good and solvent banks, bankers or banking associations, in such county; or if there shall be no such, then in an adjoining county within the state, for the deposit of all moneys received by him as such treasurer, and agree with such bank or banks, banker or bankers, or banking associations, upon the rate of interest to be paid on the moneys so deposited. The accrued interest thereon shall, as often as once in six months, be credited by such depository to the account of such county treasurer, for the use of his county; and he shall deposit with such depository, or depositories, at least once in each week, and in a county containing a city having more than ten thousand inhabitants, daily, all such moneys so received by him. But nothing herein shall limit the power of any court or officer, by whose direction any moneys shall be paid over to, or received by, such treasurer, to direct in relation to the custody or investment thereof, or the disposition to be made of the interest thereon; and no interest received from any moneys so deposited which are not received for some public use, shall belong to the county.

Formerly L. 1892, ch. 686, § 143, as am'd by L. 1904, ch. 174, § 1.

**§ 145. Depository to give undertaking.** Each bank, banker or banking association, so designated, shall, for the benefit and security of the county, and before receiving any such

deposit, give to the county a good and sufficient undertaking, with two or more sureties to be approved by the county judge of the county in which such bank, banker or banking association shall be located, the chairman of the board of supervisors of the county of which such treasurer is an officer, and such treasurer, or any two of them. Such undertaking shall specify the amount which such treasurer shall be authorized to have on deposit at any one time, with such depository, and shall be to the effect that such depository shall faithfully keep and pay over on the order, or warrant, of such treasurer, or on any other lawful authority, such deposits, and the agreed interest thereon; and for the payment of such bonds or coupons, as by their terms are made payable at a bank or banks, for the payment of which a deposit shall be made by such treasurer with such depository. Such undertaking shall be filed by the clerk of the board of supervisors with the clerk of the county.

Formerly L. 1892, ch. 686, § 144.

**§ 146. Treasurer not relieved from liability.**

Such designation and deposit of moneys shall not release the treasurer, or his sureties, from any liability in relation to such moneys, or in any manner affect such liability; but any default by such depository shall be deemed a default of such treasurer, and he and his sureties shall be liable therefor.

Formerly L. 1892, ch. 686, § 145.

**§ 147. Moneys drawn, for what claims.**

The county treasurer shall draw the moneys so deposited only for the payment of claims ordered to be paid by the board of supervisors, or other lawful authority, or of salaries of county officers, or pursuant to the lawful direction of some court; and if he shall draw or appropriate any money for any other purpose, it shall be deemed a malfeasance in office, and cause for removal therefrom. Nothing herein shall prevent such county treasurer from transferring any such moneys from one depository to another, which shall have duly qualified by giving security as herein provided.

Formerly L. 1892, ch. 686, § 146.

**§ 148. Delivery of books and funds to successor.**

When the right of a county treasurer to his office expires, the books and papers belonging to the office, and all moneys in his hands by virtue thereof, shall, upon his oath, or if not living, upon the oath of his executor or administrator, be delivered to his successor. Any person violating this section shall forfeit to the county the sum of twelve hundred and fifty dollars. Such suc-

cessor may recover such forfeitures, books, papers or money due, by action or other legal proceedings, in the name of his county, upon the official undertaking of such former county treasurer, or as otherwise authorized by law. Whenever required so to do by the state comptroller, he shall bring and maintain such action at the expense of the county, for the recovery of all moneys and securities paid into court, or that belong to any heir, litigant or party, or that stand to the credit of any action or proceeding which have come into the hands of any county treasurer whose right to office already has expired, or hereafter shall expire, or which have been placed to his credit in any bank or depository, or with which he is in any way chargeable, and which have not been delivered to his successor; and for all increase, loss, penalty, damage or expense lawfully chargeable to such treasurer in connection therewith. A party to whom such county treasurer may have transferred or assigned any security or other property belonging to any fund held by him, may be made a defendant in the same action, and the rights of the several parties determined therein. Any action so brought at the direction of the state comptroller shall not be discontinued or compromised without the approval of the state comptroller.

Formerly L. 1892, ch. 686, § 147, as am'd by L. 1901, ch. 112, § 1.

**§ 149. Penalty for neglect to report.** If a county treasurer shall neglect to make any report or statement herein required of him, except as herein otherwise provided, he shall forfeit to the county a sum to be determined by the jury or court before whom the trial is had, not less than one hundred nor more than five hundred dollars, to be recovered by the district attorney, by action in the name of the county, against such treasurer and his sureties, or one or more of them.

Formerly L. 1892, ch. 686, § 148.

**§ 150. Extension of time for the collection of taxes.** The county treasurer may extend the time for the collection of taxes in any town or ward, but no extension shall be permitted until the collector of taxes of the town, city or ward in which such extension shall be asked shall pay over to the county treasurer all the taxes collected by him, and renew his undertaking as the supervisor of his town shall approve, and furnish evidence by his oath, and other competent testimony, if any, as such treasurer shall require, that he has been unable, for cause stated, to collect all the taxes within the time required by his warrant; but such extension shall not in any case be made beyond the first day

of April in any year, unless ninety per centum of such taxes shall have been collected and paid over to him.

Formerly L. 1892, ch. 686, § 149.

**§ 151. Late county treasurer may maintain action for recovery of moneys.** The county treasurer of any county in this state, within three years after he has ceased to be county treasurer, may maintain an action in any court of record in this state as late county treasurer to recover any moneys, funds or properties belonging to the county or deposited with such county treasurer pursuant to law, without right obtained, received, converted or appropriated, disposed of or withheld by any party or parties, association or corporation, their legal representatives and assigns, during the term or terms of office of such county treasurer.

Any and all moneys, funds and properties recovered in such an action, shall be paid to and deposited with the then treasurer of the county from which such moneys, funds and properties were taken.

Upon the payment of any moneys or the depositing of any funds by a late county treasurer bringing such action, he shall be forthwith credited with the amount and value of such deposit.

This section shall apply to all county treasurers of this state elected to office on or after the seventh day of November, eighteen hundred and eighty-two.

Formerly L. 1896, ch. 937, §§ 1-4.

**§ 152. County treasurer as trustee of cemetery lots.** A person residing in this state may create a trust in perpetuity for the maintenance of a cemetery lot, the preservation of a building, structure, fence or walk therein, the renewal or preservation of a tomb, monument, stone, fence, railing or other erection or structure on or around such lot, or the planting or cultivation of trees, shrubs, flowers or plants in or about such lot, or for any of such purposes, by transferring, conveying, devising or bequeathing to the county treasurer of the county in which such person resides or in which such cemetery is located, or if such person resides or such cemetery is located in a county wholly within a city, to the chamberlain of such city, real or personal property, and designating such county treasurer or chamberlain as trustee in the instrument creating such trust. Such instrument may direct that the income derived from such property shall be applied to one or more of the purposes specified in this section. A county treasurer or city chamberlain designated as trustee in pursuance of this section, may in his discretion accept the property so transferred, and if he accepts the same, he shall cause the same

to be invested in accordance with the terms of the trust, if any are prescribed, and otherwise shall invest and reinvest such property in securities in which savings banks are authorized to invest. The income derived from such property shall be collected by the county treasurer or chamberlain who shall be entitled to receive five per centum of such income for administering the trust. The balance of such income shall be paid by the county treasurer or chamberlain to the person or corporation owning or conducting such cemetery, provided such person or corporation is willing to accept the same and apply the money so received, so far as the same may be applicable, in furtherance of the purposes for which such trust was created. Such money shall not be paid to an individual unless he shall give to the county treasurer or chamberlain a bond in an amount to be approved by him conditioned for the faithful application of such money, in accordance with the terms of the trust. If at any time after the creation of such trust there is no person or corporation willing to receive and apply the income thereof in accordance with the terms of the trust, the county treasurer or chamberlain shall present a petition to the county judge of the county, or a justice of the supreme court of the district wherein such cemetery is located, praying for directions as to the manner in which such trust shall be administered by him. Such county judge or justice of the supreme court may, by order, direct that the trust shall be directly administered by the county treasurer or city chamberlain or may otherwise provide for the administration thereof in such manner as shall, so far as practicable, carry out the intent of the creator of the trust.

Formerly L. 1892, ch. 686, § 150, as added by L. 1906, ch. 362, § 1.

**§ 153. Court may direct action on bond of county treasurer.** Whenever any county treasurer, after service on him personally, or by leaving at his office, in his absence, with some person having charge thereof, or if such service can not be made, by leaving with some person of suitable age and discretion at his place of residence, or at his last place of residence in the county, if he has departed therefrom, of a certified copy of an order of the court, directing the payment or delivery of any money or securities held by him pursuant to an order of the court, to any person or persons, shall fail or neglect so to do, or where any county treasurer has invested or loaned any moneys held by him pursuant to an order of the court, to any person or persons on inadequate or worthless securities, and shall fail or neglect, when required so to do, to pay over the amount of the moneys so invested to the person or persons entitled thereto, the court may, by order, direct

that an action be brought upon the official bond of such treasurer, against him and his sureties, to recover the amount of the money or securities so directed to be paid or delivered, or of the moneys so invested on inadequate or worthless security, for the benefit of the person or persons in whose behalf the direction shall have been by such order given, and whose name or names appear therein, or their assigns, and thereupon such action may be brought for such purpose.

Formerly L. 1879, ch. 447, § 2.

## ARTICLE 9

### County Clerks

- Section 160. Election, appointment, term of office and undertaking of county clerk.
- 161. General powers and duties.
  - 162. Deputy clerk.
  - 163. Duties of deputy.
  - 164. Statement to board of supervisors.
  - 165. Business hours in clerks', registers', sheriffs' and commissioner of jurors' offices.
  - 166. County clerk may complete records of predecessor.
  - 167. County clerks may receive certain papers for safe keeping.
  - 168. County clerk shall keep register of moneys deposited with county treasurer under order of court.
  - 169. Special deputy clerks.

**§ 160. Election, appointment, term of office and undertaking of county clerk.** There shall continue:

1. To be elected in each of the counties a county clerk, who shall hold his office for three years from and including the first day of January succeeding his election;
2. To be appointed by the governor, a county clerk, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election after the happening of the vacancy.

Every person elected or appointed to the office of county clerk shall, before he enters on the duties of his office, and if appointed, within fifteen days after notice thereof, execute an undertaking to the county, with at least two sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk of the board, otherwise with the approval



of the county judge, or a justice of the supreme court residing in the county, to the effect that he will faithfully execute and discharge the duties of county clerk, and account for all moneys deposited with him pursuant to law, or the order of any court, or by his predecessor in office, and pay them over as required by law, or directed by such order.

Formerly L. 1892, ch. 686, § 160.

**§ 161. General powers and duties.** The county clerk shall:

1. Have the custody of all books, records, deeds, parchments, maps and papers, deposited in his office in pursuance of law, and attend to their arrangement and preservation.

2. Provide at the expense of the county, all necessary books for recording all papers, documents or matters authorized by law to be recorded in his office.

3. When a certificate of election, or appointment to any county office, or revocation thereof, is received at his office, give immediate notice thereof, at the expense of the county, to every person named therein. When any other commission or appointment to office, or order of removal from office is received at his office, give immediate notice thereof, at the expense of the state, to every person named therein.

4. Give immediate notice to the governor, at the expense of the state, when there is a vacancy in any county office which he is authorized to fill; and the names of all persons elected or appointed to any such office who have neglected, within the time required by law, to file the constitutional oath of office, or the undertaking severally required of them; and on or before the fifteenth day of January in each year, the names of all persons elected or appointed to a county office in his county during the preceding year, who have duly qualified.

5. On or before the first day of January in each year, report to the secretary of state, at the expense of the state, the names of all corporations whose certificates of incorporation have been filed in his office during the previous year.

Formerly L. 1892, ch. 686, § 161, subsds. 1-5.

6. Record at length in the book kept in his office for recording certificates of incorporation an order entered in his office changing the name of a corporation. This subdivision also applies to the county of New York.

Formerly Code Civil Procedure, § 2414 part.

7. Annually, in the month of December, report to the secretary of state all changes of names of individuals or of cor-

porations, which have been made in pursuance of orders filed in his office during the past year and since the last previous report, and also report in like manner to the superintendent of banks all changes of the names of banking corporations, and to the superintendent of insurance all changes of names of corporations authorized to make insurances. This subdivision also applies to the county of New York.

Formerly Code Civil Procedure, § 2417 part.

8. Keep in his office a book, free at all times to public inspection, in which shall be entered all fees charged or received by him for any official service, the time of receiving it, its nature, and the persons for whom rendered.

Formerly L. 1892, ch. 686, § 161, subd. 6.

9. Except as otherwise specially prescribed by law, each county clerk or register, who receives a salary, must account for, under oath, and pay to the treasurer of his county, in the manner prescribed by law, all fees, perquisites, and emoluments, received by him, for his official services. This subdivision also applies to the county of New York.

Formerly Code Civil Procedure, § 3285.

10. Upon request, and upon payment of, or offer to pay, the fees allowed by law, diligently search the files, papers, records, and dockets in his office; and either make one or more transcripts therefrom, and certify to the correctness thereof, and to the search, or certify that a document or paper, of which the custody legally belongs to him, can not be found. This subdivision also applies to a register of a county and to the county of New York.

Formerly Code Civil Procedure, § 961 part.

11. Be clerk of the county court in his county.

Formerly L. 1847, ch. 280, § 65 part.

**§ 162. Deputy clerk.** Every county clerk shall, within ten days after entering upon the duties of his office, make, under his hand and seal, and record in his office, a written appointment of some suitable person to be deputy clerk of his county. In counties containing a population of more than one hundred thousand by the last preceding federal census or state enumeration, the county clerk may, in like manner, appoint not to exceed two additional deputies. Every such deputy shall hold office during the pleasure of the clerk. When any such deputy is temporarily absent, disqualified or disabled, the clerk shall appoint some one of his assistants to act as a deputy in his place for a period not exceeding thirty days and without any additional compensation.

Before any such deputy enters on his duties as such, he shall take the constitutional oath of office. If there shall be no county clerk, or deputy county clerk, or assistant authorized to act as deputy, the county judge may designate in writing, to be recorded in the county clerk's office, a suitable person to act as county clerk with all the powers, duties and privileges of the office, and subject to the liabilities thereof, until a county clerk shall have been elected, or appointed, and qualified.

Formerly L. 1892, ch. 686, § 162, as am'd by L. 1896, ch. 48, § 1.

**§ 163. Duties of deputy.** Any such deputy may perform such duties of the clerk as may be assigned to him by an order of the clerk to be entered in his office and shall also perform all the duties of the clerk when the clerk shall be absent from his office, or shall be incapable of performing the duties thereof, or when the office shall become vacant, until it shall be filled, except that of deciding upon the sufficiency of sureties, which duty shall devolve upon the county judge.

Formerly L. 1892, ch. 686, § 163, as am'd by L. 1896, ch. 48, § 1.

**§ 164. Statement to board of supervisors.** Every county clerk shall present to the board of supervisors of his county, upon the first day of their annual meeting, a statement, verified by his oath to be true, showing for the year preceding the first day of January:

1. The amount of all fees charged or received for searches, and for certificates thereof.

2. The amount of all fees charged or received for recording any documents in his office, and for certificates thereof.

3. The amount of all sums charged or received for services rendered the county.

4. The amount of all sums charged or received for official services.

5. The sums paid by him for assistance, fuel, lights, stationery and other incidental expenses, the names of the persons paid and the items thereof; but he shall not make any charge against the county for stationery, except record books and stationery furnished by him for courts held in his county, but the board of supervisors may allow the county clerk the necessary expenses incurred by him for lighting and heating his office.

Formerly L. 1892, ch. 686, § 164, as am'd by L. 1896, ch. 593, § 1.

**§ 165. Business hours in clerks', registers', sheriffs' and commissioner of jurors' offices.** Clerks of counties, courts of record, and registers of deeds, except in the counties of

New York, Kings, Queens and Erie, as hereinafter provided, shall respectively keep open their offices for the transaction of business every day in the year, except Sundays and other days and half-days declared by law to be holidays or half-holidays, between the thirty-first day of March and the first day of October next following, from eight o'clock in the forenoon to five o'clock in the afternoon, and between the thirtieth day of September and the first day of April next following, from nine o'clock in the forenoon to five o'clock in the afternoon. In the counties of New York, Kings and Queens, said offices, the sheriff's office and the offices of the commissioner of jurors shall remain open during the months of July and August in each year from nine o'clock in the forenoon to two o'clock in the afternoon, and during the other months in the year from nine o'clock in the forenoon to four o'clock in the afternoon; and in Erie county the county clerk's office shall remain open from nine o'clock in the forenoon to five o'clock in the afternoon.

Formerly L. 1892, ch. 686, § 165, as am'd by L. 1895, ch. 144, § 1; L. 1895, ch. 981, § 1; L. 1902, ch. 401, § 1; L. 1903, ch. 534, § 1 and L. 1908, ch. 42, § 1.

**§ 166. County clerk may complete records of predecessor.** The county clerk of any county of this state upon order duly made by the supreme court at a special term thereof shall hereafter have power to complete and sign and certify in his own name, adding to his signature the date of so doing, all records of papers, orders and minutes of proceedings of any court of which he is clerk or ex officio clerk, left uncompleted or unsigned by any of his predecessors. This section shall also apply to the county of New York.

Formerly L. 1886, ch. 341, § 1.

**§ 167. County clerks may receive certain papers for safe keeping.** The clerk of every county in this state, and the register of deeds in the county of New York, upon being paid the fees allowed therefor by law, shall receive and deposit in their offices respectively, any deeds, conveyances, wills or other papers or documents, which any person shall offer to them for that purpose; and shall give to such person a written receipt therefor.

Such instruments, papers and documents, shall be properly indorsed, so as to indicate their general nature and the names of the parties thereto, shall be filed by the officer receiving the same, stating the time when received, and shall be deposited and kept by him and his successors in office, with his official papers, in some place separate and distinct from such papers.

The instruments, papers and documents so received and deposited, shall not be withdrawn from such office, except on the order of some court of record, for the purpose of being read in evidence in such court, and then to be returned to such office; nor shall they be delivered without such order, to any person, unless upon the written order of the person or persons who deposited the same, or their executors or administrators.

Such instruments, papers and documents so deposited shall be open to the examination of any person desiring the same, upon payment of the fees allowed by law.

Formerly R. S., pt. 3, ch. 7, tit. 3, §§ 63-66.

**§ 168. County clerk shall keep register of moneys deposited with county treasurer under order of court.** The county clerk of each of the counties of this state shall, immediately upon the filing in his office of any judgment, decree or order of any court directing the deposit of money, either actually in the hands of some person or persons or thereafter arising from the sale of real estate described in any such judgment, decree or order, with the county treasurer of his county, or in the case of the counties of New York, Queens and Richmond, with the city chamberlain of the city of New York, or upon the filing in his office of any report of a referee or treasurer's or chamberlain's receipt stating that a sum of money has been deposited with such treasurer or chamberlain, in accordance with the judgment, order or decree of any such court, enter in a book to be kept in his office for that purpose, to be known as a court and trust fund register, the title of the action or proceeding in which such judgment, decree or order was made, together with a statement of the amount so deposited, or ordered to be deposited, if said judgment, decree or order contains the amount of same, and the name of the person or persons, if any, to whom said money is ordered to be paid, and the date of filing the same, or of such report or receipt, as herein mentioned.

Formerly L. 1889, ch. 330, § 1, as am'd by L. 1895, ch. 544, § 1; L. 1901, ch. 486, § 1 and L. 1908, ch. 185, § 1.

**§ 169. Special deputy clerks.** 1. In every county other than counties containing a city having a population of not less than three hundred thousand and not more than one million wholly within the county the county clerk may, subject to the approval of the justices of the supreme court residing within the judicial district of the appointee, from time to time, by an instrument in writing, filed in his office, appoint, and at pleasure remove, one or more special deputy clerks to attend upon

any or all of the terms or sittings of the courts of which he is clerk, and in any county having a population of more than sixty thousand at the last enumeration, and except in the county of Queens, where the salary of the chief or principal clerk in attendance at each of said courts shall be the sum of three thousand dollars, the salary of such special deputy clerks shall be fixed by a justice of the supreme court, residing in such county and when the said salary shall be so fixed the same shall be paid from the court funds of said county or from an appropriation made therefor. Each person so appointed must, before he enters upon the duties of his office, subscribe and file in the clerk's office the constitutional oath of office; and he possesses the same power and authority as the clerk at any sitting or term of the court which he attends, with respect to the business transacted thereat. The provisions of this subdivision shall not apply to the first judicial department.

Formerly Code Civil Procedure, § 89 part.

2. The minutes of the part or term of the supreme court to which any of the special deputy clerks to the clerk of the county of New York appointed pursuant to the judiciary law is assigned, kept by him, and the records kept by the supreme court jury clerk in the first judicial district shall be kept by the county clerk of New York county in his office and said county clerk shall give extracts from such minutes and records as now prescribed by law.

Formerly L. 1895, ch. 553, § 4 part, as am'd by L. 1896, ch. 362, § 1; L. 1897, ch. 656, § 1; L. 1898, ch. 379, § 1; L. 1899, ch. 374, § 1; L. 1900, ch. 654, § 1; L. 1906, ch. 643, § 1, and L. 1907, ch. 496, § 2.

3. The minutes and records kept by the special deputy clerks appointed in counties containing a city having a population of not less than three hundred thousand and not more than one million wholly within the county pursuant to the judiciary law shall be kept by the county clerk in his office and he shall give extracts from such minutes and records as now prescribed by law.

Formerly Code Civil Procedure, § 89 part.

## ARTICLE 10

### Sheriffs and Coroners

Section 180. Election, appointment and terms of office of sheriffs and coroners, and the undertakings of sheriffs.

181. Under-sheriffs.

182. Deputies.

183. Custody of jails.

184. Sheriff's offices.

- Section 185. Fees for services rendered the state.  
 186. Removal of sheriff for non-payment of moneys.  
 187. When a coroner to act as sheriff.  
 188. When other designations to be made.  
 189. When county judge to appoint.  
 190. General provisions.  
 191. Coroners' salaries.  
 192. Fees of coroners.  
 193. Fees of coroner as witness.  
 194. Coroners may employ surgeons to make post mortem examinations.  
 195. Proceedings on new sheriff assuming office.

**§ 180. Election, appointment and terms of office of sheriffs and coroners, and the undertakings of sheriffs.** There shall continue,

1. To be elected in each of the counties a sheriff, and in each of the counties containing a population of one hundred thousand and over, four coroners, and in all other counties such number of coroners, not more than four, as shall be fixed by the board of supervisors, who shall respectively hold their offices for three years from and including the first day of January succeeding their election.

2. To be appointed by the governor, a sheriff, or a coroner, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter, at which such vacancy can be lawfully filled.

Every person elected or appointed to the office of sheriff shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county, a joint and several undertaking to the county, approved by such clerk, to the effect that such sheriff will, in all things, perform and execute the office of sheriff of his county during his continuance therein, without fraud or deceit. Such undertaking shall be filed in the office of the county clerk; and the clerk shall, at the time of his approval thereof, examine each surety thereto under oath; and he shall not approve of such undertaking, unless it shall appear on such examination that such sureties are jointly worth at least fifteen thousand dollars over and above all debts whatever; which examination, subscribed by the sureties, shall be indorsed on or attached to the undertaking; but the clerk shall determine the sufficiency of each surety. In the same manner the security shall be re-

newed within the twenty days after the first Monday of January in each year subsequent to that in which he shall have entered upon the duties of his office.

Formerly L. 1892, ch. 686, § 180, as am'd by L. 1898, ch. 334, § 1.

**§ 181. Under-sheriffs.** Each sheriff shall, within ten days after he enters on the duties of his office, appoint some proper person under-sheriff of his county, to hold during his pleasure. When a vacancy shall occur in the office of sheriff, the under-sheriff shall, in all things, execute the duties of the office as sheriff, until a sheriff shall be elected or appointed and duly qualified; and any default or misfeasance in the office of such under-sheriff in the meantime, as well as before, shall be deemed to be a breach of the undertaking given by the sheriff who appointed him and also a breach of the undertaking executed by such under-sheriff, to the sheriff by whom he was appointed.

Formerly L. 1892, ch. 686, § 181.

**§ 182. Deputies.** Such sheriff may appoint such and so many deputies as he may deem proper, not exceeding one for every three thousand inhabitants of the county; any person may also be deputed by any sheriff or under-sheriff by written instrument, to do particular acts. Every appointment of an under-sheriff or of a deputy sheriff shall be in writing under the hand and seal of the sheriff and filed and recorded in the office of the clerk of the county; and every such under-sheriff or deputy sheriff shall, before he enters upon the execution of the duties of his office, take the constitutional oath of office; but this last provision shall not extend to any person who may be deputed by any sheriff or under-sheriff to do a particular act only.

Formerly L. 1892, ch. 686, § 182.

**§ 183. Custody of jails.** Each sheriff shall have the custody of the jails of his county and the prisoners therein and such jails shall be kept by him, or by keepers appointed by him, for whose acts he shall be responsible.

Formerly L. 1892, ch. 686, § 183.

**§ 184. Sheriff's offices.** Every sheriff shall keep an office in some proper place in the city or village in which the county courts of his county are held, of which he shall file a notice in the office of the county clerk. If there be more than one place of holding such courts, the notice shall specify in which place his office shall be kept, or it may be specified that an office will be kept in all such places. Every sheriff's office, except in the



counties of Kings and New York as hereinafter provided, shall be kept open, except Sundays and other days and half days declared by law to be holidays or half-holidays, from nine o'clock in the morning until five o'clock in the afternoon, during the months of November, December, January, February and March of each year, and from eight o'clock in the morning until six o'clock in the afternoon during the other months in each year. Every notice or other paper required to be served on any sheriff may be served by leaving the same at the office designated by him in such notice during the days and hours for which he is required to keep such office open, but if there be any person belonging to such office therein, such notice or paper shall be delivered to such person, and every such service shall be deemed equivalent to a personal service on such sheriff. In the counties of Kings and New York said offices shall remain open during the entire year from nine o'clock in the forenoon to four o'clock in the afternoon, except Sundays and other days and half days declared by law to be holidays or half-holidays.

Formerly L. 1892, ch. 686, § 184, as am'd by L. 1895, ch. 150, § 1, and L. 1895, ch. 718, § 1.

**§ 185. Fees for services rendered the state.** When a sheriff shall be required by any statute to perform any service in behalf of the people of this state, and for their benefit, which shall not be made chargeable by law to his county, or to some officer, body or person, his account for such services shall be audited by the comptroller and paid out of the state treasury.

Formerly L. 1892, ch. 686, § 185.

**§ 186. Removal of sheriff for non-payment of moneys.** When a sheriff shall be committed to the custody of any other sheriff, or to any coroner by virtue of an execution or attachment for the non-payment of moneys received by him by virtue of his office, and shall remain so committed for the space of thirty days successively, such facts shall be presented to the governor by the officer in whose custody such sheriff may be, to the end that such sheriff may be removed from office.

Formerly L. 1892, ch. 686, § 186.

**§ 187. When a coroner to act as sheriff.** When a vacancy shall occur in the office of sheriff, and there shall be no under-sheriff of the county then in office, or the office of such under-sheriff shall become vacant, or he become incapable of executing the duties of the same before another sheriff of the same county shall be elected or appointed and qualified, and there shall be more

than one coroner of such county then in office, the county judge of such county shall forthwith designate one of such coroners to execute the duties of the office of sheriff of the county, until a sheriff thereof shall be elected or appointed and qualified. Such designation shall be by a written instrument, signed by the judge, and filed in the office of the clerk of the county, and the clerk shall immediately give notice thereof to such coroner. Within six days after receiving such notice, such coroner shall execute a joint and several undertaking, with the same number of sureties, to be approved in the same manner and be subject in all respects to the same regulations as the security required by law from the sheriff of such county. After the execution and filing of such undertaking in the clerk's office, such coroner shall execute the duties of the office of sheriff of the same county until a sheriff shall be duly elected or appointed and qualified.

Formerly L. 1892, ch. 686, § 187.

**§ 188. When other designations to be made.** When the coroner so designated shall not, within the time specified, give the security required of him, the county judge shall, in like manner, designate another coroner of the county to assume the office of sheriff, and, if necessary, he shall make successive designation until all the coroners of the county shall have been designated to assume such office; and all the provisions contained in the last preceding section shall apply to every such designation and to the coroner named therein. If such vacancy shall occur when there shall be but one coroner of the county then in office, he shall be entitled to execute the duties of the office of sheriff therein until a sheriff shall be duly elected or appointed and qualified; but before he enters upon the duties of such office, and within ten days after the happening of the last vacancy in the office of the sheriff and under-sheriff, he shall execute with sureties a joint and several undertaking, the same as is required by law from a sheriff; and such undertaking shall be subject in all respects to the same regulations as the security required from the sheriff.

Formerly L. 1892, ch. 686, § 188.

**§ 189. When county judge to appoint.** If such coroner so in office on the happening of such vacancies shall neglect or refuse to execute such undertaking within the time required, or if all the coroners, where there are more than one in office in such event, shall successively neglect or refuse to execute the undertaking within the time required, the county judge shall ap-

point some suitable person to execute the duties of the office of sheriff in his county, until a sheriff therein shall be duly elected or appointed and qualified. Such appointment shall be made and filed in the same manner as the above designations are made and filed, and the clerk shall forthwith give notice thereof to the person so appointed, who shall, within six days thereafter, and before he enters upon the duties of his office, give such security as is required by law of sheriffs, and subject to the same regulations; and thereupon such person shall execute the duties of the office of sheriff of the county until a sheriff shall be duly elected or appointed, and qualified.

Formerly L. 1892, ch. 686, § 189.

**§ 190. General provisions.** Until some coroner designated or some person appointed by the judge shall have executed the security above required, or until a sheriff of the county shall have been duly elected or appointed, and qualified, the coroner or coroners of the county in which such vacancies shall exist shall execute the duties of the office of sheriff therein; and when any under-sheriff, coroner, coroners or other person shall execute the duties of the office of sheriff, pursuant to either of the foregoing provisions, the person so executing the same shall be subject to all the duties, liabilities and penalties imposed by law upon the sheriff duly elected and qualified, and he shall be entitled to the same compensation.

Formerly L. 1892, ch. 686, § 190.

**§ 191. Coroners' salaries.** The board of supervisors of any county shall have power to prescribe that coroners in said county shall receive a salary, instead of fees, and to fix the amount of such salary; and thereafter coroners in said county shall receive for their services only the salary so fixed and shall not be entitled to any fees whatever, except when performing the duties of a sheriff, in which last named case the coroner so acting shall have the same compensation as the sheriff, whose duties he performs, would have had.

Formerly L. 1892, ch. 686, § 191, as added by L. 1899, ch. 447, § 1.

**§ 192. Fees of coroners.** Coroners in and for the state of New York, except in the county of Kings and except in such other counties as have prescribed or shall hereafter prescribe, different compensation, shall be entitled to receive the following compensation for services performed: Mileage to the place of inquest and return, ten cents per mile. Viewing bodies, five dollars. Service of subpoena, ten cents per mile traveled. Swearing each

witness, fifteen cents. Drawing decision, one dollar. Copying decision for record, per folio, twenty-five cents, but such officers shall receive pay for one copy only. For making and transmitting statements to the board of supervisors, each decision fifty cents. For warrants of commitment, one dollar. For arrest and examination of offenders, fees shall be the same as justices of the peace in like cases. When required to perform the duties of sheriff, shall be entitled to and receive the same fees as sheriffs for the performance of like duties. Shall be reimbursed for all moneys paid out actually and necessarily by him in the discharge of official duties as shall be allowed by the board of supervisors. Shall receive for each and every day and fractional parts thereof spent in taking an inquisition, three dollars. For performing the requirements of law in regard to wrecked vessels, shall receive three dollars per day and fractional parts thereof, and a reasonable compensation for all official acts performed, and mileage to and from such wrecked vessels, ten cents per mile. For taking ante-mortem statement shall be entitled to the same rates of mileage as before mentioned, and three dollars per day and fractional parts thereof, and for taking deposition of injured person in extremis, one dollar.

Formerly L. 1904, ch. 119, § 1.

**§ 193. Fees of coroner as witness.** Whenever, in consequence of the performance of his official duties, a coroner becomes a witness in a criminal proceeding, he shall be entitled to receive mileage to and from his place of residence, ten cents per mile, and three dollars per day for each day, or fractional parts thereof, actually detained as such witness. This section also applies to the county of New York.

Formerly L. 1874, ch. 535, § 3.

**§ 194. Coroners may employ surgeons to make post mortem examinations.** A coroner shall have power, when necessary, to employ not more than two competent surgeons to make post mortem examinations and dissections and to testify to the same, the compensation therefor to be a county charge. This section also applies to the county of New York.

Formerly L. 1874, ch. 535, § 2.

**§ 195. Proceedings on new sheriff assuming office.**

1. Where a new sheriff has been elected or appointed, and has qualified and given the security required by law, the clerk of the county must furnish to the new sheriff a certificate, under his

hand and official seal, stating that the person so appointed or elected, has so qualified and given security.

Formerly Code Civil Procedure, § 182.

2. Upon the commencement of the new sheriff's term of office, and the service of the certificate on the former sheriff, the latter's powers as sheriff cease, except as otherwise expressly prescribed by law.

Formerly Code Civil Procedure, § 183.

3. Within ten days after the service of the certificate, upon the former sheriff, he must deliver to his successor:

(1.) The jail, or if there are two or more, the jails of the county, with all their appurtenances, and the property of the county therein.

(2.) All the prisoners then confined in the jail or jails.

(3.) All process, orders, commitments, and all other papers and documents, authorizing, or relating to the confinement or custody of a prisoner, or, if such a process, order, or commitment has been returned, a statement in writing of the contents thereof, and when and where it was returned.

(4.) All mandates, then in his hands, except such as he has fully executed, or has begun to execute, by the collection of money thereon, or by a seizure of or levy on money or other property, in pursuance thereof. At the time of the delivery, the former sheriff must execute an instrument, reciting the property, documents, and prisoners delivered, specifying particularly the process or other authority, by which each prisoner was committed and is detained, and whether the same has been returned or is delivered to the new sheriff. The instrument must be delivered to the new sheriff, who must acknowledge, in writing, upon a duplicate thereof, the receipt of the property, documents and prisoners, therein specified; and deliver such duplicate and acknowledgment to the former sheriff.

Formerly Code Civil Procedure, §§ 184, 185.

4. Notwithstanding the election or appointment of a new sheriff, the former sheriff must return, in his own name, each mandate which he has fully executed; and must proceed with and complete the execution of each mandate which he has begun to execute, in the manner specified in paragraph fourth of subdivision three of this section.

Formerly Code Civil Procedure, § 186.

5. When a person, arrested by virtue of an order of arrest, is confined, either in jail, or to the liberties thereof, at the time of

assigning and delivering the jail to the new sheriff, the order, if it is not then returnable, must be delivered to the new sheriff, and be returned by him at the return day thereof, with the proceedings of the former sheriff and of the new sheriff thereon.

Formerly Code Civil Procedure, § 187.

6. If the former sheriff neglects or refuses to deliver to his successor, the jail, or any of the property, documents or prisoners in his charge, as prescribed in this section, his successor must, notwithstanding, take possession of the jail, and of the property of the county therein, and the custody of the prisoners therein confined, and proceed to compel the delivery of the documents withheld, as prescribed by law.

Formerly Code Civil Procedure, § 188.

7. If, at the time when a new sheriff qualifies, and gives the security required by law, the office of the former sheriff is executed by his under-sheriff, or by a coroner of the county, or a person specially authorized for that purpose, he must comply with the provisions of this section, and perform the duties thereby required of the former sheriff.

Formerly Code Civil Procedure, § 189.

8. The provisions of this section shall also apply to the county of New York.

New. See this chapter, § 2.

## ARTICLE 11

### District Attorneys

Section 200. Election, appointment, term of office and undertaking of district attorney.

201. General duties.

202. Assistant district attorneys.

203. In Erie, Monroe, Onondaga, Rensselaer and Westchester counties.

204. Employment of counsel by district attorney.

205. Special district attorney.

**§ 200. Election, appointment, term of office and undertaking of district attorney.** There shall continue,

1. To be elected in each of the counties a district attorney, who shall hold his office for three years from and including the first day of January succeeding his election;

2. To be appointed by the governor, a district attorney, when a vacancy shall occur in such office, and the person so appointed

shall hold the office until ~~and including~~ the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

3. Except in the county of Kings, every person elected or appointed to the office of district attorney, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver, to the county clerk of his county, a joint and several undertaking to the county, approved by the county judge, with two or more sufficient sureties, being resident freeholders, to the effect that he will faithfully account for and pay over according to law, or as the court may direct, all moneys that may come into his hands as such district attorney.

4. It shall be the duty of every district attorney to conduct all prosecutions for crimes and offenses cognizable by the courts of the county for which he shall have been elected or appointed; except when the place of trial of an indictment is changed from one county to another, it shall be the duty of the district attorney of the county where the indictment is found to conduct the trial of the indictment so removed, and it shall be the duty of the district attorney of the county to which such trial is changed to assist in such trial upon the request of the district attorney of the county where the indictment was found.

Formerly L. 1892, ch. 686, § 200, subd. 4, added by L. 1908, ch. 262, § 1.

**§ 201. General duties.** 1. Every district attorney shall, on or before the first Tuesday in October, annually file in the office of the county treasurer a written account verified by his oath to be true, of all moneys received by him by virtue of his office during the preceding year; and shall, at the same time, pay over any balances thereof to the county treasurer. If he shall refuse or neglect to account for and pay over such moneys as so required of him, the county treasurer shall prosecute him and his sureties for the same, in the name of and for the benefit of his county.

Formerly L. 1892, ch. 686, § 201.

2. Within thirty days after a district attorney receives or collects money upon a recognizance or for a penalty or forfeiture, belonging to the county, he must pay it to the county treasurer of his county, deducting only his necessary disbursements; except that, where he does not receive, as his compensation, a salary fixed pursuant to law, the county court may, by an order entered in its minutes, allow him to retain also a sum, specified

in the order, for his reasonable costs and expenses, and a reasonable counsel fee.

Formerly Code Civil Procedure, § 1967.

3. Each district attorney must render to the first term of the county court of his county, held in each calendar year, a written account, verified by his affidavit, of all actions brought by him upon recognizances, or for penalties or forfeitures belonging to the county, or to the state; of all his proceedings therein; of all judgments recovered by him therein; and of all money, collected by him from any person, belonging to the county or to the state. This subdivision applies to a district attorney who has gone out of office, during the preceding calendar year.

Formerly Code Civil Procedure, § 1968.

4. Where a recognizance to the people is forfeited, the district attorney of the county in which it was taken, must, unless the court otherwise directs, forthwith bring an action to recover the penalty thereof.

Formerly Code Civil Procedure, § 1966 part.

5. Subdivisions two, three, and four of this section shall also apply to the county of New York.

New. See this chapter, § 2.

**§ 202. Assistant district attorneys.** In any county having, according to the last preceding federal or state enumeration, more than sixty-five thousand inhabitants, the district attorney may, when authorized by the board of supervisors, appoint a suitable person, who must be a counselor-at-law, in this state, and a citizen and resident of the county, to be his assistant. Every appointment of an assistant district attorney shall be in writing, under the hand and seal of the district attorney, and filed in the office of the county clerk; and the person so appointed, shall take and file with the clerk the constitutional oath of office, before entering upon his duties as such assistant district attorney. Every such appointment may be revoked by the district attorney making the same, which revocation shall be in writing and filed in the clerk's office. Such assistant district attorney may attend all criminal courts, and discharge any duties imposed by law upon, or required of the district attorney by whom he was appointed. And in any such county the district attorney may in like manner appoint any additional assistant district attorneys or detectives or stenographers or interpreters for his office whenever he is authorized so to do by the board of supervisors of any such county. The qualifications, regulations and powers of any such



additional assistant district attorneys shall be the same as prescribed in this section in relation to an assistant district attorney. The salaries of any such officers so authorized to be appointed by the district attorney shall be fixed by such board of supervisors.

Formerly L. 1892, ch. 686, § 202, as am'd by L. 1904, ch. 78, § 1 and L. 1908, ch. 165, § 1.

**§ 203. In Erie, Monroe, Onondaga, Rensselaer and Westchester counties.** The district attorney of Erie county may appoint in and for the county of Erie, in the manner provided in the last section, and with like powers, such number of assistants as shall be fixed and determined by resolution of the board of supervisors of Erie county. All of the persons so appointed shall be called assistant district attorneys. Each of said assistant district attorneys shall receive such salary as shall be fixed and determined by said board of supervisors. The district attorney shall designate in the order appointing such assistants the salary which each of such assistants shall receive, subject however to the limitations prescribed by such resolution of the board of supervisors. The three assistant district attorneys and the two deputy assistant district attorneys now in office shall continue to receive the same salaries that are now paid them until the board of supervisors shall by resolution fix and determine the salaries which such assistants and deputies shall receive pursuant to the provisions of this section. Said assistants shall severally take the constitutional oath of office before entering upon the duties thereof; and the district attorney shall be responsible for their acts. Said district attorney may designate, in writing to be filed in the office of the clerk of said county, one of his said assistants to be the acting district attorney in the absence from said county or other inability of said district attorney; and the assistant so designated shall during such absence or inability of said district attorney perform the duties of the office. Such designation may be revoked by said district attorney in writing to be filed in said county clerk's office.

The district attorney of Monroe county may appoint, in and for the county of Monroe, in the manner provided in the last section, and with like powers, three assistants, to be called respectively the first, second and third assistant district attorneys, and two deputy assistants, to be called respectively the first and second deputy assistant district attorneys, who shall severally take the constitutional oath of office before entering upon the duties thereof, and the district attorney shall be responsible for their acts. In Monroe county the salaries of the assistant district attorneys and the

deputy assistant district attorneys shall be fixed by the board of supervisors as follows: The salary of the first assistant district attorney shall not be less than two thousand dollars per year, payable monthly; the salary of the second assistant district attorney shall not be less than eighteen hundred dollars per year, payable monthly; the salary of the third assistant district attorney shall not be less than sixteen hundred dollars per year, payable monthly; the salary of the first deputy assistant district attorney shall not be less than twelve hundred dollars per year, payable monthly; the salary of the second deputy assistant district attorney shall not be less than seven hundred and twenty dollars per year, payable monthly; and until the salaries of said officials are so fixed by the board of supervisors, they shall be as above stated. The district attorney of Monroe county and his assistants and such deputy assistants shall conduct, on the part of the people, all preliminary examinations in the police court of the city of Rochester, and, subject to the right of a complainant to appear personally or by attorney, all other prosecutions for crime therein; and may conduct prosecutions therein for violations of the penal ordinances of the said city, and appeals therefrom, and in such event one-half of the salary of such first deputy shall be a charge upon the city of Rochester and assessed back upon said city by the board of supervisors of Monroe county; but the corporation counsel of the said city shall have the power to prosecute any person for the violation of an ordinance and to conduct proceedings therefor, or any appeal therefrom. The district attorney of Onondaga county may appoint in and for said county, in the manner provided in the last section, and with like powers, two assistants, to be called respectively the first and second assistant district attorney, each of whom shall take the constitutional oath of office before entering upon the duties thereof; and the district attorney of said county shall be responsible for their acts. The district attorney of Westchester county may appoint in and for the county of Westchester, in the manner provided in the last section, and with like powers, two assistants, to be called respectively the first and second assistant district attorney, who shall severally take the constitutional oath of office before entering upon the duties thereof; and the district attorney shall be responsible for their acts; and the salary of each shall be fixed by the board of supervisors. The district attorneys of the counties of Erie, Onondaga and Monroe may also appoint a person to act as interpreter at all sessions of the grand juries of such counties and of the city of Buffalo, whose compensation shall be fixed by the court in and for which such grand jury may be empaneled. The district attorneys of the

counties of Erie and Monroe shall each be entitled to receive, in addition to their salary, all costs collected by them in actions and proceedings prosecuted and defended by them. The county judge, or the special county judge, of the county of Monroe, or any supreme court judge, shall have power, on the application of the district attorney of Monroe county to order and direct the county treasurer of Monroe county to pay to the district attorney any sum of money expended or incurred by him in the performance of his duties in his office, and the county judge of the county of Rensselaer, or any supreme court judge, shall have power, on the application of the district attorney of Rensselaer county, to order and direct the county treasurer of Rensselaer county to pay to the district attorney any sum of money expended or incurred by him in the performance of his duties in his office, and the county judge of the county of Albany, or any supreme court judge, shall have power, on the application of the district attorney of Albany county, to order and direct the county treasurer of Albany county to pay to the district attorney of such county any sum of money expended or incurred by him in the performance of his duties in his office.

Formerly L. 1892, ch. 686, § 203, as am'd by L. 1893, ch. 70, § 1; L. 1897, ch. 409, § 1; L. 1900, ch. 330, § 1; L. 1901, ch. 51, § 1; L. 1902, ch. 143, § 1; L. 1903, ch. 512, § 1; L. 1904, ch. 61, § 1; L. 1904, ch. 380, § 1; L. 1906, ch. 319, § 1; L. 1906, ch. 433, § 1, and L. 1907, ch. 454, § 1.

**§ 204. Employment of counsel by district attorney.**

The district attorney of any county in which an indictment has been found for a capital or other important crime, with the approval in writing of the county judge of such county, which shall be filed in the office of the county clerk, may employ counsel to assist him on the trial of such indictment; and the costs and expenses thereof, to be certified by the judge presiding at the trial, shall be a charge upon the county.

Formerly L. 1892, ch. 686, § 204, as am'd by L. 1908, ch. 262, § 2.

**§ 205. Special district attorney.** Whenever there is a vacancy or the district attorney of any county and his assistant, if he has one, shall not be in attendance at a term of any court of record, which he is by law required to attend, or shall be unable by sickness, or by being disqualified from acting in a particular case, to discharge his duties at any such term, the court may, by an order entered in its minutes, appoint some attorney at law residing in the county, to act as special district attorney during the absence, inability or disqualification of the district attorney and his assistant; but such appointment shall not be made for a period beyond the adjournment of the term at which made. The special

---

§§ 210, 220 County Attorneys — Superintendents of Poor. Arts. 12, 13

---

district attorney so appointed shall possess the powers and discharge the duties of the district attorney during the period for which he shall be appointed. The board of supervisors of the county shall pay the necessary disbursements of, and a reasonable compensation for the services of the person so appointed and acting.

Formerly L. 1883, ch. 123, § 1.

## ARTICLE 12

### County Attorneys

Section 210. Appointment, term of office and duties of county attorneys.

**§ 210. Appointment, term of office and duties of county attorneys.** The board of supervisors in any county may appoint a county attorney who shall be removable at its pleasure. The term of office of a county attorney so appointed shall be two years, unless sooner removed, and his salary shall be fixed by the board of supervisors and be a county charge. The board of supervisors may, by local law, prescribe the duties of the county attorney, which duties may include the services to town boards and town officials when not in conflict with the interests of the county.

Formerly L. 1907, ch. 280, § 1.

## ARTICLE 13

### Superintendents of the Poor

Section 220. Election, appointment and term of office of superintendents of the poor.

221. Undertaking.

**§ 220. Election, appointment and term of office of superintendents of the poor.** There shall continue to be elected or appointed in each of the counties, except Kings, Queens and Richmond, one or more superintendents of the poor as heretofore; but no supervisor of a town, or county treasurer, shall be elected or appointed to such office. The board of supervisors of any county having, or entitled to have three or more superintendents of the poor, may, at an annual meeting thereof, determine by resolution that thereafter only one county superintendent of the poor shall be elected; but no superintendent of the poor shall be elected or appointed in such county until the general election next preceding the expiration of the terms of the superintendents in office, or the office shall be vacant. The term of any superintendent in office, or of any person duly

electd thereto on the passage of such resolution, shall not be affected thereby. Such board may also, in counties having and entitled to have but one superintendent of the poor, in like manner determine that thereafter three superintendents of the poor be elected for such county. After the passage of a resolution, as herein provided, the powers herein conferred shall not be again exercised within a period of five years. Such resolution shall not take effect until the next calendar year succeeding its adoption.

There shall continue,

1. To be elected annually in each of the counties so having and being entitled to three county superintendents, one county superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

2. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a county superintendent of the poor, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

3. To be elected a county superintendent of the poor in a county when a vacancy shall occur in such office, and the term of which shall not expire on the last day of the next succeeding December, and the person so elected shall hold the office for such unexpired term, which shall be designated upon the ballots of the electors, or until his successor shall be elected and qualifies;

4. To be elected in each of the counties so having, and entitled to have but one superintendent, a superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

5. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a superintendent of the poor, in a county having and being entitled to but one superintendent, when a vacancy shall occur in such office; and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

6. To be elected in the succeeding year after the board of supervisors of a county having but one superintendent of the poor, shall have adopted a resolution to have three superintendents, if the term of the superintendent in office expires with such year, three superintendents of the poor for such county, for the terms of one, two and three years respectively, which terms shall be

respectively designated upon the ballots of the electors voting for such officers. If the term of the superintendent in office will not expire with such succeeding year, there shall be elected two superintendents of the poor for such county, for such terms, to be so designated upon the ballots of the electors voting for such officers, as will make the terms of one of the three superintendents expire with each succeeding year, and one superintendent of the poor shall thereafter be annually elected. Such persons so elected shall hold the office from and including the first day of January succeeding his election, and until and including the last day of December of the year in which his term shall so expire, and until his successor is duly elected and qualifies. When ballots are voted without designating the term, the first name on the ballot shall be deemed as intended for the full or longer term of the officer voted for; the second name for the next longer term, and the third name for the shorter term.

Formerly L. 1892, ch. 686, § 210.

**§ 221. Undertaking.** Every person elected or appointed to the office of superintendent of the poor shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the clerk of the county, to be filed in his office, his undertaking to the county, with two or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk; otherwise by the county judge of his county, or a justice of the supreme court of his judicial district, to the effect that he will faithfully discharge the duties of his office as such superintendent of the poor, and pay according to law all moneys that shall come into his hands as such superintendent, and render a just and true account thereof to the board of supervisors of his county.

Formerly L. 1892, ch. 686, § 211.

## ARTICLE 14

### County Judge, Surrogate, Special County Judge and Special Surrogate.

Section 230. Election, appointment and term of office of county judge, surrogate, special county judge and special surrogate.

231. Creation and undertaking of surrogate.

232. Compensation of county judges and surrogates.

233. When and how paid.

**§ 230. Election, appointment and term of office of county judge, surrogate, special county judge and**

**special surrogate.** There shall continue to be elected in each of the counties now having such offices,

1. A county judge and a surrogate, who shall severally hold the office for six years from and including the first day of January succeeding his election.

2. A special county judge and a special surrogate, pursuant to the several acts of the legislature creating and respectively defining the terms and duties thereof.

3. There shall continue to be appointed by the governor, by and with the consent of the senate, if in session, a county judge, surrogate, special county judge or special surrogate, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

Formerly L. 1892, ch. 686, § 220.

**§ 231. Creation and undertaking of surrogate.**

The board of supervisors of any county, except Kings, having a population exceeding forty thousand, may, by resolution at a meeting thereof, determine that the office of surrogate therein shall be a separate office, and provide for the election of such officer therein. The clerk of the board shall immediately deliver the resolution to the county clerk, who shall file the same in his office and, within ten days thereafter, transmit a certified copy thereof to the secretary of state; and thereafter a surrogate shall be elected for such county. Every person elected or appointed to the office of surrogate or county judge, where there is no separate office of surrogate, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county a joint and several undertaking, with two or more sureties being resident freeholders, to be approved by such clerk, to the effect that he will faithfully perform his duties as such surrogate, and apply and pay over all moneys and effects that may come into his hands as such surrogate in the execution of his office; which undertaking shall be immediately filed in the office of such county clerk.

Formerly L. 1892, ch. 686, § 221.

**§ 232. Compensation of county judges and surrogates.** The annual salaries of county judges and surrogates in the several counties are fixed at the sums respectively set opposite the names of each county in the following schedule, to wit:

Subd.	Name of County.	Salary of County Judge.	Salary of Surrogate.
1	Albany .....	\$6,000 00	\$5,000 00
2	Allegany .....	2,750 00	
3	Broome .....	5,000 00	
4	Cattaraugus ....	1,500 00	1,500 00
5	Cayuga .....	2,000 00	2,000 00
6	Chautauqua ....	2,000 00	2,000 00
7	Chemung .....	5,000 00	
8	Chenango .....	3,000 00	
9	Clinton .....	1,200 00	1,800 00
10	Columbia .....	2,000 00	2,500 00
11	Cortland .....	2,500 00	
12	Delaware .....	3,000 00	
13	Dutchess .....	3,000 00	3,500 00
14	Erie .....	5,000 00	6,000 00
15	Essex .....	2,500 00	
16	Franklin .....	2,000 00	
17	Fulton .....	1,400 00	1,600 00
18	Genesee .....	2,500 00	
19	Greene .....	3,000 00	
20	Hamilton .....	800 00	
21	Herkimer .....	3,000 00	
22	Jefferson .....	2,000 00	1,500 00
23	Kings .....	10,000 00	10,000 00
24	Lewis .....	2,400 00	
25	Livingston ....	3,000 00	
26	Madison .....	3,000 00	
27	Monroe .....	5,000 00	4,500 00
28	Montgomery ....	1,400 00	1,600 00
29	Nassau .....	3,000 00	
30	Niagara .....	5,000 00	
31	Oneida .....	3,000 00	3,500 00
32	Onondaga .....	5,000 00	5,000 00
33	Ontario .....	2,000 00	1,500 00
34	Orange .....	3,000 00	3,500 00
35	Orleans .....	2,000 00	
36	Oswego .....	2,000 00	1,500 00
37	Otsego .....	1,800 00	1,500 00
38	Putnam .....	2,000 00	
39	Queens .....	10,000 00	10,000 00
40	Rensselaer ....	5,000 00	5,000 00
41	Richmond .....	5,000 00	
42	Rockland .....	3,600 00	
43	St. Lawrence ...	1,750 00	1,750 00
44	Saratoga .....	2,000 00	} \$2,500 and \$500 for clerk hire.
45	Schenectady ....	4,000 00	
46	Schoharie .....	2,500 00	4,000 00
47	Schuyler .....	1,500 00	
48	Seneca .....	1,500 00	
49	Steuben .....	1,500 00	2,000 00
50	Suffolk .....	2,000 00	3,000 00
51	Sullivan .....	1,200 00	
52	Tioga .....	2,500 00	
53	Tompkins .....	3,500 00	
54	Ulster .....	3,000 00	3,000 00
55	Warren .....	3,000 00	
56	Washington ....	1,200 00	1,500 00
57	Wayne .....	3,000 00	
58	Westchester ....	10,000 00	7,500 00
59	Wyoming .....	2,500 00	
60	Yates .....	1,500 00	



61. The salaries provided in the preceding subdivisions of this section for the county judge and surrogate of each of the counties of Onondaga, Queens, Rensselaer and Tompkins shall take effect upon the expiration of the terms of the present incumbents, respectively, and until the expiration of said terms such officers shall receive the salaries authorized by law on January first, nineteen hundred nine.

Formerly L. 1892, ch. 686, § 222. For amendments to this section see Historical Record.

**§ 233. When and how paid.** Such salaries, except in the counties of Kings and Broome, shall be paid quarterly, by the county treasurer of the respective counties. In the county of Broome such salary shall be paid monthly by the county treasurer. When a county judge of one county shall hold a county court in any other county, he shall be paid the sum of five dollars per day for his expenses in going to, and from, and holding or presiding at such court, which shall be paid by the county treasurer of such other county, on the presentation of the certificate of the clerk of such court of the number of days.

Formerly L. 1892, ch. 686, § 223, as am'd by L. 1897, ch. 407, § 1 and L. 1908, ch. 500, § 1.

## ARTICLE 15

### Miscellaneous

- Section 240. County charges.
241. Compensation of public officers in Ulster county.
242. County charges, how raised.
243. Annual report of county officers.
244. Recovery and disposition of moneys.
245. Official seals.
246. General provisions relating to county officers.
247. General provisions relating to official bonds and undertakings.
248. Reimbursing counties for expenses of certain criminal trials.
249. County responsible for funds or moneys paid into court.

**§ 240. County charges.** The following are county charges:

1. Charges incurred against the county by the provisions of this chapter;
2. All expenses necessarily incurred by the district attorney in criminal actions or proceedings arising in his county;
3. The compensation of the county officers, their subordinates and assistants, which are payable by the county;

4. The compensation of the criers of the courts of record within the county for attendance thereat, at three dollars per day and also traveling fees, at the rate of five cents per mile, for going to and returning from the place of attendance except in the county of Queens where the crier shall receive a yearly salary of twelve hundred dollars payable monthly by the county;

Formerly L. 1892, ch. 686, § 230, subd. 4, as am'd by L. 1896, ch. 439, § 1, and L. 1902, ch. 507, § 1.

5. The compensation of the sheriff for the commitment and discharge of his prisoners on criminal process within the county, and for summoning constables to attend court;

6. Compensation allowed by law to constables for attending courts of record, and the compensation allowed by law to constables and other officers, for executing process on persons charged with a felony; for services and expenses in conveying such persons to jail; and for the service of subpoenas issued by the district attorney and for other services in relation to criminal proceedings and support of prisoners in transit, for which no specific compensation is prescribed by law, and which are not a town charge, as prescribed by article eight of the town law; but no charge for issuing or serving any subpoena in any criminal action or proceeding issued or served on behalf of a defendant shall be allowed, unless otherwise ordered by the court in which the action or proceeding was pending;

7. The expenses necessarily incurred in the support of persons charged with, or convicted of crimes, and committed to the jails of the county;

8. The sums required by law to be paid to witnesses in criminal actions and proceedings;

9. The moneys necessarily expended by any county officer in executing the duties of his office in cases in which no specific compensation for such services is provided by law, including the expense of printing the copies of the calendar for a term of the supreme court held within the county, or of the county court, and including in any county where the duties of county judge and surrogate are performed by the same officer, except in the county of Herkimer, the actual and necessary expenses of such officer and his clerk, incurred in holding court, by authority of the board of supervisors, at a place or places other than the county seat or place of residence of such officer or clerk.

Formerly L. 1892, ch. 686, § 230, subd. 9, as am'd by L. 1906, ch. 74, § 1. Code Civil Procedure, § 20 part, incorporated.

10. All items of coroner's compensation and the accounts of the coroners of the county for such services as are not chargeable to the person employing them;

Formerly L. 1892, ch. 686, § 230, subd. 10. L. 1873, ch. 833, § 4. as renumbered § 5 by L. 1878, ch. 286, § 2, incorporated.

11. The accounts of the county clerks, for the services and expenses incurred under the law respecting elections, other than for militia and town officers;

12. The sums required to pay the bounties authorized by resolution of the board of supervisors for the destruction of wild animals and noxious weeds, unless the supervisors by resolution direct that any such bounties shall be town charges;

Formerly L. 1892, ch. 686, § 230, subd. 12, as am'd by L. 1893, ch. 116, § 1.

13. The compensation of the members of the board of supervisors;

14. The charges and accounts for services rendered by justices of the peace in the examination of felons, and in other criminal proceedings as mentioned in section one hundred and seventy-one of the town law, when not otherwise provided for;

15. The expenses necessarily incurred, and sums authorized by law, or by the board of supervisors, pursuant to law, to be raised for any county purpose;

16. The reasonable costs and expenses in proceedings before the governor for the removal of any county officer upon charges preferred against him, including the taking and printing of the testimony therein;

17. All judgments duly recorded against a county;

18. All damages recovered against, or costs and expenses lawfully incurred by a county officer in prosecuting or defending an action or proceeding brought by or against the county or such officer, for an official act done, when such act was done, or such action or proceeding was prosecuted or defended pursuant to law, or by authority of the board of supervisors; and any such damages so recovered, or costs and expenses incurred by any such officers, for any act done in good faith in his official capacity, without any such authority, may be made a county charge by a majority vote of all the members elected thereto.

19. In any county, if a prisoner, actually confined in jail, makes oath before the sheriff, jailer, or deputy-jailer, that he is unable to support himself during his imprisonment, his support is a county charge. This subdivision shall also apply to the county of New York.

Formerly Code Civil Procedure, § 112.

20. The expense of the publication of notices of appointment of terms of the county court is a county charge.

Formerly Code Civil Procedure, § 356 part.

21. The fees of a county clerk or of the clerk of any court of record for making and certifying a copy or copies of any record, document or paper, when ordered so to do by the state comptroller, pursuant to section four of the state finance law, shall be a charge upon the county where such records, documents or papers are recorded or filed. This subdivision shall also apply to the county of New York.

Formerly Code Civil Procedure, § 744 part.

**§ 241. Compensation of public officers in Ulster county.** There shall be allowed to the several public officers in the county of Ulster the following annual salaries to be paid quarterly:

1. To the superintendent of the poor, fifteen hundred dollars;
2. To the county treasurer, twenty-five hundred dollars.

The board of supervisors shall not audit or allow to the sheriff of the county more than six thousand dollars in any year for his services and expenses; nor to the clerk of the county more than twelve hundred dollars for his services and expenses in any one year.

Formerly L. 1892, ch. 686, § 231, as am'd by L. 1893, ch. 467, § 1.

**§ 242. County charges, how raised.** The moneys necessary to defray the county charges of each county shall be levied on the taxable property in the several towns therein, in the manner prescribed in the general laws relating to taxes; and in order to enable the county treasurer to pay such expenses as may become payable from time to time, the board of supervisors shall annually cause such sum to be raised in advance in their county, as they may deem necessary for such purpose.

Formerly L. 1892, ch. 686, § 232.

**§ 243. Annual report of county officers.** Each county officer who shall receive, or is authorized by law to receive, any money on account of fines or penalties or other matter in which his county, or any town or city therein, shall have an interest, shall annually make a written report to the board of supervisors of his county, verified to be true, bearing date the first day of November, stating the time when, and the name of every person from whom, such money has been received, the amount thereof, on what account received, and the sums remaining due and unpaid; and if no such money has been received, his report shall so state. Such report shall be filed with the clerk of the board, on or before the fifth day of November; and no officer shall be entitled

to receive payment for his services, unless he shall file with the supervisors, or other officers performing their duties, his affidavit that he has made such report, and paid over all moneys which he is required to pay over, within ninety days after receiving any such money. Such officers shall pay the same without any deduction to the treasurer of his county, who shall execute duplicate receipts therefor, one of which he shall deliver to the person paying the money, and attach the other to his annual report herein required; but nothing herein shall be construed to apply to moneys received by any town or city officer in his official capacity, as such specially appropriated for any town or city purpose.

Formerly L. 1892, ch. 686, § 233.

**§ 244. Recovery and disposition of moneys.** The district attorney shall sue for and recover, in behalf of, and in the name of, his county, the money received by any officer for, or on account of, his county, or any town or city therein, and not paid to the county treasurer, as herein required. All moneys belonging to any town or city in such county, which shall be received by the county treasurer, shall be distributed to the several towns or cities entitled to the same, by resolution of the board of supervisors, which shall be entered in the minutes of its proceedings.

Formerly L. 1892, ch. 686, § 234.

**§ 245. Official seals.** The official seals of boards of supervisors of the several counties, county seal, county treasurer's seal, surrogate's seal, and the seal of register of deeds, shall continue to be the official seals, respectively, of such boards, county treasurer, surrogate, and register of deeds, and used as such, respectively, when authorized by law. When any such seal shall be lost, destroyed, or become unfit for use, the board of supervisors of the county interested therein or not having such seal, shall cause a new seal or seals to be made at the expense of the county. A description of each of such seals, together with impressions therefrom, shall be filed in the office of the county clerk and in the office of the secretary of state, unless it has already been done. In counties having two county seats, a duplicate of the county seal shall be procured and kept at the county seat where the county clerk's office is not situated, at some place to be designated by the county clerk, and may be used by him the same as at his office. The seal kept by the county clerk in each county, including New York county, as prescribed in the judiciary law, shall continue to be the seal of the county, and must be used by him where he is required to use an official seal.

Formerly L. 1892, ch. 686, § 235. Code Civil Procedure, § 28, incorporated.

**§ 246. General provisions relating to county officers.** Elective officers shall be chosen at general elections. A person in office, when this chapter takes effect, shall continue to hold the same until the expiration of the term for which he was elected or appointed; and a person thereafter elected to any such office on or before entering upon the duties thereof, and a person thereafter appointed to any such office within ten days after notice thereof, and before entering upon the duties of his office, shall take and subscribe before the county clerk, or county judge of the county, the constitutional oath of office; and the same, with his certificate of election or appointment, shall be immediately filed in the office of the county clerk.

Formerly L. 1892, ch. 686, § 236.

**§ 247. General provisions relating to official bonds and undertakings.** Every undertaking required by this chapter must be executed by the officer or person in whose behalf it is given, and his sureties, and duly acknowledged or proven and certified, and the approval indorsed thereon. The parties executing the same shall be jointly and severally liable, regardless of its form in that respect, for damages sustained by reason of a breach thereof. Every officer or board required to approve an undertaking may examine each surety thereto under oath, and shall not approve the same unless the sureties are freeholders of the state and jointly worth over and above their debts and liabilities at least double a sum which such officer or board may fix upon and insert in the undertaking as reasonably sufficient to indemnify the county, and every person who may be or become interested therein, or in any breach thereof. Official bonds and undertakings, including the bonds of executors, administrators, guardians and trustees, required by law to be filed in the office of the county clerk or surrogate, shall also be recorded in such offices respectively, in a book to be provided and kept in each of such offices, to be designated "book of official bonds and undertakings." The county clerk and surrogate's clerk shall respectively be entitled to the same fees for such recording, as are allowed to county clerks for recording conveyances, except that in counties where the surrogate's clerk receives a salary as full compensation for his services he shall not be entitled to any fee for such services.

Formerly L. 1892, ch. 686, § 237, as am'd by L. 1904, ch. 461, § 1.

**§ 248. Reimbursing counties for expenses of certain criminal trials.**

1. Whenever the trial of an indictment has been transferred from the county in which such indictment was found to some

other county the cost and expense of such trial shall be a charge upon the county in which such indictment is found.

Formerly L. 1892, ch. 686, § 205, as added by L. 1908, ch. 262, § 3.

2. Whenever, under the order of any court of competent jurisdiction, the pleadings and issue in any prosecution for any crime or misdemeanor, other than indictment, shall have been sent down to any county in this state for trial therein, in consequence of any inability to obtain an unprejudiced or impartial jury in the county in which the venue was originally laid, the expenses of the trial of said prosecution shall be a charge upon the county from which the same was transferred.

Formerly L. 1853, ch. 195, § 1 part.

3. In case the expenses of the trial of said indictment or prosecution shall have been assessed on any county in which any such issue shall have been determined, the same, with interest thereon, shall be reimbursed to the treasury of such county by the county treasurer in the county from which such proceedings have been sent down, and the board of supervisors of the county liable to pay such expenses as aforesaid are hereby authorized to include the same in their annual levy of taxes.

Formerly L. 1853, ch. 195, § 1 part.

4. This section also applies to the county of New York.

New. See this chapter, § 2.

**§ 249. County responsible for funds or moneys paid into court.** Each county of the state shall be responsible for all funds or moneys deposited with the treasurer thereof by virtue of a judgment, decree or order of any court of record in this state, and an action to recover any loss to or of such fund may be brought against the county by any party aggrieved or by the comptroller of the state of New York in a court of competent jurisdiction.

Formerly L. 1908, ch. 186, § 1.

## ARTICLE 16

### Laws Repealed; When to Take Effect

Section 260. Laws repealed.

261. When to take effect.

**§ 260. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

Formerly L. 1892, ch. 686, § 238.

**§ 261. When to take effect.** This chapter shall take effect immediately.

Formerly L. 1892, ch. 686, § 239.

SCHEDULE OF LAWS REPEALED.

Revised Statutes..	Part 1, chapter 2, title 6.....	All
Revised Statutes..	Part 1, chapter 9, title 7, section 5	5
Revised Statutes..	Part 1, chapter 12.....	All
Revised Statutes..	Part 1, chapter 20, title 17.....	All
Revised Statutes..	Part 1, chapter 20, title 18.....	All
Revised Statutes..	Part 3, chapter 3, title 2, sections 54-61	54-61
Revised Statutes..	Part 3, chapter 7, title 3, sections 63-66	63-66
Revised Statutes..	Part 3, chapter 8, title 4, sections 102-106	102-106
Revised Statutes..	Part 3, chapter 8, title 17, section 35	35
Revised Statutes..	Part 4, chapter 2, title 8, sections 7, 8, 10-13, 15	7, 8, 10-13, 15
Revised Statutes..	Part 4, chapter 3, title 1.....	All
Laws of	Chapter	Section
1783.....	19.....	All
1787.....	32.....	1-3, 7
1787.....	39.....	6
1787.....	65.....	8
1788.....	37.....	20-23
1788.....	42.....	10
1788.....	65.....	4-6, 8, 9
1789.....	22.....	1-12
1790.....	45.....	All
1792.....	31.....	All
1793.....	64.....	12
1794.....	1.....	2
1794.....	30.....	All
1794.....	37.....	All
1795.....	27.....	All
1796.....	8.....	1-4
1796.....	56.....	3
1797.....	55.....	All
1797.....	100.....	All
1798.....	1.....	All (21 Sess.)
1798.....	22.....	1-3
1799.....	17.....	All
1799.....	18.....	5
1799.....	44.....	1
1800.....	9.....	All



Art. 16	Laws Repealed.	§ 260
Laws of	Chapter	Section.
1800.....	53.....	All
1800.....	73.....	All
1800.....	107.....	3
1801.....	28.....	All
1801.....	34.....	11
1801.....	60.....	14-17
1801.....	62.....	All
1801.....	77.....	3
1801.....	78.....	21
1801.....	90.....	19
1801.....	113.....	12, 13
1801.....	146.....	1, 3
1801.....	180.....	All
1807.....	43.....	All
1807.....	87.....	All
1808.....	47.....	All
1808.....	240.....	16
1810.....	193.....	22
1812.....	43.....	All
1812.....	239.....	44
R. L. 1813 ..	49.....	All
R. L. 1813...	67.....	All
R. L. 1813...	69.....	All
R. L. 1813...	87.....	All
R. L. 1813...	89.....	All
1814.....	169.....	1
1815.....	86.....	All
1815.....	129.....	All
1815.....	204.....	All
1815.....	266.....	28
1817.. .....	177.....	5
1817.....	252.....	1
1818.....	129.....	All
1818.....	283.....	3-7, 9
1819.....	88.....	All
1820.....	13.....	All
1820.....	76.....	All
1820.....	124.....	2, pt. relating to judge of pro bate.
1820.....	206.....	All
1820.....	230.....	All
1821.....	88.....	All
1821.....	208.....	All

§ 260	Laws Repealed.	Art. 16
Laws of	Chapter	Section
1821.....	234.....	All
1822.....	26.....	All
1822.....	99.....	All
1822.....	124.....	4, 5
1822.....	126.....	All
1822.....	184.....	3-5
1822.....	250.....	27
1823.....	70.....	7
1823.....	141.....	All
1824.....	254.....	1, 2
1825.....	95.....	1
1825.....	273.....	All
1826.....	62.....	1
1826.....	161.....	All
1826.....	178.....	All
1826.....	295.....	All
1827.....	217.....	All
1828.....	21.....	1, ¶¶ 50, 60, 106, 108, 109, 127, 130, 133, 173, 186, 191, 253, 269, 296, 307, 312, 322, 337, 342, 346, 348, 354, 415, 430, 450, 463, 474, 484, 510, 552 (2d Meet.)
1829.....	8.....	All
1829.....	352.....	All
1830.....	297.....	2
1830.....	320.....	4, 39
1831.....	237.....	All
1832.....	292.....	4
1834.....	90.....	All
1835.....	287.....	All
1835.....	296.....	All
1835.....	299.....	All
1836.....	22.....	All
1836.....	106.....	All
1836.....	111.....	All
1836.....	117.....	All
1836.....	141.....	2
1836.....	459.....	All
1836.....	506.....	3
1837.....	125.....	All
1837.....	178.....	All

Art. 16	Laws Repealed.	§ 260
Laws of	Chapter	Section
1838.....	120.....	4
1838.....	205.....	All
1838.....	314.....	All
1839.....	369.....	1
1839.....	375.....	All
1839.....	388.....	All
1840.....	28.....	1, 3
1840.....	73.....	All
1840.....	99.....	All
1840.....	130.....	All
1840.....	210.....	All
1840.....	281.....	All
1840.....	340.....	All
1842.....	290.....	8
1843.....	192.....	All
1844.....	88.....	4, 5
1844.....	125.....	All
1844.....	161.....	All
1845.....	92.....	All
1845.....	172.....	All
1845.....	180.....	22, 28, 35-37
1845.....	329.....	All
1846.....	31.....	1, 3, 4
1846.....	99.....	All
1846.....	109.....	All
1846.....	129.....	All
1846.....	189.....	All
1847.....	39.....	All
1847.....	276.....	8-14
1847.....	277.....	3, last sentence; 4, 5, 8-10
1847.....	280.....	65
1847.....	307.....	All
1847.....	308.....	All
1847.....	427.....	All
1847.....	455.....	14
1847.....	460.....	1-28
1847.....	470.....	33, 37
1847.....	498.....	All
1848.....	41.....	2
1848.....	136.....	All
1848.....	164.....	All
1848.....	327.....	All
1849.....	95.....	All

§ 260	Laws Repealed.	Art. 16
Laws of	Chapter	Section
1849.....	116.....	All
1849.....	185.....	All
1849.....	194.....	All
1849.....	207.....	All
1849.....	331.....	2, 3
1849.....	360.....	All
1850.....	12.....	All
1850.....	346.....	All
1851.....	81.....	All
1851.....	175.....	All
1851.....	211.....	All
1851.....	397.....	All
1852.....	44.....	2
1852.....	187.....	All
1852.....	304.....	All
1853.....	80.....	All
1853.....	195.....	All
1853.....	481.....	All
1854.....	57.....	All
1854.....	183.....	All
1855.....	249.....	All
1856.....	108.....	All
1857.....	461.....	All
1857.....	564.....	All
1858.....	190.....	All
1858.....	213.....	All
1859.....	165.....	All
1859.....	254.....	All
1859.....	386.....	All
1859.....	496.....	All
1860.....	4.....	All
1860.....	57.....	2
1860.....	276.....	All
1861.....	83.....	All
1861.....	96.....	2
1861.....	97.....	4, 5
1862.....	244.....	All
1862.....	245.....	All
1862.....	298.....	All
1863.....	393.....	All
1863.....	404.....	All
1864.....	53.....	1
1864.....	197.....	All

Art. 16	Laws Repealed.	§ 260
<b>Laws of</b>	<b>Chapter</b>	<b>Section</b>
1864.....	287.....	All
1864.....	341.....	All
1865.....	148.....	All
1865.....	404.....	All
1866.....	441.....	All
1866.....	696.....	All
1866.....	736.....	All
1868.....	268.....	All
1868.....	345.....	All
1868.....	872.....	All
1869.....	459.....	All
1869.....	855.....	All
1870.....	69.....	All
1870.....	361.....	All
1870.....	432.....	All
1870.....	467.....	3
1870.....	506.....	1
1870.....	507.....	All
1870.....	597.....	All
1870.....	752.....	All
1871.....	18.....	All
1871.....	184.....	All
1871.....	230.....	All
1871.....	274.....	All
1871.....	695.....	All
1871.....	710.....	All
1871.....	859.....	All
1872.....	17.....	All
1872.....	285.....	All
1872.....	319.....	All
1872.....	587.....	All
1872.....	733.....	2, pt. relating to employment of counsel to assistant district attorneys.
1872.....	767.....	All
1872.....	883.....	All
1873.....	119.....	All
1873.....	323.....	All
1873.....	515.....	All
1873.....	760.....	2, clause fixing the time for counties to pay their quota of state taxes.

§ 260	Laws Repealed.	Art. 16
Laws of	Chapter	Section
1873.....	833.....	All
1874.....	64.....	All
1874.....	260.....	All
1874.....	323.....	2, part relating to employment of counsel to assist district at- torneys and costs in proceed- ings to remove county officers.
1874.....	410.....	All
1874.....	502.....	All
1874.....	535.....	All
1875.....	251.....	All
1875.....	446.....	All
1875.....	464.....	All
1875.....	480.....	All
1875.....	482.....	All
1876.....	257.....	All
1876.....	258.....	All
1876.....	373.....	All
1877.....	21.....	All
1877.....	35.....	All
1877.....	102.....	All
1877.....	401.....	All
1877.....	436.....	All
1878.....	8.....	All
1878.....	77.....	All
1878.....	94.....	All
1878.....	122.....	All
1878.....	132.....	All
1878.....	228.....	All
1878.....	239.....	All
1878.....	259.....	All
1878.....	285.....	All
1879.....	23.....	All
1879.....	159.....	All
1879.....	275.....	All
1879.....	285.....	All
1879.....	307.....	All
1879.....	330.....	All
1879.....	348.....	All
1879.....	355.....	All
1879.....	357.....	All
1879.....	362.....	All
1879.....	364.....	All
1879.....	447.....	All

Art. 16	Laws Repealed.	§ 260
Laws of	Chapter	Section
1880.....	175.....	All
1880.....	233.....	All
1880.....	270.....	All
1880.....	320.....	All
1880.....	336.....	6
1880.....	365.....	All
1880.....	504.....	All
1880.....	512.....	All
1880.....	580.....	All
1881.....	12.....	All
1881.....	97.....	All
1881.....	118.....	All
1881.....	129.....	All
1881.....	145.....	All
1881.....	264.....	All
1881.....	302.....	All
1881.....	328.....	All
1881.....	350.....	All
1881.....	354.....	All
1881.....	392.....	All
1881.....	411.....	All
1881.....	439.....	All
1881.....	464.....	All
1881.....	543.....	All
1881.....	554.....	All
1881.....	570.....	All
1881.....	613.....	All
1882.....	58.....	All
1882.....	60.....	All
1882.....	118.....	All
1882.....	196.....	All
1882.....	250.....	All
1882.....	289.....	All
1882.....	304.....	All
1882.....	317.....	All
1883.....	111.....	All
1883.....	123.....	All, except as to county of New York.
1883.....	212.....	All
1883.....	309.....	All
1883.....	370.....	All
1883.....	374.....	All
1883.....	492.....	All

§ 260	Laws Repealed.	Art. 16
Laws of	Chapter	Section
1884.....	141.....	All
1884.....	231.....	All
1884.....	327.....	All
1884.....	337.....	All
1884.....	350.....	All
1885.....	107.....	All
1885.....	122.....	All
1885.....	123.....	All
1885.....	140.....	All
1885.....	160.....	All
1885.....	320.....	All
1885.....	439.....	All
1885.....	451.....	All
1886.....	63.....	All
1886.....	126.....	All
1886.....	164.....	All
1886.....	173.....	All
1886.....	306.....	All
1886.....	341.....	All
1886.....	355.....	All
1886.....	659.....	4
1886.....	673.....	All
1887.....	297.....	All
1887.....	372.....	All
1888.....	22.....	All
1888.....	55.....	All
1888.....	152.....	All
1889.....	10.....	All
1889.....	14.....	All
1889.....	264.....	All
1889.....	294.....	All
1889.....	312.....	All
1889.....	330.....	1
1889.....	331.....	All
1889.....	376.....	All
1889.....	466.....	All
1890.....	10.....	All
1890.....	136.....	All
1890.....	180.....	All
1890.....	203.....	All
1890.....	245.....	All
1890.....	287.....	All
1890.....	367.....	All



Laws of	Chapter	Section
1890.....	382.....	1
1890.....	568.....	131
1891.....	5.....	All
1891.....	277.....	All
1891.....	289.....	All
1891.....	292.....	All
1891.....	347.....	All
1891.....	355.....	All
1892.....	256.....	All
1892.....	289.....	All
1892.....	664.....	All
1892.....	686.....	All
1892.....	715.....	6
1893.....	50.....	All
1893.....	70.....	All
1893.....	116.....	All
1893.....	222.....	All
1893.....	251.....	All
1893.....	467.....	All
1893.....	724.....	All
1894.....	79.....	All
1894.....	109.....	1, 2, first sentence, 3
1894.....	163.....	All
1894.....	227.....	All
1894.....	340.....	All
1894.....	644.....	All
1894.....	646.....	All
1894.....	685.....	All
1895.....	144.....	All
1895.....	150.....	All
1895.....	310.....	All
1895.....	332.....	All
1895.....	480.....	All
1895.....	544.....	1
1895.....	649.....	All
1895.....	718.....	All
1895.....	742.....	All
1895.....	756.....	All
1895.....	937.....	All
1895.....	961.....	All
1896.....	48.....	All
1896.....	178.....	All
1896.....	281.....	All

§ 260	Laws Repealed.	Art. 16
Laws of	Chapter	Section
1896.....	439.....	All
1896.....	593.....	All
1896.....	680.....	All
1896.....	826.....	All
1896.....	902.....	All
1896.....	937.....	All
1896.....	995.....	All
1897.....	171.....	All
1897.....	232.....	All
1897.....	329.....	All
1897.....	406.....	All
1897.....	407.....	All
1897.....	409.....	All
1898.....	158.....	All
1898.....	225.....	All
1898.....	334.....	All
1898.....	349.....	All
1898.....	588.....	3, pt. relating to salary of county judge.
1899.....	133.....	All
1899.....	155.....	All
1899.....	203.....	All
1899.....	447.....	All
1899.....	658.....	1, pt. relating to salary of county judge.
1900.....	12.....	All
1900.....	130.....	1
1900.....	163.....	All
1900.....	296.....	All
1900.....	306.....	All
1900.....	330.....	All
1900.....	400.....	All
1900.....	529.....	All
1900.....	560.....	All
1900.....	763.....	All
1901.....	51.....	All
1901.....	112.....	All
1901.....	161.....	All
1901.....	255.....	All
1901.....	337.....	1, pt. relating to salary of county judge.
1901.....	455.....	All
1901.....	486.....	All

COUNTY LAW

449

Art. 16	Laws Repealed.		§ 260
Laws of	Chapter	Section	
1901.....	505.....	All	
1901.....	584.....	All	
1902.....	38.....	All	
1902.....	142.....	All	
1902.....	143.....	All	
1902.....	158.....	All	
1902.....	234.....	All	
1902.....	255.....	All	
1902.....	401.....	All	
1902.....	507.....	All	
1903.....	196.....	All	
1903.....	434.....	All	
1903.....	465.....	All	
1903.....	469.....	All	
1903.....	512.....	All	
1903.....	534.....	All	
1904.....	20.....	All	
1904.....	61.....	All	
1904.....	78.....	All	
1904.....	83.....	All	
1904.....	119.....	All	
1904.....	174.....	All	
1904.....	277.....	All	
1904.....	337.....	All	
1904.....	380.....	All	
1904.....	461.....	All	
1905.....	20.....	All	
1905.....	160.....	All	
1905.....	244.....	All	
1905.....	261.....	All	
1905.....	276.....	All	
1905.....	410.....	1, pt. amending L. 1894, ch. 109, § 2, first sentence.	
1905.....	496.....	All	
1905.....	666.....	All	
1906.....	74.....	All	
1906.....	212.....	All	
1906.....	249.....	All	
1906.....	318.....	All	
1906.....	319.....	All	
1906.....	362.....	All	
1906.....	377.....	All	
1906.....	426.....	All	

§ 260	Laws Repealed.	Art. 16
Laws of	Chapter	Section
1906.....	433.....	All
1906.....	439.....	All
1906.....	463.....	All
1907.....	81.....	All
1907.....	97.....	All
1907.....	256.....	All
1907.....	275.....	All
1907.....	280.....	All
1907.....	294.....	All
1907.....	454.....	All
1907.....	482.....	All
1908.....	3.....	All
1908.....	42.....	All
1908.....	77.....	All
1908.....	165.....	All
1908.....	185.....	1
1908.....	186.....	All, except pt. relating to city of New York.
1908.....	255.....	All
1908.....	262.....	All
1908.....	373.....	All
1908.....	374.....	All
1908.....	410.....	All
1908.....	438.....	All
1908.....	478.....	All
1908.....	500.....	All
Code Civil Procedure.....		20, to and including words "county charges"; 28; 31, pt. relating to boards of supervis- ors; 88; 89, words "shall be kept" to "prescribed by law," and last three sentences; 112, 121, 182-189; 203, first sen- tence and pt. making county charge; 356, last sentence; 358, to and including words "county court thereof"; 744, pt. relating to fees of county clerk; 961, pt. relating to county clerk and register; 1966, first sentence; 1967, 1968; 2414, last sentence; 2285.

# DEBTOR AND CREDITOR LAW

---

## L. 1909, Ch. 17. "An Act relating to debtors and creditors, constituting chapter twelve of the Consolidated Laws."

(In effect February 17, 1909.)

### CHAPTER 12 OF THE CONSOLIDATED LAWS

[This is a consolidation of general statutes the former location of which is noted under each section.]

- Article
1. Short title (§ 1).
  2. General assignments for the benefit of creditors (§§ 2-28).
  3. Insolvent's discharge from debts (§§ 50-88).
  4. Insolvent's exemption from arrest and imprisonment (§§ 100-111).
  5. Judgment debtor's discharge from imprisonment (§§ 120-139).
  6. Discharge of bankrupt from judgment (§ 150).
  7. Trustees of insolvent and imprisoned debtors (§§ 160-218).
  8. Compositions by joint debtors (§§ 230-233).
  9. Payment of debts of incompetent person (§§ 250-255).
  10. Laws repealed; when to take effect (§§ 280, 281).

#### ARTICLE 1

##### Short Title

Section 1. Short title.

§ 1. **Short title.** This chapter shall be known as the "Debtor and Creditor Law."

[New.]

#### ARTICLE 2

##### General Assignments for the Benefit of Creditors

- Section
2. Jurisdiction of proceedings.
  3. Requisites of general assignment.
  4. Debtor's schedule.

- Section 5. Notice to creditors to present claims.
6. Bond of assignee.
  7. Further security.
  8. \*Discharge of assignee; accounting; correction of schedules.
  9. Failure to file bond.
  10. Action on bond; application of recovery.
  11. Proceedings in case of death of assignee.
  12. Citation for judicial settlement of account.
  13. Citation on petition of creditor.
  14. Service of citation.
  15. Time of service of citation.
  16. Service by publication.
  17. Personal service without the state.
  18. Service upon minors and incompetent persons.
  19. Service upon partners.
  20. Appearance of claimants not cited.
  21. Power of court on accounting.
  22. Examination of witnesses.
  23. Effect of orders; power of judge and duties of clerk.
  24. Sale and compromise of claims.
  25. General powers of court.
  26. Trial, costs and commissions.
  27. Wages preferred claims.
  28. Limitation of preferences.
  - †29. Appraisal of insolvent estate in the hands of assignees.

**§ 2. Jurisdiction of proceedings.** The term "judge" when used in this article shall apply equally to a county judge of the county within which the assignment is recorded and to justices of the supreme court, and the term "court" when used in this article shall, in like manner, apply to the county court of such county and to the supreme court. All applications hereunder made in the supreme court shall be made to the court, or a justice thereof within the judicial district where the assignment is recorded, and all proceedings and hearings under this article had in the supreme court upon the return of a citation shall be had at a special term of said court held in the county where the judgment debtor resided at the time of the assignment, or in case of an assignment by copartners, in the county where the principal place of business of such copartners was at the time of such assignment.

Formerly L. 1886, ch. 380, § 1.

---

\*So in original.

†Added by L. 1909, ch. 240, § 10.

**§ 3. Requisites of general assignment.** Every conveyance or assignment made by a debtor of his estate, real or personal, or both, to an assignee for the creditors of such debtor, shall be in writing, and shall specifically state therein the residence and the kind of business carried on by such debtor at the time of making the assignment, and the place at which such business shall then be conducted, and if such place be in a city, the street and number thereof, and if in a village or town such apt designation as shall reasonably identify such debtor.

Every such conveyance or assignment shall be duly acknowledged before an officer authorized to take the acknowledgment of deeds and shall be recorded in the county clerk's office in the county where such debtor shall reside or carry on his business at the date thereof. An assignment by copartners shall be recorded in the county where the principal place of business of such copartners is situated. When real property is a part of the property assigned, and is situated in a county other than the one in which the original assignment is required to be recorded, a certified copy of such assignment shall be filed and recorded in the county where such property is situated.

The assent of the assignee, subscribed and acknowledged by him, shall appear in writing, embraced in or at the end of, or indorsed upon the assignment, before the same is recorded, and, if separate from the assignment, shall be duly acknowledged.

Formerly L. 1877, ch. 466, § 2, as am'd by L. 1888, ch. 294, § 1.

**§ 4. Debtor's schedule.** A debtor making an assignment shall, at the date thereof or within twenty days thereafter, cause to be made, and filed with the county clerk of the county where such assignment is recorded, an inventory or schedule containing:

1. The name, occupation, place of residence, and place of business, of such debtor;

2. The name and place of residence of the assignee;

3. A full and true account of all the creditors of such debtor, stating the last known place of residence of each, the sum owing to each, with the true cause and consideration therefor, and a full statement of any existing security for the payment of the same;

4. A full and true inventory of all such debtor's estate at the date of such assignment, both real and personal, in law and in equity, with the incumbrances existing thereon, and of all vouchers and securities relating thereto, and the nominal as well as actual value of the same according to the best knowledge of such debtor;

5. An affidavit made by such debtor, that the same is in all respects just and true.

In case such debtor shall omit, neglect or refuse to make and deliver such inventory or schedule within the twenty days required, the assignee named in such assignment shall, within thirty days after the date thereof, cause to be made, and filed as aforesaid such inventory or schedule as above required, in so far as he can; and for such purpose the judge shall, at any time, upon the application of such assignee, compel by order such delinquent debtor, and any other person to appear before him and disclose, upon oath, any knowledge or information he may possess, necessary to the proper making of such inventory or schedule. The assignee shall verify the inventory and schedule so made by him, to the effect that the same is in all respects just and true to the best of his knowledge and belief.

In case the said assignee shall be unable to make and file such inventory or schedule, within said thirty days, the judge may, upon application upon oath, showing such inability, allow him such further time as shall be necessary, not exceeding sixty days. If the assignee fail to make and file such inventory or schedule within said thirty days or such further time as may be allowed, the judge shall require, by order, the assignee forthwith to appear before him, and show cause why he should not be removed. Any person interested in the trust estate may apply for such order and demand such removal. The books and papers of such delinquent debtor shall at all times be subject to the inspection and examination of any creditor. The judge is authorized, by order, to require such debtor or assignee to allow such inspection or examination. Disobedience to such order is a contempt, and obedience to such order may be enforced by attachment.

Formerly L. 1877, ch. 466, § 3. Subd. 5 am'd by L. 1878, ch. 318, § 1.

**§ 5. Notice to creditors to present claims.** The judge may, upon the petition of the assignee, authorize him to advertise for creditors to present to him their claims, with the vouchers therefor, duly verified, on or before a day to be specified in such advertisement, not less than thirty days from the last publication thereof, which advertisement or notice shall be published in two newspapers, to be designated by the judge, as most likely to give notice to the persons to be served, not less than once a week for six successive weeks.

Formerly L. 1877, ch. 466, § 4.

**§ 6. Bond of assignee.** The assignee named in any such assignment shall, within thirty days after the date thereof, and before he shall have any power or authority to sell, dispose of or



convert to the purposes of the trust any of the assigned property, enter into a bond to the people of the state of New York, in an amount to be ordered and directed by the judge, with sufficient sureties to be approved of by such judge, and conditioned for the faithful discharge of the duties of such assignee, and for the due accounting for all moneys received by him, which bond shall be filed in the clerk's office of the county where such assignment is recorded, but in case the debtor shall fail to present such inventory within the twenty days required, then the assignee, before the ten days thereafter shall have elapsed, may apply to said judge by verified petition for leave to file a provisional bond, until such time as he may be able to present the schedule or inventory as hereinbefore provided.

Formerly L. 1877, ch. 466, § 5.

**§ 7. Further security.** The judge may, upon his own motion or upon the application of any party in interest, and on such notice as he may direct to be given to the assignor, assignee and surety, require further security to be given whenever, in his judgment, the security afforded by the bond on file is not adequate.

Formerly L. 1877, ch. 466, § 7.

**§ 8. Discharge or removal of assignee; correction of inventory or schedule; supplemental inventories or schedules.** The judge shall, in the case provided in section four, and may also, at any time, on the petition of one or more creditors, showing misconduct or incompetency of the assignee, or on petition of the assignee himself, showing sufficient reason therefor, and after due notice of not less than five days to the assignor, assignee, surety and such other person as the judge may prescribe, remove or discharge the assignee, and appoint one or more in his place, and order an accounting of the assignee so removed or discharged, and may enjoin such assignee from interfering with the assignor's estate, and make provision by order for the safe custody of the same, and enforce obedience to such injunction and orders by attachment; and, upon the discharge of the assignee upon his own application, such assignee's bond shall be canceled and discharged. The new assignee shall give a bond, to be approved as required by section six. The judge shall have power, by order, to require or allow any inventory or schedule filed to be corrected or amended. The judge may also require and compel, from time to time, supplemental inventories or schedules to be made and filed within such time as he shall prescribe, and to enforce obedience to such orders by attachment.

Formerly L. 1877, ch. 466, § 6, as am'd by L. 1878, ch. 318, § 2.

**§ 9. Failure to file bond.** A failure to file any bond required by or under this article, within the specified time will not deprive the judge of his power over the assignee or the trust estate.

Formerly L. 1877, ch. 466, § 8.

**§ 10. Action on bond; application of recovery.** Any action brought upon an assignee's bond may be prosecuted by a party in interest by leave of the court; and all moneys realized thereon shall be applied by direction of the judge in satisfaction of the debts of the assignor in the same manner as the same ought to have been applied by such assignee.

Formerly L. 1877, ch. 466, § 9.

**§ 11. Proceedings in case of death of assignee.** In case an assignee shall die during the pendency of any proceeding under this article, or at any time subsequent to the filing of any bond required herein, his personal representative or successor in office, or both, may be brought in and substituted in such proceeding on such notice, of not less than eight days, as the judge may direct to be given; and any decree made thereafter shall bind the parties thus substituted as well as the property of such deceased assignee, provided, however, that if such assignee dies subsequent to the filing of his bond and before any proceedings may have been had thereunder, then the surety on such bond may apply to the judge for an accounting, who may, on such terms as to him seem just and proper, appoint another assignee and release such surety.

Formerly L. 1877, ch. 466, § 10.

**§ 12. Citation for judicial settlement of account.** A citation may be issued to all parties, interested in the estate assigned, as creditors or otherwise, requiring them to appear in court on some day to be specified in the citation, and to show cause why a settlement of the account of proceedings of the assignee should not be had, and if no cause be shown, to attend the settlement of such account. The court must issue all citations mentioned in this article which must be returnable in court. It may issue a citation on the petition of an assignee, at any time after the assignment or on petition of a creditor, or an assignee's surety, or an assignor, at any time after the lapse of one year from the date of such assignment, or where an assignee has been removed and ordered to account as hereinbefore provided.

Formerly L. 1877, ch. 466, § 11, as am'd by L. 1878, ch. 318, § 3.

**§ 13. Citation on petition of creditor.** A citation issued on the petition of a creditor may be addressed to and served

on the assignee alone, but on or after the return of such citation the assignee may have a general citation issued to all parties interested.

Formerly L. 1877, ch. 466, § 12.

**§ 14. Service of citation.** A citation to all persons interested must be served on all parties other than the petitioner, who are interested in the fund, including assignors, assignees and their sureties; except that if the time limited by due advertisement for presentation of claims has expired before the issue of the citation, creditors who have not duly presented their claims need not be served. In case the creditors of such assignor, who have proved their claims, exceed twenty-five in number, then the judge, upon proof by affidavit that such creditors exceed such number, may by order direct such citation to be served on each creditor who has proved his claim, by depositing a copy of the same, at least thirty days prior to the return day thereof, in the post-office at the place where the assignee or assignees, or either of them, reside, duly inclosed and directed to each of such creditors, at his last known post-office address, with the postage prepaid; and by publishing such citation once a week for at least four weeks prior to such return day in one or more newspapers, to be designated by such judge as most likely to give notice to such creditors.

Formerly L. 1877, ch. 466, § 13, as am'd by L. 1878, ch. 318, § 4.

**§ 15. Time of service of citation.** A citation personally served within the county where the assignment is recorded or an adjoining county must be so served at least eight days before the return thereof; if in any other county, at least fifteen days before the return thereof.

Formerly L. 1877, ch. 466, § 14.

**§ 16. Service by publication.** The judge may direct service to be made by publication when he is satisfied by affidavit or verified petition either that the person to be so served is unknown, or that his residence cannot, after diligent inquiry, be ascertained, or that he cannot, after due diligence, be found within the state. The order for such service must direct service of the citation upon such person to be made by publication thereof in two newspapers to be designated by the judge as most likely to give notice to the person to be served, for such length of time as he may deem reasonable, not less than once a week for six weeks, and that a copy of the citation be forthwith deposited in the post-office duly inclosed and directed to each person so served,

at his last known place of residence or post-office address, and the postage paid thereon; at least thirty days before the return day thereof.

Formerly L. 1877, ch. 466, § 15.

**§ 17. Personal service without the state.** When publication has been ordered, personal service without the state made, if within the United States, at least thirty days, or without the United States, at least forty days, before the return day is equivalent to publication and mailing.

Formerly L. 1877, ch. 466, § 16.

**§ 18. Service upon minors and incompetent persons.** Personal service upon minors and persons incompetent shall be made in the manner prescribed by law for the service of citations issued by a surrogate, in cases of final accounting.

Formerly L. 1877, ch. 466, § 17.

**§ 19. Service upon partners.** Personal service upon one of two or more creditors who claim as co-partners or otherwise as joint-creditors shall be equivalent to personal service on all, and voluntary appearance either in person or by attorney shall be equivalent to personal service.

Formerly L. 1877, ch. 466, § 18.

**§ 20. Appearance of claimants not cited.** On the return of a citation any person claiming an interest, although not served, may appear and become a party on duly presenting his claim.

Formerly L. 1877, ch. 466, § 19.

**§ 21. Power of court on accounting.** On a proceeding for an accounting under this article the judge shall have power:

1. To examine the parties and witnesses on oath in relation to the assignment and accounting and all matters connected therewith and to compel their attendance for that purpose and their answers to questions, and the production of books and papers;

2. To require the assignee to render and file an account of his proceedings, and to enforce the same in the manner provided by law for compelling an executor or administrator to comply with a surrogate's order for an account;

3. To take and state such account, or to appoint a referee to take and state it, and such referee shall have the powers enumerated in subdivision one of this section;

4. To settle and adjudicate upon the account and the claims presented, and to decree payment of any creditor's just propor-

tional part of the fund, or, in case of a partial accounting, so much thereof as the circumstances of the case render just and proper;

5. To discharge the assignee and his surety at any time, upon performance of the decree, from all further liability upon matters included in the accounting, to creditors appearing and to creditors not having appeared after due citation, or not having presented their claims after due advertisement;

6. On proof of a composition between the assignor and his creditors, to discharge the assignee and his sureties from all further liability to the compounding creditors appearing or duly cited, and to authorize the assignee to release the assets to the assignor; provided, however, that if there be any creditors not assenting to the composition, the court shall determine what proportion of the fund shall be paid to or reserved for creditors not assenting, which shall not be less than the sum or share to which they would be entitled if no composition had been made, and may decree distribution accordingly;

7. To adjourn the proceedings from time to time, issue further citations if necessary, and amend the petition and proceedings thereon before decree in furtherance of justice;

8. To punish as for a contempt any disobedience or violation of any order made or process issued in pursuance of this article, and to restrain by arrest and imprisonment any party or witness when it shall satisfactorily appear that such party or witness is about to leave the jurisdiction of the court, and to take bail to secure the attendance of such party or witness, to be prosecuted under the order of the court in case of forfeiture by and for the benefit of the party in whose interest such examination shall be ordered;

9. To exercise such other or further powers in respect to the proceedings and the accounting therein as a surrogate may by law exercise in reference to an accounting by an executor or administrator.

Formerly L. 1877, ch. 466, § 20. Subd. 6, am'd by L. 1878, ch. 318, § 5.

**§ 22. Examination of witnesses.** The judge may also, at any time, on petition of any party interested, order the examination of witnesses and the production of any books and papers by any party or witness before him or before a referee appointed by him for such purpose, and the evidence so taken, together with books and papers, or extracts therefrom, as the case may be, shall be filed in the county clerk's office, and may be used

in evidence by any creditor or assignee in any action or proceeding then pending, or which may hereafter be instituted. No witness or party as above provided shall be excused from answering on the ground that his answer may incriminate him, but such answer shall not be used against him in any criminal action or proceeding.

Formerly L. 1877, ch. 466, § 21.

**§ 23. Effect of orders; power of judge and duties of clerk.** All orders or decrees in proceedings under this article shall have the same force and effect, and may be entered, docketed and enforced and appealed from the same as if made in an original action brought in the court in which the proceeding is pending; provided, however, that a final decree, directing the payment of money, may be enforced by serving a certified copy thereof personally upon the assignee for the benefit of creditors, and if said assignee wilfully neglects to obey said decree, by punishing him for a contempt of court. The imprisonment of said assignee, by virtue of proceedings to punish him for contempt, as prescribed in this section, or a levy upon his property by virtue of an action, shall not bar, suspend or otherwise affect an action against the sureties on his final bond. All proceedings under this article shall be deemed to be had in court. The said court shall always be open for proceedings under this article. The judge, when named in this article, shall, in such proceedings, be deemed to be acting as the court. The clerk of the court shall keep a separate book, in which shall be entered, in each case, the date and place of record of the assignment, and a minute of all proceedings therein, under this article, with such particularity as the court shall direct by general order. He shall record therein at length the orders and decrees of the court, settling, rejecting or adjusting claims, and directing the payment of money, or releasing assets by the assignee, and removing or discharging the assignee and his sureties, and such other orders as the courts shall direct by general order. The said clerk shall securely keep the papers in each case in a file by themselves, and shall be entitled to a fee of one dollar for filing all the papers in each case, and entering the proceedings in the minute-book, and fifty cents to be paid by the assignee, unless otherwise directed, for recording each order or decree required by this article or the general order of the court.

Formerly L. 1877, ch. 466, § 22, as am'd by L. 1878, ch. 318, § 6, and L. 1894, ch. 134, § 1.

**§ 24. Sale and compromise of claims.** The judge may, upon the application of the assignee and for good and sufficient

---

Art. 2      General Assignments for the Benefit of Creditors.      §§ 25-27

---

cause shown, and upon such terms as he may direct, authorize the assignee to sell, compromise or compound any claim or debt belonging to the estate of the debtor. But such authority shall not prevent any party interested in the trust estate from showing upon the final accounting of such assignee that such debt or claim was fraudulently or negligently sold, compounded or compromised. The sale of any debt or claim heretofore made in good faith by any assignee shall be valid, subject, however, to the approval of the judge, and the assignee shall be charged with and be liable for, as part of the trust fund, any sum which might or ought to have been collected by him.

Formerly L. 1877, ch. 466, § 23, as am'd by L. 1885, ch. 464, § 1.

**§ 25. General powers of court.** Any proceeding under this article shall be deemed for all purposes, including review by appeal or otherwise, to be a proceeding had in the court as a court of general jurisdiction, and the court shall have full jurisdiction to do all and every act relating to the assigned estate, the assignees, assignors and creditors, and jurisdiction shall be presumed in support of the orders and decrees therein unless the contrary be shown; and after the filing or recording of an assignment under this article, the court may exercise the powers of a court of equity in reference to the trust and any matters involved therein.

Formerly L. 1877, ch. 466, § 25.

**§ 26. Trial, costs and commissions.** The court, in its discretion, may order a trial by jury or before a referee, of any disputed claim or matter arising under the provisions of this article. It may in its discretion award reasonable counsel fees and costs, determine which party shall pay the same, and make all necessary rules to govern the practice under this article. The assignee or assignees named in any assignment shall receive for his or their services a commission of five per centum on the whole sum which will have come into his or their hands.

Formerly L. 1877, ch. 466, § 26, as am'd by L. 1878, ch. 318, § 7.

**§ 27. Wages preferred claims.** In all distribution of assets under all assignments made in pursuance of this article, the wages or salaries actually owing to the employees of the assignor or assignors at the time of the execution of the assignment for services rendered within one year prior to the execution of the assignment, shall be preferred before any other debt; and should the assets of the assignor or assignors not be sufficient to pay in full all the claims preferred, pursuant to this section, they

shall be applied to the payment of the same pro rata to the amount of each such claim.

Formerly L. 1877, ch. 466, § 29, as am'd by L. 1884, ch. 328, § 1; L. 1886, ch. 283, § 1; L. 1897, ch. 266, § 1, and L. 1897, ch. 624, § 1.

**§ 28. Limitation of preferences.** In all general assignments of the estates of debtors for the benefit of creditors any preference created therein, other than for the wages or salaries of employees under the last section, shall not be valid except to the amount of one-third in value of the assigned estate left after deducting such wages or salaries, and the costs and expenses of executing such trust; and should said one-third of the assets of the assignor or assignors be insufficient to pay in full the preferred claims to which, under the provisions of this section, the same are applicable, then said assets shall be applied to the payment of the same pro rata to the amount of each of said preferred claims.

Formerly L. 1877, ch. 466, § 30, as added by L. 1887, ch. 503, § 1.

**§ 29. Appraisal of insolvent estate in the hands of assignee.** Whenever by reason of the provisions of any law of this state it shall become necessary to appraise in whole or in part any insolvent estate in the hands of any assignee for the benefit of creditors, the persons whose duty it shall be to make such appraisal shall value the real estate at its full and true value, taking into consideration actual sales of neighboring real estate similarly situated during the year immediately preceding the date of such appraisal, if any; and they shall value all such property, stocks, bonds or securities as are customarily bought or sold in open markets in the city of New York or elsewhere, for the day on which such appraisal or report may be required, by ascertaining the range of the market and the average of prices as thus found, running through a reasonable period of time.

Formerly L. 1891, ch. 34, § 1, part.

### ARTICLE 3

#### Insolvent's Discharge from Debts

- Section 50. Who may be discharged.
51. To what court application to be made.
  52. Contents of petition.
  53. Consent of creditors to be annexed.
  54. Consent of executor, administrator, receiver or trustee.
  55. Consent of corporation, or joint-stock association.
  56. Consent of partnership.



- Section 57. Effect of consent where petitioner is a joint debtor.
58. Consent of purchaser or assignee of debt.
59. Consenting creditor must relinquish security.
60. Penalty if creditor swears falsely.
61. Affidavit of consenting creditor.
62. When non-resident creditor to annex accounts and securities.
63. Petitioner's schedule.
64. Petitioner's affidavit.
65. Order to show cause.
66. How order published and served.
67. Hearing.
68. Putting cause on calendar.
69. Opposing creditor to file specifications, and may demand jury trial.
70. Opposing creditor to file proofs, if not named in schedule.
71. Proceedings if jurors do not agree.
72. When insolvent required to produce his non-resident wife.
73. Examination of insolvent.
74. When insolvent cannot be discharged.
75. When assignment to be directed.
76. Assignment; contents, and to whom made.
77. Trustees, how designated.
78. Effect of assignment.
79. When discharge to be granted.
80. Order to show cause where trustee refuses to give certificate.
81. Proceedings upon return of order.
82. Discharge and other papers to be recorded.
83. Effect of discharge.
84. Effect of discharge as to foreign contracts or creditors.
85. Effect of discharge as to debts to the United States and the state.
86. Insolvent to be released from imprisonment.
87. Discharge, when void.
88. Invalidity may be proved on motion to vacate order of arrest or execution.

**§ 50. Who may be discharged.** An insolvent debtor, who is a resident of the state at the time of presenting his petition, may be discharged from his debts, as prescribed in this article.

Formerly Code Civil Procedure, § 2149.

**§ 51. To what court application to be made.** Application for such a discharge must be made, by the petition of the insolvent, addressed to the county court of the county in which he resides; or, if he resides in the city of New York, to the supreme court.

Formerly Code Civil Procedure, § 2150.

**§ 52. Contents of petition.** The petition must be in writing; it must be signed by the insolvent, and specify his residence; it must set forth, in substance, that he is unable to pay all his debts in full; that he is willing to assign his property for the benefit of all his creditors, and, in all other respects, to comply with the provisions of this article, for the purpose of being discharged from his debts; and it must pray that, upon his so doing, he may be discharged accordingly. It must be verified by the affidavit of the insolvent, annexed thereto, taken on the day of the presentation thereof, to the effect, that the petition is in all respects true, in matter of fact.

Formerly Code Civil Procedure, § 2151.

**§ 53. Consent of creditors to be annexed.** The petitioner must annex to his petition one or more written instruments, executed by one or more of his creditors, residing in the United States, having debts owing to him or them in good faith, then due or thereafter to become due, which amount to not less than two-thirds of all the debts, owing by the petitioner to creditors residing within the United States. Each instrument must be to the effect, that the person or corporation, executing it, consents to the discharge of the petitioner from his debts, upon his complying with the provisions of this article.

Formerly Code Civil Procedure, § 2152.

**§ 54. Consent of executor, administrator, receiver, or trustee.** An executor or administrator may become a consenting creditor, under the order of the surrogate's court from which his letters issued. A trustee, official assignee, or receiver of the property of a creditor of the petitioner, whether created by operation of law or by the act of parties, may become a consenting creditor, under the order of a justice of the supreme court. A person who becomes a consenting creditor, as prescribed in this section, is chargeable only for the sum which he actually receives, as a dividend of the insolvent's property.

Formerly Code Civil Procedure, § 2153.

**§ 55. Consent of corporation or joint-stock association.** Where a corporation or joint-stock association becomes

a consenting creditor, its consent must be executed under its common seal, and may be attested by any director or other officer thereof, duly authorized for that purpose; who may make any affidavit, required of a creditor in the proceedings.

Formerly Code Civil Procedure, § 2154.

**§ 56. Consent of partnership.** Where a partnership becomes a consenting creditor, the consent may be executed in its behalf, and any affidavit, required of a creditor in the proceedings, may be made, by either of the partners.

Formerly Code Civil Procedure, § 2155.

**§ 57. Effect of consent where petitioner is a joint debtor.** A creditor's consent does not affect his remedy against any person or persons indebted jointly with the petitioner; and the petitioner's discharge has the effect, as between the creditor and the other joint debtors, of a composition between the petitioner and the creditor, made as prescribed in article eight of this chapter.

Formerly Code Civil Procedure, § 2156.

**§ 58. Consent of purchaser or assignee of debt.** Where a consenting creditor is the purchaser or assignee of a debt against the petitioner, or the executor, administrator, trustee, or receiver of such a purchaser or assignee, he is deemed, for all the purposes of this article, except as to the declaration and receipt of dividends, a creditor only to the amount, actually and in good faith paid for the debt, by him, or by the decedent or other person, from whom he derives title, and remaining uncollected. This section is not affected by the recovery of a judgment for the debt, after the purchase or assignment; but in that case, the consenting creditor may include the uncollected costs, as if they were part of the sum paid for the debt.

Formerly Code Civil Procedure, § 2157.

**§ 59. Consenting creditor must relinquish security.** A creditor who has, in his own name, or in trust for him, a mortgage, judgment, or other security, for the payment of a sum of money, which is a lien upon, or otherwise affects, real or personal property belonging to the petitioner, or transferred by him since the lien was created, cannot become a consenting creditor, with respect to the debt so secured, unless he adds to or includes in his consent, a written declaration, under his hand, to the effect, that he relinquishes the mortgage, judgment, or other security, so far as it affects that property, to the trustee to be appointed pursuant

to the petition, for the benefit of all the creditors. Such a declaration operates, to that extent, as an assignment to the trustee, of the mortgage, judgment, or other security; and vests in him accordingly all the right and interest of the consenting creditor therein.

Formerly Code Civil Procedure, § 2158.

**§ 60. Penalty if creditor swears falsely.** If a creditor knowingly swears, in any proceedings authorized by this article, that the petitioner is, or will become, indebted to him, in a sum of money, which is not really due, or thereafter to become due; or in more than the true amount; or that more was paid for a debt, which was purchased or assigned, than the sum, actually and in good faith paid therefor; he forfeits to the trustee, to be recovered in an action, twice the sum, so falsely sworn to.

Formerly Code Civil Procedure, § 2159.

**§ 61. Affidavit of consenting creditor.** The consent of a creditor must be accompanied with his affidavit, stating as follows:

1. That the petitioner is justly indebted to him, or will become indebted to him, at a future day specified therein, in a sum therein specified; and, if he, or the person from whom he derives title, is or was the purchaser or assignee of the debt, he must also specify the sum, actually and in good faith paid for the debt, as prescribed in section fifty-eight of this chapter.

2. The nature of the demand, and whether it arose upon written security, or otherwise, with the general ground or consideration of the indebtedness.

3. That neither he, nor any person to his use, has received from the petitioner, or from any other person, payment of a demand, or any part thereof, in money or in any other way, or any gift or reward of any kind, upon an express or implied trust, confidence, or understanding, that he should consent to the discharge of the petitioner.

Where a consenting creditor is an executor, administrator, trustee, receiver, or assignee, he may state the necessary facts, in his affidavit, upon information and belief, setting forth therein the grounds of his belief; but in that case, the consent must also be accompanied with the affidavit of the insolvent, to the effect, that all the matters of fact stated in the affidavit of the consenting creditor, are true.

Formerly Code Civil Procedure, § 2160.

**§ 62. When non-resident creditor to annex accounts and securities.** A consenting creditor, residing with-

out the state, and within the United States, must annex to his consent the original accounts, or sworn copies thereof, and the original specialties or other written securities, if any, upon which his demand arose or depends. Provided, however, that when such original specialties, or other written securities, are lost, such fact must be stated as a reason for not annexing thereto the consent, and the fact of the loss, and the manner of the loss thereof must be stated in the affidavit of the creditor to the best of his knowledge, or must be otherwise proved by affidavit to the satisfaction of the court; and the court may thereupon, in such case or proceeding, by its order, dispense with the annexing to such consent of the original specialties or other written securities.

Formerly Code Civil Procedure, § 2161.

**§ 63. Petitioner's schedule.** The petitioner must annex to his petition a schedule, containing:

1. A full and true account of all his creditors.
2. A statement of the place of residence of each creditor, if it is known; or, if it is not known, a statement of that fact.
3. A statement of the sum which he owes to each creditor, and the nature of each debt or demand, whether arising on written security, on account, or otherwise.
4. A statement of the true cause and consideration of his indebtedness to each creditor, and the place where the indebtedness accrued.
5. A statement of any existing judgment, mortgage, or collateral or other security, for the payment of the debt.
6. A full and true inventory of all his property, in law or in equity, of the incumbrances existing thereon, and of all the books, vouchers, and securities, relating thereto.

Formerly Code Civil Procedure, § 2162.

**§ 64. Petitioner's affidavit.** An affidavit, in the following form, subscribed and taken by the petitioner before the county judge, or, in the city of New York, before the judge holding the term of the court, at which the order specified in the next section is made, must be annexed to the schedule:

"I, \_\_\_\_\_, do swear" (or "affirm," as the case may be), "that the matters of fact stated in the schedule hereto annexed, are, in all respects, just and true; that I have not, in contemplation of my becoming insolvent, or within two years before presenting the petition herein, disposed of or made over any part of my property, not exempt by express provision of law from levy and sale by virtue of an execution, for the future benefit of myself or my family, or disposed of or made over any part of my prop-

erty, in order to defraud any of my creditors; that I have not, in any instance, created or acknowledged a debt for a greater sum than I honestly and truly owed; and that I have not paid, secured to be paid, or in any way compounded with, any of my creditors, with a view fraudulently to obtain the prayer of my petition; that I have not done, suffered or been privy to any act, matter or thing which, if accomplished, would be ground for withholding my discharge under the provisions of this act, or invalidate such discharge if granted."

Formerly Code Civil Procedure, § 2163.

**§ 65. Order to show cause.** The petition and other papers, specified in the foregoing sections of this article, must be presented to the court, and filed with the clerk. The court must thereupon make an order, requiring all the creditors of the petitioner to show cause before it, at a time and place therein specified, why an assignment of the insolvent's property should not be made, and he be thereupon discharged from his debt, as prescribed in this article; and directing that the order be published and served, as prescribed in the next section.

Formerly Code Civil Procedure, § 2164.

**§ 66. How order published and served.** The order must be published and served in the following manner:

1. The petitioner must cause a copy thereof to be published in a newspaper, designated in the order, published in the county; and also, if one-fourth part of the insolvent's debts accrued or are due to creditors residing in the city of New York, in a newspaper published in that city, designated in the order. The publication must be made at least once in each of ten weeks, immediately preceding the day in which cause is to be shown, unless all the creditors reside within one hundred miles of the place where cause is to be shown, in which case the publication must be made at least once in each of the six weeks, immediately preceding that day.

2. The petitioner must also serve upon each creditor, residing within the United States, whose place of residence is known to him, a copy of the order to show cause, either personally, at least twenty days before the day when cause is to be shown, or by depositing it, at least forty days before that day, in the post-office, inclosed in a post-paid wrapper, addressed to the creditor at his usual place of residence.

Where the state is a creditor of the petitioner, a copy of the order must be served upon the attorney-general, who must represent the state in the subsequent proceedings.

Formerly Code Civil Procedure, § 2165.

**§ 67. Hearing.** On the day specified in the order, and before any other proceedings are taken in the matter, the petitioner must present to the court, and file with the clerk, proof, to the satisfaction of the court, that the order has been published and served, as prescribed in the last section; and thereupon, on the same day, or upon the day to which the hearing is adjourned, the court must hear the allegations and proofs of the parties appearing. Proof of personal service of a copy of the order upon any person, must be made, in like manner as proof of the personal service of a summons, in an action brought in the supreme court.

Formerly Code Civil Procedure, § 2166.

**§ 68. Putting cause on calendar.** Where the insolvent's discharge is opposed, the court may direct the special proceeding to be placed upon the calendar for trial. In that case, the parties must appear, and the proceedings are the same, as in an action, except as otherwise prescribed in this article; and costs, as in an action, except for proceedings before notice of trial, may be awarded to either party, in the discretion of the court.

Formerly Code Civil Procedure, § 2167.

**§ 69. Opposing creditor to file specifications, and may demand jury trial.** In order to entitle a creditor to oppose the discharge of the insolvent, he must, on the day fixed to show cause, or at such other time as the court may direct, file with the clerk a specification of his objections; and he may then, but not afterwards, demand a trial, by a jury, of the questions of fact arising thereupon. If a trial by a jury is not then demanded, the questions of fact must be tried by the court, without a jury. Where one of two or more opposing creditors demands a trial by a jury, all the material questions of fact, arising upon the objections of all the creditors, must be tried in like manner, and at the same time. The court may, in its discretion, direct the questions to be settled, and plainly stated, in an order, as where an order is made by the supreme court, in an action pending therein, for the trial of questions of fact by a jury.

Formerly Code Civil Procedure, § 2168.

**§ 70. Opposing creditor to file proofs, if not named in schedule.** Where the name of an opposing creditor does not appear in the schedule, he must file, with the specification of his objections, proof, by affidavit, that he is a creditor; and, if his debt is not set forth in the schedule, he must also file his affidavit, to the effect specified in subdivisions first and second of section sixty-one of this chapter.

Formerly Code Civil Procedure, § 2169.

**§ 71. Proceedings if jurors do not agree.** There shall be but one trial by jury. If the jurors cannot agree, after being kept together for such a time as the court deems reasonable, the court must discharge them, and determine the questions of fact, or those questions as to which the jurors have not agreed, upon the evidence taken before the jury, as if a jury had not been demanded.

Formerly Code Civil Procedure, § 2170.

**§ 72. When insolvent required to produce his non-resident wife.** Where the petitioner's wife resides without the state, the court, or a judge thereof out of court, may, upon the application of any creditor, make an order, requiring the petitioner to bring his wife before the court, at the hearing or trial, to the end that she may be examined as a witness. A copy of the order must be personally served upon the petitioner, at least three weeks before the hearing. If it appears, upon the hearing, that service could not, with due diligence, be so made, in consequence of the petitioner's sickness or absence, the court may, in its discretion, adjourn the hearing or trial, and prescribe the time and manner of service of the order for the adjourned day. If, after due service, the petitioner's wife does not attend at the time and place appointed, the petitioner is not entitled to his discharge, unless he proves, to the satisfaction of the court, by his affidavit, or upon his oral examination, or otherwise, that he was unable to procure her attendance.

Formerly Code Civil Procedure, § 2171.

**§ 73. Examination of insolvent.** At the hearing or trial, the petitioner must be examined under oath, at the instance of any creditor, touching his property or debts, or any other matter stated in his schedule, or any changes that have occurred in the situation of his property, since the making of the schedule; and particularly whether he has collected any debts or demands, or made any transfers of, or otherwise affected, his real or personal property. Any creditor may contradict or impeach, by other competent evidence, the testimony of the insolvent or of his wife.

Formerly Code Civil Procedure, § 2172.

**§ 74. When insolvent cannot be discharged.** In either of the following cases, the petitioner is not entitled to a discharge:

1. Where it appears, upon the hearing or trial, that, after making the schedule annexed to his petition, he has collected a debt or demand, or transferred, absolutely, conditionally, or otherwise.



any of his property, not exempt by law from levy and sale by virtue of an execution, and he neglects or refuses forthwith to pay over to the clerk, the full amount of all debts and demands so collected, and the full value of all property so transferred, except so much of the money, and of the value of the property, as appears to have been necessarily expended by him for the support of himself or his family.

2. Where it appears, in like manner, that the petitioner, within two years before presenting the petition, has, in contemplation of his becoming insolvent, or of his petitioning for his discharge, or knowing of his insolvency, made an assignment, sale, or transfer, either absolute or conditional, of any of his property, or of any interest therein, or confessed a judgment, or given any security, with a view of giving a preference to a creditor for an antecedent debt.

Formerly Code Civil Procedure, § 2173.

**§ 75. When assignment to be directed.** An order, directing the execution of an assignment, must be made by the court, where it appears, by the verdict of the jury; or, if a jury has not been demanded, or the jurors have been discharged by reason of their inability to agree, where it satisfactorily appears to the court; as follows:

1. That the petitioner is justly and truly indebted to the consenting creditors, in sums which amount, in the aggregate, to two-thirds of all the debts, which the petitioner owed, at the time of presenting his petition, to creditors residing within the United States.

2. That he has honestly and fairly given a true account of his property.

3. That he has, in all things, conformed to the matters required of him by this article.

Formerly Code Civil Procedure, § 2174.

**§ 76. Assignment; contents, and to whom made.** The order must designate one or more trustees, residents of the state; and must direct the petitioner to execute, to him or them, an assignment of all his property, at law or in equity, in possession, reversion, or remainder, excepting only so much thereof, as is exempt by law from levy and sale, by virtue of an execution. The assignment must be acknowledged or proved, and certified, in like manner as a deed to be recorded in the county, and must be recorded in the clerk's office of the county. Where it appears, from the schedule or otherwise, that real property will pass thereby,

it must be also recorded as a deed, in the proper office for recording deeds, of each county where the real property is situated.

Formerly Code Civil Procedure, § 2175.

**§ 77. Trustees, how designated.** The trustee or trustees may be nominated by a majority in amount of the consenting creditors. If no person is so nominated, one or more persons must be appointed by the court for the purpose. The nomination may be included in the consent, or made in a separate paper, or orally upon the hearing or trial, and entered in the minutes.

Formerly Code Civil Procedure, § 2176.

**§ 78. Effect of assignment.** The assignment vests in the trustee or trustees all the petitioner's interest, legal or equitable, at the time of its execution, in any real or personal property, not exempt by law from levy and sale by virtue of an execution; and any contingent interest which may vest within three years thereafter. When a contingent interest so vests, it passes to the trustee, in the same manner as it would have vested in the petitioner, if he had not made an assignment.

Formerly Code Civil Procedure, § 2177.

**§ 79. When discharge to be granted.** Upon the production by the petitioner of a certificate of the trustee or trustees, duly acknowledged or proved, and certified, in like manner as a deed to be recorded in the county, to the effect, that the insolvent has assigned, for the benefit of all his creditors, all his property so directed to be assigned, and all the books, vouchers, and papers relating thereto, and that he has delivered so much thereof as is capable of delivery; and also of a certificate of the county clerk, that the assignment has been duly recorded in his office; the court must grant to the insolvent a discharge from his debts, which has the effect declared in the following sections of this article.

Formerly Code Civil Procedure, § 2178.

**§ 80. Order to show cause where trustee refuses to give certificate.** If a trustee refuses or neglects, upon payment or tender by the petitioner of the expense of so doing, to execute or acknowledge a certificate, as prescribed in the last section, or to cause the assignment to be recorded, as therein prescribed, the court, upon proof by affidavit of the facts, must make an order, requiring the trustee to show cause, at a time and place therein specified, why the petitioner should not be discharged, notwithstanding his neglect or refusal; and why the trustee's appointment should not be revoked.

Formerly Code Civil Procedure, § 2179.

**§ 81. Proceedings upon return of order.** If, upon the return of the order, it appears that the assignment has been duly executed, and that the petitioner has duly delivered all his property directed to be assigned, and all the books, vouchers, and papers relating thereto, which are capable of delivery, the court may, either

1. Grant a discharge of the petitioner, notwithstanding the neglect or refusal of the trustee; or

2. Make an order, revoking the appointment of the trustee. Upon the entry of such an order, the powers of the trustee, and his interest in the assigned property, cease. If there is no other trustee, the court must, by the same or another order, appoint one or more new trustees. Such an appointment has the same effect, as if the person or persons so appointed were named as trustees in the original assignment.

Formerly Code Civil Procedure, § 2180.

**§ 82. Discharge and other papers to be recorded.**

The discharge, and the petition, affidavits, orders, schedule, and other papers, upon which the discharge is granted, exclusive of the minutes of testimony, must be recorded in the clerk's office of the county, within three months after the discharge is granted. In default thereof, the discharge becomes inoperative, from and after that time. The original discharge, the record thereof, or a transcript of the record duly authenticated, is conclusive evidence of the proceedings and facts therein contained. The other papers specified in this section, the record thereof, or a transcript of the record duly authenticated, are presumptive evidence of the proceedings and facts therein contained.

Formerly Code Civil Procedure, § 2181.

**§ 83. Effect of discharge.** Except as prescribed in the next two sections, a discharge granted as prescribed in this article, exonerates and discharges the petitioner from every debt, due at the time when he executed his assignment, including a debt contracted before that time, though payable afterwards; and from every liability incurred by him, by making or indorsing a promissory note, or by accepting, drawing, or indorsing a bill of exchange, before the execution of his assignment; or incurred by him, in consequence of the payment, by any party to such a note or bill, of the whole or any part of the money secured thereby, whether the payment is made before or after the execution of the assignment. At any time after one year has elapsed, since the recording of the discharge, and the petition, affidavits, orders, schedule and other papers upon which the discharge was granted,

as prescribed in section eighty-two of this chapter, the petitioner may apply, upon proof of his discharge, to the court in which a judgment shall have been rendered against him, for an order directing the judgment to be canceled and discharged of record. If it appears that he has been discharged from the payment of that judgment, an order must be made accordingly, and thereupon the clerk must cancel and discharge the docket thereof, as if the proper satisfaction-piece of the judgment was filed. Notice of the application, accompanied with copies of the papers upon which it is made, must be given to the judgment creditor, unless his written consent to the granting of the order, with satisfactory proof of the execution thereof, and if he is not the party in whose favor the judgment was rendered, that he is the owner thereof, is presented to the court upon the application.

Formerly Code Civil Procedure, § 2182.

**§ 84. Effect of discharge as to foreign contracts or creditors.** In either of the following cases, such a discharge does not affect a debt or liability, founded upon a contract, unless it was owing, when the petition was presented, to a resident of the state; or the creditor has executed a consent to the discharge; or has appeared in the proceedings; or has received a dividend from the trustee:

1. Where the contract was made with a person, not a resident of the state.
2. Where it was made and to be performed without the state.
3. Where the creditor was not, at the time of the discharge, a resident of the state.

Formerly Code Civil Procedure, § 2183.

**§ 85. Effect of discharge as to debts to the United States and the state.** Such a discharge does not affect:

1. A debt or duty to the United States; or
2. A debt or duty to the state, for taxes or for money received or collected by any person as a public officer, or in a fiduciary capacity, or a cause of action specified in section nineteen hundred sixty-nine of the code of civil procedure or a judgment recovered upon such a cause of action.

Except as prescribed in this section, the discharge exonerates the petitioner from a debt or other liability to the state, in like manner and to the same extent, as from a debt or liability to an individual.

Formerly Code Civil Procedure, § 2184.

**§ 86. Insolvent to be released from imprisonment.** If, at the time when the discharge is granted, the petitioner is

under arrest, by virtue of an execution against his person issued, or an order of arrest made, in an action or special proceeding, founded upon a debt or liability from which he is discharged, as prescribed in the foregoing sections of this article, he must be released from the arrest, upon producing to the officer his discharge, or a certified copy of the record thereof. If the adverse party wishes to test the validity of the discharge, he may procure a new order of arrest, or cause a new execution to be issued, as the case requires.

Formerly Code Civil Procedure, § 2185.

**§ 87. Discharge, when void.** A discharge, granted as prescribed in this article, is void, in either of the following cases:

1. Where the petitioner wilfully swears falsely, in the affidavit annexed to his petition or schedule, or upon his examination, in relation to any material fact, concerning his property or his debts, or to any other material fact.

2. Where, after presenting his petition, he sells, or in any way transfers or assigns, any of his property, or collects any debt or demand owing to him, and does not give a just and true account thereof, upon the hearing or trial, and does not pay the money so collected, or the value of the property so sold, transferred, or assigned, as prescribed in this article.

3. Where he secretes any part of his property, or a book, voucher, or paper relating thereto, with intent to defraud his creditors.

4. Where he fraudulently conceals the name of any creditor, or the sum owing to any creditor, or fraudulently misstates such a sum.

5. Where, in order to obtain his discharge, he procures any person to become a consenting creditor, wilfully, intentionally, and knowingly, for a sum not due from him to that person in good faith, or for a sum greater than that for which the holder of a demand, purchased or assigned, is deemed a creditor, as prescribed in this article.

6. Where he pays, or consents to the payment of, any portion of the debt or demand of a creditor, or grants or consents to the granting of any gift or reward to a creditor, upon an express or implied contract, trust, or understanding, that the creditor so paid or rewarded should be a consenting creditor, or should abstain or desist from opposing the discharge.

7. Where he is guilty of any fraud whatsoever, contrary to the true intent of this article.

Formerly Code Civil Procedure, § 2186.

**§ 88. Invalidity may be proved on motion to vacate order of arrest or execution.** Where a person, who has been discharged as prescribed in this article, is afterwards arrested by virtue of an order of arrest made, or an execution issued, in an action founded upon a debt or liability from which he is so discharged, the adverse party may oppose his application to be released from the arrest, by proof, by affidavit, of any cause for avoiding the discharge, for want of jurisdiction, or as specified in the last section. If such a cause is established, the application must be denied.

Formerly Code Civil Procedure, § 2187.

## ARTICLE 4

### Insolvent's Exemption from Arrest and Imprisonment

Section 100. Who may be exempted and by what court.

101. Contents of petition.
102. Petitioner's schedule.
103. Petitioner's affidavit.
104. Order to show cause.
105. Proceedings on return of order.
106. Order directing assignment; assignment pursuant thereto.
107. When discharge to be granted; effect thereof.
108. Discharge and other papers to be recorded.
109. Petitioner to be released from imprisonment.
110. Debts and demands not affected.
111. Discharge, when void.

**§ 100. Who may be exempted, and by what court.**

An insolvent debtor may be exempted from arrest, or discharged from imprisonment, as prescribed in this article. For that purpose, he must apply, by petition, to the county court of the county in which he resides, or is imprisoned; or, if he resides or is imprisoned in the city of New York, to the supreme court. A person, who has been admitted to the jail liberties, is deemed to be imprisoned, within the meaning of this article.

Formerly Code Civil Procedure, § 2188.

**§ 101. Contents of petition.** The petition must be in writing; it must be signed by the insolvent, and specify his residence, and also, if he is in prison, the county in which he is imprisoned, and the cause of his imprisonment. It must set forth, in substance, that he is unable to pay all his debts in full; that

he is willing to assign his property for the benefit of all his creditors, and in all other respects to comply with the provisions of this article, for the purpose of being exempted from arrest and imprisonment, as prescribed therein; and it must pray, that upon his so doing, he may thereafter be exempted from arrest, by reason of a debt, arising upon a contract previously made; and also, if he is imprisoned, that he may be discharged from his imprisonment. It must be verified by the affidavit of the insolvent, annexed thereto, taken on the day of the presentation thereof, to the effect, that the petition is in all respects true in matter of fact.

Formerly Code Civil Procedure, § 2189.

**§ 102. Petitioner's schedule.** The petitioner must annex to his petition, a schedule, in all respects similar to that required of an insolvent, as prescribed in section sixty-three of this chapter.

Formerly Code Civil Procedure, § 2190.

**§ 103. Petitioner's affidavit.** An affidavit, in the following form, subscribed and taken by the petitioner, before the county judge, or, in the city of New York, before a justice of the supreme court, must be annexed to the schedule:

"I, \_\_\_\_\_, do swear" (or "affirm," as the case may be,) "that the matters of fact, stated in the schedule hereto annexed, are, in all respects, just and true; that I have not, at any time, or in any manner whatsoever, disposed of or made over any part of my property, not exempt by express provision of law from levy and sale by virtue of an execution, for the future benefit of myself or my family, or disposed of or made over any part of my property, in order to defraud any of my creditors; and that I have not paid, secured to be paid, or in any way compounded with, any of my creditors, with a view that they or any of them should abstain from opposing my discharge."

Formerly Code Civil Procedure, § 2191.

**§ 104. Order to show cause.** The petition, and the papers annexed thereto, must be presented to the court, and filed with the clerk. The court must thereupon make an order, requiring all the creditors of the petitioner to show cause before it, at a time and place therein specified, why the prayer of the petitioner should not be granted; and directing that the order be published and served, in the manner prescribed in section sixty-six of this chapter for the publication and service of an order, made as therein prescribed.

Formerly Code Civil Procedure, § 2192.

**§ 105. Proceedings on return of order.** The provisions of sections sixty-seven, sixty-eight, sixty-nine, seventy, seventy-one, seventy-three, and seventy-four of this chapter apply to a special proceeding, taken as prescribed in this article.

Formerly Code Civil Procedure, § 2193.

**§ 106. Order directing assignment; assignment pursuant thereto.** An order, directing the execution of an assignment, must be made by the court, where it appears, by the verdict of the jury, or, if a jury has not been demanded, or the jurors have been discharged by reason of their inability to agree, where it satisfactorily appears to the court, as follows:

1. That the petitioner is unable to pay his debts.
2. That the schedule annexed to his petition is true.
3. That he has not been guilty of any fraud or concealment, in violation of the provisions of this article.
4. That he has, in all things, conformed to the matters required of him by this article.

The provisions of sections seventy-six, seventy-seven, and seventy-eight of this chapter apply to the order prescribed in this section, and to the assignment made in pursuance thereof, except that the trustee or trustees must be nominated, as well as appointed, by the court.

Formerly Code Civil Procedure, § 2194.

**§ 107. When discharge to be granted; effect thereof.** Upon the production by the petitioner, of the certificates of the trustee or trustees, and the county clerk, to the effect prescribed in section seventy-nine of this chapter, the court must grant to the petitioner a discharge, declaring that the petitioner is forever thereafter exempted from arrest or imprisonment, by reason of any debt due at the time of making the assignment, or contracted before that time, though payable afterwards; or by reason of any liability incurred by him, by making or indorsing a promissory note, or by accepting, drawing, or indorsing a bill of exchange, before the execution of the assignment; or in consequence of the payment, by any party to such a note or bill, of the whole or any part of the money secured thereby, whether the payment is made before or after the execution of the assignment, with the exceptions specified in section one hundred and thirty-eight of this chapter. The discharge shall have the effect therein declared, as prescribed in this section.

Formerly Code Civil Procedure, § 2195.

**§ 108. Discharge and other papers to be recorded.** The provisions of section eighty-two of this chapter apply to



---

Arts. 4, 5 Judgment Debtor's Discharge from Imprisonment. §§ 109-111

---

the discharge, and to the petition and other papers upon which it was granted.

Formerly Code Civil Procedure, § 2196.

**§ 109. Petitioner to be released from imprisonment.** If, at the time the discharge is granted, the petitioner is imprisoned, by virtue of an execution against his person issued, or of an order of arrest made, in an action or special proceeding founded upon a debt, liability, or judgment, as to which he is exempted from arrest or imprisonment, as prescribed in the last section but one, the officer must forthwith release him, on production of the discharge, or a certified copy of the record thereof.

Formerly Code Civil Procedure, § 2197.

**§ 110. Debts and demands not affected.** A debt, demand, judgment, or decree, against an insolvent, discharged as prescribed in this article, is not affected or impaired by the discharge; but it remains valid and effectual, against all his property, acquired after the execution of the assignment. The lien, acquired by or under a judgment or decree, upon any property of the insolvent, is not affected by the discharge.

Formerly Code Civil Procedure, § 2198.

**§ 111. Discharge, when void.** A discharge, granted to an insolvent as prescribed in this article, is void, in the same cases, so far as they are applicable, in which a discharge, granted as prescribed in article third of this chapter, is therein declared to be void; and the validity of such a discharge may be tested in the same manner.

Formerly Code Civil Procedure, § 2199.

## ARTICLE 5

### Judgment Debtor's Discharge from Imprisonment

Section 120. Who may be discharged.

121. To what court application to be made.

122. When petition may be presented.

123. Contents of petition; schedule.

124. Affidavit of petitioner.

125. Notice to creditors.

126. Notice to creditors; when service cannot be made.

127. Notice to creditors; when state a creditor.

128. Proceedings on presentation of petition.

129. Adjournment.

130. Proceedings on adjourned day.

- Section 131. Assignment; effect thereof.
132. Discharge; when to be granted.
133. Petitioner's property still liable.
134. When creditor may issue new execution against person.
135. Powers and duties of trustee.
136. Creditor may notify debtor to apply for discharge.
137. Effect of failure so to apply.
138. Debtors to state or United States not to be discharged.
139. Discharge on application of taxpayer.

**§ 120. Who may be discharged.** A person, imprisoned by virtue of an execution to collect a sum of money, issued in a civil action or special proceeding, may be discharged from the imprisonment, as prescribed in this article. A person who has been admitted to the jail liberties, is deemed to be imprisoned, within the meaning of this article.

Formerly Code Civil Procedure, § 2200.

**§ 121. To what court application to be made.** Application for such a discharge must be made by petition, addressed to the court from which the execution issued; or to the county court of the county in which he is imprisoned; or, if he is imprisoned in the city of New York, to the supreme court.

Formerly Code Civil Procedure, § 2201.

**§ 122. When petition may be presented.** A person so imprisoned may apply for such a discharge, at any time; unless the sum, or, where he is imprisoned by virtue of two or more executions, the aggregate of the sums, for which he is imprisoned, exceeds five hundred dollars; in which case, he cannot present such a petition, until he has been imprisoned, by virtue of the execution or executions, for at least three months.

Formerly Code Civil Procedure, § 2202.

**§ 123. Contents of petition; schedule.** The petition must be in writing; it must be signed by the petitioner; and it must state the cause of his imprisonment, by setting forth a copy, or the substance of the execution, or, if there are two or more executions, of each of them. The petitioner must annex thereto, and present therewith, a schedule, containing a just and true account of all his property, and of all charges affecting the same; as the property and charges existed at the time when he was first imprisoned, and also as they exist at the time when the petition is prepared; together with a just and true account of all deeds,

securities, books, vouchers, and papers, relating to the property, and to the charges thereupon.

Formerly Code Civil Procedure, § 2203.

**§ 124. Affidavit of petitioner.** An affidavit, in the following form, subscribed and taken by the petitioner, on the day of the presentation of the petition, must be annexed to the petition and schedule:

“I, \_\_\_\_\_, do swear” (or “affirm,” as the case may be), “that the matters of fact, stated in the petition and schedule hereto annexed, are, in all respects, just and true; and that I have not, at any time or in any manner whatsoever, disposed of or made over any part of my property, not exempt by express provision of law from levy and sale by virtue of an execution, for the future benefit of myself or my family, or disposed of or made over any part of my property, with intent to injure or defraud any of my creditors.”

Formerly Code Civil Procedure, § 2204.

**§ 125. Notice to creditors.** At least fourteen days before the petition is presented, the petitioner must serve, upon the creditor in each execution, by virtue of which he is imprisoned, a copy of the petition, and of the schedule; together with a written notice of the time when, and place where, they will be presented. If, by reason of changes occurring after the service, it is necessary, before presenting the petition and schedule, to correct any statement contained in the schedule, the correction may be made by a supplemental schedule, a copy of which need not be served, unless the court so directs.

Formerly Code Civil Procedure, § 2205.

**§ 126. Notice to creditors; when service cannot be made.** The papers, specified in the last section, may be served, either upon the creditor or his representative, or upon the attorney whose name is subscribed to the execution; and, in either case, in the manner prescribed in the code of civil procedure for the service of a paper upon an attorney, in an action in the supreme court. Where it is made to appear by affidavit, to the satisfaction of the court, that service cannot, with due diligence, be so made within the state, upon either, the court may make an order, prescribing the mode of service, or directing the publication of a notice in lieu of service, in such manner and for such a length

---

§§ 127-131 Judgment Debtor's Discharge from Imprisonment. Art. 5

---

of time, as it thinks proper; and thereupon, it may direct an adjournment of the hearing to such a time as it thinks proper.

Formerly Code Civil Procedure, § 2206.

**§ 127. Notice to creditors; when state a creditor.**

Where the state is a creditor, the papers must be served upon the attorney-general, who must represent the state in the proceedings.

Formerly Code Civil Procedure, § 2207.

**§ 128. Proceedings on presentation of petition.**

Upon the presentation of the petition, schedule, and affidavit, with due proof of service or publication, as prescribed in the last three sections, the court must make an order, directing the petitioner to be brought before it, on a day designated therein; and on that day, or on such other days as it appoints, the court must, in a summary way, hear the allegations and proofs of the parties. If the court is satisfied that the petition and schedule are correct, and that the petitioner's proceedings are just and fair, it must make an order, directing the petitioner to execute, to one or more trustees, designated in the order, an assignment of all his property, not expressly exempt by law from levy and sale by virtue of an execution; or of so much thereof as is sufficient to satisfy the execution or executions, by virtue of which he is imprisoned.

Formerly Code Civil Procedure, § 2208.

**§ 129. Adjournment.** Upon sufficient cause being shown by a creditor, the court may, from time to time, adjourn the hearing; but not to a day later than three months after the presentation of the petition.

Formerly Code Civil Procedure, § 2209.

**§ 130. Proceedings on adjourned day.** An objection to a matter of form shall not be received upon an adjourned day; and, unless the opposing creditor satisfies the court that the proceedings on the part of the petitioner are not just and fair, the court must direct an assignment, as prescribed in the last section but one, and must grant a discharge, as prescribed in the following sections of this article.

Formerly Code Civil Procedure, § 2210.

**§ 131. Assignment; effect thereof.** The assignment must be acknowledged or proved, and certified, in like manner as a deed to be recorded in the county, and must be recorded in the clerk's office of the county where the petitioner is imprisoned.

---

Art. 5 Judgment Debtor's Discharge from Imprisonment. §§ 132-135

---

Where it appears, from the schedule or otherwise, that real property will pass thereby, the assignment must also be recorded as a deed, in the proper office for recording deeds, of each county where the real property is situated. The assignment vests in the trustee or trustees, for the benefit of the judgment creditors in the executions, by virtue of which the petitioner is imprisoned, all the estate, right, title, and interest of the petitioner in and to the property, so directed to be assigned.

Formerly Code Civil Procedure, § 2211.

**§ 132. Discharge; when to be granted.** Upon the production, by the petitioner, of satisfactory evidence, that the petitioner has actually delivered to the trustee or trustees all the property so directed to be assigned, which is capable of delivery; or upon the petitioner's giving security, approved by the court, for the future delivery thereof; the court must make an order, discharging the petitioner from imprisonment, by virtue of each execution, specified in his petition. The sheriff, upon being served with a certified copy of the order, must discharge the petitioner as directed therein, without any detention on account of fees.

Formerly Code Civil Procedure, § 2212.

**§ 133. Petitioner's property still liable.** Notwithstanding such a discharge, the judgment creditor in the execution has the same remedies, against the property of the petitioner, for any sum due upon his judgment, which he had before the execution was issued; but the petitioner shall not, except as is otherwise specially prescribed in the next section, be again imprisoned by virtue of an execution upon the same judgment, or arrested in an action thereupon.

Formerly Code Civil Procedure, § 2213.

**§ 134. When creditor may issue new execution against person.** If the petitioner is convicted of perjury, committed in any of the proceedings upon his petition, any judgment creditor, by virtue of whose execution he was imprisoned, may issue a new execution against his person.

Formerly Code Civil Procedure, § 2214.

**§ 135. Powers and duties of trustee.** The trustee must collect the demands, and sell the other property assigned to him. He must apply the proceeds thereof, after deducting his commissions and expenses allowed by law, as follows:

1. To the payment of the jail fees, upon the imprisonment and discharge of the petitioner.

2. If any surplus remains, to the payment of the creditors, by virtue of whose executions the petitioner was imprisoned, when he presented his petition; or, if there is not enough to pay them in full, to the payment, to each, of a proportionate part of the sum due upon his execution.

3. If any surplus remains, he must pay it over to the petitioner, or his executor or administrator.

Personal service upon a creditor, or his attorney, of written notice of the time and place of making a distribution, as prescribed in subdivision second of this section, has the same effect as publishing a notice thereof, in a case prescribed by law.

Formerly Code Civil Procedure, § 2215.

**§ 136. Creditor may notify debtor to apply for discharge.** Where a person has been imprisoned by virtue of an execution, for the space of three months after he was entitled, by the provisions of this article, to apply for a discharge; and has neither made such an application, nor applied for his discharge under the provisions of article third of this chapter; the judgment creditor, by virtue of whose execution he is imprisoned, may serve upon the prisoner a written notice, requiring him to apply for his discharge, according to the provisions of this article.

Formerly Code Civil Procedure, § 2216.

**§ 137. Effect of failure so to apply.** If the prisoner does not, within thirty days after personal service of such a notice, either present a petition to the proper court, as prescribed in article third of this chapter, or serve, upon the creditor giving the notice, a copy of a petition and schedule, with a notice of his intention to apply for his discharge, as prescribed in this article; or if, after such a presentation or service, he does not diligently proceed thereupon to a decision, he shall be forever barred from obtaining his discharge under the provisions of this article, or of article third of this chapter.

Formerly Code Civil Procedure, § 2217.

**§ 138. Debtors to state or United States not to be discharged.** Neither of the following named persons shall be discharged from imprisonment, under the provisions of this article:

1. A person owing a debt or duty to the United States.
2. A person owing a debt or duty to the state, for taxes or for money received or collected by any person, as a public officer or in a fiduciary capacity, or a cause of action specified in section

nineteen hundred sixty-nine of the code of civil procedure or a judgment recovered upon such a cause of action.

Formerly Code Civil Procedure, § 2218.

**§ 139. Discharge on application of taxpayer.** Where a person has been arrested by virtue of an execution issued upon a judgment of fifty dollars or under, and has been kept imprisoned at the expense of the county for six months or over, the court out of which the execution issued may, on the application of a taxpayer of the county to which the support is chargeable, and upon due proof of the service upon the person in whose favor such execution was issued, of a notice in writing of the time when and the place where such application is to be made, at least eight days before the making thereof discharge the prisoner, and it shall be the duty of the sheriff to forthwith release him from custody.

Formerly L. 1884, ch. 228, § 1.

## ARTICLE 6

### Discharge of Bankrupt from Judgment

Section 150. Discharge of bankrupt from judgment.

**§ 150. Discharge of bankrupt from judgment.** At any time after one year has elapsed, since a bankrupt was discharged from his debts, pursuant to the acts of congress relating to bankruptcy, he may apply, upon proof of his discharge, to the court in which a judgment was rendered against him, or if rendered in a court not of record, to the court of which it has become a judgment by docketing it, or filing a transcript thereof, for an order, directing the judgment to be canceled and discharged of record. If it appears upon the hearing that he has been discharged from the payment of that judgment or the debt upon which such judgment was recovered, an order must be made directing said judgment to be canceled and discharged of record; and thereupon the clerk of said court shall cancel and discharge the same by marking on the docket thereof that the same is canceled and discharged by order of the court, giving the date of entry of the order of discharge. Where the judgment was a lien on real property owned by the bankrupt prior to the time he was adjudged a bankrupt, the lien thereof upon said real estate shall not be affected by said order and may be enforced, but in all other respects the judgment shall be of no force or validity, nor shall the same be a lien on real property acquired by him subsequent to his discharge in bankruptcy. Notice of

the application, accompanied with copies of the papers upon which it is made, must be served upon the judgment creditor, or his attorney of record in said judgment, in the same manner as prescribed in section seven hundred and ninety-six and seven hundred and ninety-seven of the code of civil procedure, if the residence or place of business of such creditor, or his attorney, is known, but if unknown and cannot be ascertained after due diligence, or if such creditor is a non-resident of this state, and his attorney is dead, removed from, or cannot be found within the state, upon proof of said facts by affidavit a judge of the court may make an order that the notice of such application be published in a newspaper designated therein once a week for not more than three weeks, which publication shown by the affidavit of the publisher shall be sufficient service upon such judgment creditor, of the application.

Formerly Code Civil Procedure, § 1268.

## ARTICLE 7

### Trustees for Insolvent and Imprisoned Debtors

- Section 160. Trustees for creditors.
161. Sole trustee.
  162. Two or more trustees.
  163. Death of trustee; survivor or successor.
  164. Trustees' oath.
  165. Vesting of property in trustees.
  166. Powers of trustees.
  167. Notice to debtors, bailees and creditors.
  168. Power to sue notwithstanding notice.
  169. Forfeiture for failure to comply with notice.
  170. Warrant on withholding account or property.
  171. Examination of person arrested.
  172. Imprisonment for contumacy.
  173. No discharge for defects of form.
  174. Penalties for connivance at escape.
  175. Effect of answers on examination.
  176. Reward to informers.
  177. Reference of disputed claims.
  178. Application for appointment of referee.
  179. Appointment of referee.
  180. Entry of order of reference.
  181. Powers, duties and compensation of referees.



- Section 182. Filing and effect of \*referee's report.  
183. Commission to take testimony out of county.  
184. Sale of property and accounts of trustees.  
185. Meeting of creditors and notice thereof.  
186. Proceedings at creditors' meetings.  
187. Payment of disbursements and commissions of trustees.  
188. Preferred debts.  
189. Distribution of moneys.  
190. Preference of debts owing by debtor as trustee.  
191. Payment of debts before maturity.  
192. Set-off of mutual debts or credits.  
193. No set-off in certain cases.  
194. Provision for pending actions.  
195. Penalties recovered.  
196. Subsequent dividends.  
197. Provision for neglectful creditors.  
198. Unclaimed dividends.  
199. Disposition of surplus.  
200. Allowance to debtor.  
201. Accounting by trustees.  
202. Trustees subject to order of court.  
203. Appointment of substitute trustee.  
204. Application by \*trustees for leave to renounce.  
205. Account upon application.  
206. Verification of account.  
207. Order to show cause.  
208. Publication of notice.  
209. Hearing.  
210. Order permitting renunciation.  
211. Assignment by renouncing trustee.  
212. Effect of assignment.  
213. Order for discharge of \*trustees from trust.  
214. Effect of order.  
215. Recording order and filing papers.  
216. Payment of expense of renunciation.  
217. New trustee in place of one absent.  
218. Powers and duties of new trustee.

**§ 160. Trustees for creditors.** All trustees, appointed under any authority, conferred by articles three, four and five of this chapter, in the several cases therein contemplated, are hereby declared to be trustees of the estate of the debtor, in

---

\*So in original.

relation to whose property they shall be appointed, for the benefit of his creditors; and shall be vested with all the powers and authority hereinafter specified, and shall be subject to the control, obligations and responsibilities hereinafter declared.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 1.

**§ 161. Sole trustee.** When one trustee only shall be appointed, all the provisions herein contained, in reference to several trustees, shall apply to him.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 2.

**§ 162. Two or more trustees.** When there are more trustees than one appointed, the debts and property of the debtor may be collected and received by any one of them; and when there are more than two trustees appointed, every power and authority conferred by this chapter on the trustees, may be exercised by any two of them.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 3.

**§ 163. Death of trustee; survivor or successor.** The survivor or survivors of any trustee, shall have all the powers and rights given by this chapter to trustees. All property in the hands of any trustee at the time of his death, removal or incapacity, shall be delivered to the remaining trustee or trustees, if there be any; or to the successor of the one so dying, removed or incapacitated; who may demand and sue for the same.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 4.

**§ 164. Trustees' oath.** Before proceeding to the discharge of any of their duties, all such trustees shall take and subscribe an oath, that they will well and truly execute the trust by their appointment reposed in them, according to the best of their skill and understanding; which oath shall be filed with the court that appointed them.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 5.

**§ 165. Vesting of property in trustees.** The trustees taking such oath, shall be deemed vested with all the estate, real and personal, of such debtor, except such as is exempted by articles three, four and five from the execution of the assignment, in said articles directed.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 6.

**§ 166. Powers of trustees.** The said trustees shall have power:

1. To sue in their own names or otherwise, and recover all the estate, debts and things in action, belonging or due to such debtor,

in the same manner and with the like effect as such debtor might or could have done if no trustees had been appointed, and no set-off shall be allowed in any such suit, for any debt, unless it was owing to such creditor, by such debtor, before presenting the petition of the insolvent under said articles. But no suit in equity shall be brought by assignees of insolvents under the third or fourth articles, without the consent of the creditors having a major part of the debts which shall have been exhibited and allowed, unless the sum in controversy exceeds five hundred dollars;

2. To take into their hands, all the estate of such debtor, whether delivered to them, or afterwards discovered; and all books, vouchers and securities relating to the same;

3. From time to time, to sell at public auction, all the estate, real and personal, vested in them, which shall come to their hands, after giving at least fourteen days' public notice of the time and place of sale, and also publishing the same for two weeks in a newspaper, printed in the county, where the sale shall be made, if there be one;

4. To allow such credit on the sale of real property by them, as they shall deem reasonable, not exceeding eighteen months, for not more than three-fourths of the purchase money; which credit shall be secured by a bond of the purchaser, and a mortgage on the property sold;

5. On such sales, to execute the necessary conveyances and bills of sale;

6. To redeem all mortgages and conditional contracts and all pledges of personal property, and to satisfy any judgments, which may be an incumbrance on any property so sold by them; or to sell such property subject to such mortgages, contracts, pledges or judgments;

7. To settle all matters and accounts between such debtor, and his debtors, or creditors, and to examine any person touching such matters and accounts, on oath, to be administered by either of them;

8. Under the order of the court appointing them, to compound with any person indebted to such debtor, and thereupon to discharge all demands against such person.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 7.

**§ 167. Notice to debtors, bailees and creditors.**

The trustees, immediately upon their appointment, shall give notice thereof for at least three weeks in a newspaper published in the county where application was made and therein shall require:

1. All persons indebted to such debtor, by a day and at a place therein to be specified, to render an account of all debts and sums of money owing by them respectively, to such trustees, and to pay the same;

2. All persons having in their possession any property or effects of such debtor, to deliver the same to the said trustees by the day so appointed;

3. All the creditors of such debtor to deliver their respective accounts and demands to the trustees or one of them, by a day to be therein specified, not less than forty days from the first publication of such notice.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, §§ 8, 9, part.

**§ 168. Power to sue notwithstanding notice.** Notwithstanding any such notice, the trustees may sue for and recover, any property or effects of the debtor, and any debts due to him, at any time, before the day appointed for the delivery or payment thereof.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 10.

**§ 169. Forfeiture for failure to comply with notice.** Every person indebted to such debtor, or having the possession or custody of any property or thing in action, belonging to him, who shall conceal the same, and not deliver a just and true account of such indebtedness, or not deliver such property or thing in action, to the trustees or one of them, by the day for that purpose appointed, shall forfeit double the amount of such debt, or double the value of such property so concealed; which penalties may be recovered by the trustees.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 11.

**§ 170. Warrant on withholding account or property.** Whenever the trustees shall show by their own oath, or other competent proof, to the satisfaction of any judge of a county court, or in the county of New York any justice of the supreme court, that there is good reason to believe that the debtor, his wife, or any other person has concealed or embezzled any part of the estate of such debtor vested in the said trustees; or that any person can testify concerning the concealment or embezzlement thereof; or that any person who shall not have rendered an account as above required, is indebted to such debtor, or has property in his custody or possession, belonging to such debtor; such judge or justice shall issue a warrant, commanding any sheriff or constable, to cause such debtor, his wife,

Art. 7 Trustees for Insolvent and Imprisoned Debtors. §§ 171-174

or other person, to be brought before him at such time and place as he shall appoint, for the purpose of being examined.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 12, as am'd by L. 1848, ch. 53, § 2.

**§ 171. Examination of person arrested.** The judge or justice issuing such warrant, shall examine every person so brought before him, on oath, in the presence of the trustees or any of them, touching all matters relative to the debtor, his dealings and estate, and touching the detention or concealment of any part of his property, and touching the indebtedness of any person to such debtor; and shall reduce the examination to writing; which the person so examined is hereby required to sign, and which shall be attested by the judge or justice.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 13, as am'd by L. 1848, ch. 53, § 2.

**§ 172. Imprisonment for contumacy.** If any person so brought before such judge or justice, shall refuse to be sworn, or to answer satisfactorily, all lawful questions put to him, or shall refuse to sign the examination, not having a reasonable objection thereto, to be allowed by such judge or justice, the judge or justice shall by warrant commit such person to prison, there to remain without bail, until he shall submit to be sworn or to answer as required, or to sign such examination; in which warrant the particular default of the person committed shall be specified; and if it be in not answering any question, such question shall also be specified therein.

Formerly R. S., part 2, ch. 5, tit. 1, art. 8, § 14, as am'd by L. 1848, ch. 53, § 2.

**§ 173. No discharge for defects of form.** If any person so committed, shall bring a writ of habeas corpus, he shall not be discharged by reason of any insufficiency in the form of the warrant of commitment; but the court before whom such person shall be brought, shall re-commit such person, unless it shall be made to appear that he has answered all lawful questions put to him, or had sufficient reason for refusing to sign the examination, as the case may be; or unless such person shall then answer, on oath, the questions so put to him.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 15, as am'd by L. 1848, ch. 53, § 2.

**§ 174. Penalties for connivance at escape.** Any sheriff, constable or jailer wilfully suffering any person so committed or re-committed, pursuant to the foregoing sections, to escape, on conviction thereof, in addition to any other punish-

---

§§ 175-178 Trustees for Insolvent and Imprisoned Debtors. Art. 7

---

ment the court may inflict, shall forfeit to the trustees a sum equal to the whole amount of debts due to the creditors of such debtor, not exceeding two thousand five hundred dollars.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 16, as am'd by L. 1848, ch. 53, § 2.

**§ 175. Effect of answers on examination.** The person so examined, and answering to the satisfaction of the court, shall not be liable to any penalty imposed for concealing and not delivering any property, or paying any debt; but his answers on such examination, may be given in evidence in the same manner, and with the like effect, as if he had been examined by such trustees in an action brought by them against him for the recovery of such property or debt.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 17.

**§ 176. Reward to informers.** Any person who shall discover to the trustees any secreted effects, property or things in action, belonging to such debtor, so that they shall be recovered by them, shall be entitled to ten dollars on the hundred dollars, and at that rate, on the value of the effects so discovered, to be paid by the trustees, out of the estate of such debtor; but this section shall not extend to persons who have such property, effects or things, in their own possession.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 18.

**§ 177. Reference of disputed claims.** If any controversy shall arise between the trustees and any other person in the settlement of any demands against such debtor, or of debts due his estate, the same may be referred to one or more indifferent persons, who may be agreed upon by the trustees and the party with whom such controversy shall exist, by a writing to that effect signed by them.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 19, as am'd by L. 1862, ch. 373, § 1.

**§ 178. Application for appointment of referee.** If such referee or referees be not selected by agreement, then the trustees or the other party to the controversy, provided no action at law is pending arising out of any such debts or demands, may serve a notice of their intention to apply to a judge of the court which appointed said trustees, or to any justice of the supreme court at chambers, residing in the same district with said trustees, for the appointment of one or more referees, specifying the time and place when such application will be made,

---

Art. 7 Trustees for Insolvent and Imprisoned Debtors. §§ 179-183

---

which notice shall be served at least ten days before the time so therein specified.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 20, as am'd by L. 1862, ch. 373, § 2, and L. 1907, ch. 476, § 1.

**§ 179. Appointment of referee.** On the day so specified, upon due proof of the service of such notice, the judge or justice before whom the application is made may in his discretion proceed to select one or more referees, the same in all respects as they are now selected according to the rules and practice of the supreme court.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 21, as am'd by L. 1862, ch. 373, § 3, and L. 1907, ch. 476, § 1.

**§ 180. Entry of order of reference.** The judge or justice by whom they shall be selected, shall certify such selection in writing. Such certificate, or the written agreement of the parties, shall be filed by the trustees in the office of the clerk where the order appointing the trustees is entered; and an order shall thereupon be entered by such clerk appointing the persons so selected referees to determine the controversy.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 23.

**§ 181. Powers, duties and compensation of referees.** Such referees shall have the same powers, and be subject to the like duties and obligations, and shall receive the same compensation, as referees appointed by the supreme court, in actions pending therein.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 24.

**§ 182. Filing and effect of referees' report.** The report of the referees shall be filed in the same office where the order for their appointment was entered, and shall be conclusive on the rights of the parties, if not set aside by the court.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 25.

**§ 183. Commission to take testimony out of county.** When any witness to such controversy shall reside out of the county where the said trustees resided at the time of their appointment, the referee or referees appointed to hear said controversy shall have power to issue a commission or commissions in like manner as justices of the peace are now authorized to issue the same, and the testimony so taken shall be returned to said referee or referees in the same manner, and be read before them on a hearing, in like manner as testimony taken on commission before justices of the peace.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 22, as added by L. 1862, ch. 373, § 4.

**§ 184. Sale of property and accounts of trustees.**

The trustees shall, as speedily as possible, convert the estate, real and personal, of such debtor, into money. They shall keep a regular account of all moneys received by them as trustees; to which, every creditor, or other person interested therein, shall be at liberty, at all reasonable times, to have recourse.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 26.

**§ 185. Meeting of creditors and notice thereof.**

The trustees, within fifteen months from the time of their appointment, shall call a general meeting of the creditors of such debtor, by a notice to be published in the same manner, as hereinbefore directed respecting the publication of the notice of their appointment; in which notice, they shall specify the place and time of such meeting, which time shall not be more than three months, nor less than two months after the first publication of such notice. Every such notice shall be published at least once in each week, until the time of such meeting.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 27.

**§ 186. Proceedings at creditors' meetings.** At such meeting, or other adjourned meeting thereafter, all accounts and demands, for and against the estate of such debtor, shall be fairly adjusted, as far as the same can be ascertained, and the amount of moneys in the hands of the trustees declared.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 28.

**§ 187. Payment of disbursements and commissions of trustees.** Out of the moneys in their hands, the trustees may first deduct all the necessary disbursements made by them in the discharge of their duty, and a commission at the rate of five per centum on the whole sum which shall have come into their hands.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 29.

**§ 188. Preferred debts.** They shall pay all debts due by such debtor to the United States, and all debts due by him to persons who, by the laws of the United States, have a preference in consequence of having paid money as sureties of such debtor.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 32.

**§ 189. Distribution of moneys.** They shall distribute the residue of the moneys in their hands, among all those who shall have exhibited their claims as creditors, and whose debts shall have been ascertained, in proportion to their respective demands, and without giving any preference to debts due on specialties, as follows:



1. In proceedings under the third and fourth articles of this chapter, among those who were creditors at the time of the execution of the assignment by the insolvent;

2. In proceedings under the fifth article, among those creditors, at whose suit the debtor was imprisoned on execution at the time of his discharge. *Am'd by L. 1909, ch. 240, § 11.*

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 33.

**§ 190. Preference of debts owing by debtor as trustee.** In making such distribution, the trustees shall first pay all debts that may be owing by the debtor as guardian, executor, administrator or trustee; and if there be not sufficient to pay all debts of the character above specified, then a distribution shall be made among them, in proportion to their amounts respectively.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 34.

**§ 191. Payment of debts before maturity.** Every person to whom a debtor, except one proceeding under the fifth article, shall be indebted on a valuable consideration, for any sum of money not due at the time of such distribution, but payable afterwards, shall receive his proportion with other creditors, after deducting a rebate of legal interest upon the sum distributed, for the time unexpired of such credit.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 35.

**§ 192. Set-off of mutual debts or credits.** Where mutual credit has been given by any debtor, except a debtor proceeding under the fifth article of this chapter, and any other person, or mutual debts have subsisted between such debtor and any other person, the trustees may set off such credits or debts, and pay the proportion or receive the balance due. But no set-off shall be allowed of any claim or debt, which would not have been entitled to a dividend as hereinbefore directed.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 36, as am'd by L. 1828, ch. 20 (2d meeting), § 15, ¶ 33.

**§ 193. No set-off in certain cases.** No set-off shall be allowed by such trustees, of any claim or debt, which shall have been purchased by, or transferred to, the person claiming its allowance, which could not have been set off by him, according to the provisions of this article, in a suit brought by such trustees.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 37.

**§ 194. Provision for pending actions.** If, at the time any dividend is made, any action or proceeding be pending against the trustees, in which a demand against such debtor may

be established, the trustees may retain in their hands, the proportion which would belong to such demand if established, and the necessary costs and expenses of such action or proceeding, to be applied according to the event of such proceeding or action, or to be distributed in a second or other dividend.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 38.

**§ 195. Penalties recovered.** All penalties which shall be recovered by any trustees, pursuant to the provisions of this article, shall be deemed a part of the estate of the debtor, and shall be distributed as such among his creditors.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 39.

**§ 196. Subsequent dividends.** If the whole of such debtor's estate be not distributed on the first dividend, the trustees shall, within one year thereafter, make a second dividend of all the moneys belonging to the estate of the debtor, then in their hands, among the creditors entitled thereto as hereinbefore specified; and in the same manner from year to year, so long as any moneys belonging to the estate of such debtor shall remain in the hands of the trustees, they shall make a dividend thereof among the creditors entitled thereto.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 40.

**§ 197. Provision for neglectful creditors.** Any creditor who shall have neglected to deliver to the trustees an account of his demand, before the first, second, third or other dividend, and who shall deliver his account to them before the second, or other subsequent dividend, shall receive the sum he would have been entitled to, on any former dividend, before any distribution be made to other creditors.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 41.

**§ 198. Unclaimed dividends.** If any dividend that shall have been declared, shall remain unclaimed by the person entitled thereto for one year after the same was declared, the trustees shall consider it as relinquished, and shall distribute it, on any subsequent dividend, among the other creditors.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 42.

**§ 199. Disposition of surplus.** If after settling the estate of any debtor, and after discharging his debts, entitled to a dividend, any surplus shall remain in the hands of his trustees, the same shall be paid to such debtor or his legal representatives.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 43.

**§ 200. Allowance to debtor.** Every debtor who shall be discharged under the third or fourth articles of this chapter shall

be allowed the sum of five per centum on the net produce of all his estate, that shall be received by the assignees, to be paid to him by them, in case such net produce, after such allowance made, shall be sufficient to pay the creditors of such debtor, entitled to a dividend, the sum of seventy cents on the dollar, on the amount of their debts respectively, as the same shall have been ascertained; but the said allowance shall not exceed in the whole, the sum of five hundred dollars.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 44.

**§ 201. Accounting by trustees.** Within ten days after any dividend made by any trustees, they shall render on oath and file with the clerk of the court where the order appointing them was entered an account in writing of all their proceedings in the premises, stating:

1. Their disbursements, commissions and the dividends made by them;

2. The names and residences of the creditors to whom dividends were made, and the names of those actually receiving them;

3. The property, moneys and effects of the debtor remaining in their hands, and the value and situation of such property.

And such trustees may at any time be compelled by an order of the supreme court, or of the county court of the county in which they reside, to render such account on oath, on the application of the debtor, or of any creditor.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 45.

**§ 202. Trustees subject to order of court.** Such trustees shall be subject to the order of the supreme court, and of the county court of the county in which they were appointed, upon the application of any creditor, or of any debtor in respect to whom they were appointed, in relation to the execution of any of the powers and duties confided to them; and they may be removed by such court, for cause shown.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 46.

**§ 203. Appointment of substitute trustee.** Whenever any trustee shall be removed, or shall die, or become incapacitated to perform his duties, the court which originally appointed such trustee, after giving notice, and an opportunity to the creditors to propose proper persons, may appoint another in the place of such trustee, who shall, in all respects, have the like powers and authority, and be subject to the same control, obligations and responsibilities; and the said appointment shall be certified and recorded, as the original appointment was required to be recorded.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 48.

**§ 204. Application by trustee for leave to renounce.** Any trustee appointed pursuant to the provisions of

---

§§ 205-210 Trustees for Insolvent and Imprisoned Debtors. Art. 7

---

this chapter who shall be desirous of renouncing the trust vested in him, may apply to the court from whom his appointment was received, for an order to all persons interested, to show cause why such renunciation should not be accepted.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 49.

**§ 205. Account upon application.** Such application shall be accompanied by a full, true and just account of all the transactions of such trustees, in that character, and particularly of the property, moneys and effects received by him; of all payments made, whether to creditors or otherwise; and of the remaining effects and estate of the debtor, in respect to whom, or whose estate, he was appointed trustee, within his knowledge, and the situation of the same.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 51.

**§ 206. Verification of account.** To such account shall be annexed the affidavit of the trustee, that the said account is in all respects just and true, according to the best of his knowledge and belief.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 52.

**§ 207. Order to show cause.** The court shall thereupon grant an order, directing notice to be given to all persons interested in the estate of the debtor, in respect to whom or whose estate such trustee was appointed, to show cause on a day, or at a term and at a place therein to be specified, why he should not be permitted to renounce his appointment.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 53.

**§ 208. Publication of notice.** Such notice shall be published, once in each week, for six weeks successively, in such newspapers, as such court shall direct.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 54.

**§ 209. Hearing.** On the day appointed for such hearing, and on such other days as shall from time to time be appointed, if it shall appear that notice was duly published, the court shall proceed to hear the proofs and allegations of the parties.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 55.

**§ 210. Order permitting renunciation.** If it shall appear that the proceedings of such trustee, in relation to his trust, have been fair and honest, and particularly in the collection of the property and debts vested in him; and if such court be satisfied, that for any reason, it is inexpedient for such trustee to continue in the execution of the duties of his appointment, and that such duties can be executed by another trustee, without injury to the estate of the debtor, or to the creditors; and if no good cause to the contrary appear, the court shall grant

---

Art. 7 Trustees for Insolvent and Imprisoned Debtors. §§ 211-215

---

an order, allowing such trustee to renounce his appointment, and to assign the property and effects of the debtor.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 56.

**§ 211. Assignment by renouncing trustee.** Such assignment shall be executed by such trustee, to such person, or persons, as the court shall appoint for that purpose; and in the appointment, such persons as shall have been named to be assignees by the creditors of such debtor, or by the major part of them, shall be preferred, if approved by such court.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 57.

**§ 212. Effect of assignment.** Such assignment shall transfer to the persons to whom it shall be made, all the remaining estate and effects, vested in the trustee so renouncing; and such new assignee shall have the same powers, be subject to the same duties, and be entitled to the same compensation, as the original trustee; and shall continue any suit that may have been commenced by such original trustee, in his name, or in that of such new assignee.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 58, as am'd by L. 1828, ch. 20 (2d meeting), § 15, ¶ 34.

**§ 213. Order for discharge of trustee from trust.** Upon producing to the court allowing such assignment, the certificate of the assignee, duly proved by the oath of a subscribing witness, that such assignment has been duly made, and the property capable of delivery, belonging to such debtor, together with all the books, vouchers and documents, relating to the estate of such debtor, has been duly delivered; and also a certificate of the county clerk, that such assignment has been recorded; such court shall grant to the trustee so applying, an order that he be discharged from his trust.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 59.

**§ 214. Effect of order.** Upon such order being granted, such trustee shall be discharged from the trust reposed in him, and his power and authority shall thereupon cease; but he shall, notwithstanding, remain subject to any liability he may have incurred, at any time previous to the granting of such order, in the management of his trust.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 60.

**§ 215. Recording order and filing papers.** Such new assignment, upon being duly proved or acknowledged, shall be recorded in the office of the clerk of the county where the order appointing the original trustee was entered; and the petition of the trustee, the affidavit and proceedings thereon, with the certificate of the new assignee, shall be filed in the same office.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 61.

**§ 216. Payment of expense of renunciation.** The expense of all proceedings in effecting such renunciation and assignment, shall be paid by the trustee making the application.

Formerly R. S., pt. 2, ch. 5, tit. 1, art. 8, § 62.

**§ 217. New trustee in place of one absent.** Whenever any trustee appointed under any authority conferred by any of the provisions of articles three, four or five of this chapter, shall remove from and continue to reside out of this state for one year, it shall be lawful for the court which originally appointed such trustee, after giving notice and an opportunity to the creditors to propose proper persons, to appoint another person in the place of such trustee.

Formerly L. 1846, ch. 158, § 1.

**§ 218. Powers and duties of new trustee.** The trustee appointed in the place of the trustee so removed shall in all respects have the like powers and authority, and be subject to the same control, obligations and responsibilities as the trustee originally appointed; and the appointment of such trustee shall be certified and recorded as the original appointment was required to be recorded.

Formerly L. 1846, ch. 158, § 2.

## ARTICLE 8

### Compositions by Joint Debtors

Section 230. Compositions by joint debtors.

231. Right of action against joint debtor where there has been a composition.

232. Defenses by joint debtor who has not compounded.

233. Action by joint debtor against compounding debtor.

**§ 230. Compositions by joint debtors.** A joint debtor may make a separate composition with his creditor. Such a composition discharges the debtor making it; and him only. The creditor must execute to the compounding debtor a release of the indebtedness or other instrument exonerating him therefrom. A member of a partnership cannot thus compound for a partnership debt, until the partnership has been dissolved by consent or otherwise. In that case the instrument must release or exonerate him, from all liability incurred by reason of his connection with the partnership.

Formerly Code Civil Procedure, § 1942, part.

**§ 231. Right of action against joint debtor where there has been a composition.** An instrument making a composition with a creditor does not impair the creditor's right of action against any other joint debtor, or his right to take any

Arts. 8, 9      Payment of Debts of Incompetent Person.    §§ 232, 233, 250

proceeding against the latter; unless an intent to release or exonerate him, appears affirmatively upon the face thereof.

Formerly Code Civil Procedure, § 1942 part.

**§ 232. Defenses by joint debtor who has not compounded.** Where a joint debtor including a partner has compounded, a joint debtor who has not compounded, may make any defense or counterclaim, or have any other relief, as against the creditor, to which he would have been entitled, if the composition had not been made.

Formerly Code Civil Procedure, § 1944 part.

**§ 233. Action by joint debtor against compounded debtor.** A joint debtor, including a partner, who has not compounded may require the compounding debtor to contribute his ratable proportion of the joint debt, or of the partnership debts, as the case may be, as if the latter had not been discharged.

Formerly Code Civil Procedure, § 1944 part.

## ARTICLE 9

### Payment of Debts of Incompetent Person

Section 250. Notice to creditors of incompetent person.

251. Authority for committee to compromise claims.

Section 252. Payment by committee of claims.

253. Citation to attend judicial settlement of accounts of committee.

254. Service of citation.

255. Proceedings on return of citation.

#### **§ 250. Notice to creditors of incompetent person.**

A court exercising jurisdiction over the property of a lunatic, idiot or habitual drunkard may, upon the petition of a committee of the property of such incompetent person, authorize him to advertise for creditors and other persons interested in such estate, to present to him their claims with the vouchers thereof, duly verified, and naming a post-office address at which papers may be served on them by mail, as hereinafter provided, on or before a day to be specified in such advertisement, not less than thirty days from the last publication thereof, which advertisement or notice shall be published in two newspapers to be designated by the court as most likely to give notice to the persons to be served, not less than once a week for six successive weeks, and a copy of such notice securely inclosed in a post-paid wrapper, shall be deposited in the post-office in the village or city where such committee resides, addressed to each person interested in the estate of such incompetent person who shall appear from the books or papers of such incompetent person to be interested in said estate, or who shall be known to said committee to be so interested, at the proper post-office address of such interested

person, so far as said committee shall be able to ascertain the same, at least thirty days prior to the time limited in such notice for presentation of such claims.

Formerly L. 1893, ch. 697, § 1.

**§ 251. Authority for committee to compromise claims.** A court exercising jurisdiction over the property of a lunatic, idiot or habitual drunkard may upon the application of the committee of the property of such incompetent person, and for good and sufficient cause shown, and upon such terms as it may direct, authorize the committee to sell, compromise or compound any claim or debt belonging to the estate of the incompetent person. But such authority shall not prevent any party interested in the trust estate, from showing upon the final accounting of such committee that such debt or claim was fraudulently or negligently sold, compounded or compromised. The sale of any debt or claim heretofore made in good faith by any such committee, shall be valid, subject, however, to the approval of the court, and the committee shall be charged with and liable for, as a part of the trust fund, any sum which might or ought to have been collected by him.

Formerly L. 1893, ch. 697, § 2.

**§ 252. Payment by committee of claims.** A committee of the property of a person, incompetent by reason of lunacy, idiocy or habitual drunkenness, to manage his affairs may, under direction of the court exercising jurisdiction of such estate, after payment of the expenses, disbursements and commissions of such trust, apply so much of the funds and property of said estate remaining in his hands as such committee, as may be necessary to pay and discharge the proper claims of creditors who have presented claims pursuant to the notice in this article provided for, to the payment of such claims, and if the property so remaining be insufficient to pay such claims in full, then the committee may distribute the same according to law among the creditors who have presented and proved their claims as in this article provided, and such payment, when so made in good faith and under direction of such court, shall relieve such committee and his sureties from liability to creditors who have failed to present their claims as in this article provided.

Formerly L. 1893, ch. 697, § 3.

**§ 253. Citation to attend judicial settlement of accounts of committee.** A citation may be issued by the court to all parties interested in the estate of such incompetent person, as creditors or otherwise, requiring them to appear in court on some day therein to be specified, to make proof of their several claims if they be creditors, and to show cause why a settlement of accounts and proceedings of the committee up to the date



of such hearing should not be had, and if no cause be shown, to attend the settlement of such account. All such citations must be returnable in court, and said court when not otherwise engaged shall always be open for proceedings under this article. Such citations may be issued on petition of such committee, or of one or more of his sureties, or of a creditor of such incompetent person, or other person interested in said estate; and when issued on a petition of a committee or his surety, it may be issued at any time after the appointment of such committee, in any other case, after lapse of one year from the appointment of such committee, or upon his removal or resignation. A citation issued on petition of a creditor may be addressed to and served on the committee alone, but on or after the return of such citation, the committee may have a general citation issued to all parties interested.

Formerly L. 1893, ch. 697, § 4.

**§ 254. Service of citation.** A citation to the persons interested must be served on all parties, other than the petitioner, who are interested in the fund, including sureties of the committee; but the court may, in its discretion, dispense with the service on such incompetent person, and, if the time limited by due advertisement for presentation of claims has expired before the issue of citation, creditors who have not duly presented their claims need not be served. The court may, by order, direct such citation to be served on creditors who have presented claims accompanied by post-office address, as provided in section two hundred and fifty, by depositing a copy of the same at least twenty days prior to the return day thereof in the post-office at the place where such committee resides, duly inclosed and directed to each of such creditors at the post-office address specified by him as provided in section two hundred and fifty, with the postage prepaid, and publishing such citation once in each week for at least four weeks prior to such return day in one or more newspapers to be designated by the court as most likely to give notice to such creditors. A citation personally served within the county where such incompetent person resided at the time of his becoming incompetent, or an adjoining county, must be served at least eight days before the return thereof; if in any other county, at least fifteen days before the return thereof. The court may direct service to be made by publication, when it is satisfied by affidavit or verified petition, either that the person to be served is unknown or that his residence can not, after diligent inquiry, be ascertained, or that he can not, after due diligence, be found within the state. The order for such service must direct service of the citation upon such person to be made by publication thereof in one newspaper to be designated by the court as most likely to give notice to the person to be served, and also, if it appear that any such person

§§ 255, 280, 281    **Laws Repealed; When to Take Effect.**    Arts. 9, 10

resides without the state, then in such other paper as the court may deem most likely to give notice to the person to be served, for such length of time as it may deem reasonable, not less than once a week for six weeks, and that a copy of the citation be forthwith deposited in the post-office duly inclosed and directed to each person so served at his last known place of residence or post-office address, and the postage paid thereon, at least thirty days before the return day thereof. When publication has been ordered, personal service without the state made, if within the United States, at least thirty days, or without the United States, at least forty days before the return day, is equivalent to publication and mailing. Personal service on minors and incompetent persons shall be made as prescribed by law for service of citations issued by surrogates for final accounting, and personal service on one or two or more creditors, claiming as co-partners or otherwise as joint creditors shall be equivalent to personal service on all, and voluntary appearance either in person or by attorney shall be equivalent to personal service, and such appearance may be made by any one claiming an interest, though not served, and such person shall thereupon become a party to the proceeding.

Formerly L. 1893, ch. 697, § 5.

**§ 255. Proceedings on return of citation.** Upon the return of such citation properly served, such court shall have the powers in relation to such estates, claims, property and committee, which devolve on courts, by virtue of section twenty-one, in relation to assignments and assignees for benefit of creditors and such assigned estates.

Formerly L. 1893, ch. 697, § 6.

## ARTICLE 10

### Laws Repealed; When to Take Effect

Section 280. Laws repealed.

281. When to take effect.

**§ 280. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

[New.]

**§ 281. When to take effect.** This chapter shall take effect immediately.

#### SCHEDULE OF LAWS REPEALED.

Revised Statutes. . . . Part 2, chapter 5, title 1, article 3. . . .	All
Revised Statutes. . . . Part 2, chapter 5, title 1, article 4. . . .	All
Revised Statutes. . . . Part 2, chapter 5, title 1, article 5. . . .	All
Revised Statutes. . . . Part 2, chapter 5, title 1, article 6. . . .	All
Revised Statutes. . . . Part 2, chapter 5, title 1, article 7. . . .	All
Revised Statutes. . . . Part 2, chapter 5, title 1, article 8. . . .	All

Art. 10	Laws Repealed.	§ 280
Laws of	Chapter	Section
1784.....	34.....	All (7th sess.)
1784.....	14.....	All (8th sess.)
1786.....	22.....	All
1786.....	34.....	All
1787.....	67.....	All
1787.....	98.....	All
1788.....	29.....	All
1788.....	92.....	All
1788.....	94.....	5-8
1789.....	10.....	All
1789.....	24.....	All
1790.....	40.....	All
1791.....	29.....	All
1799.....	85.....	All
1801.....	66.....	All
1801.....	131.....	All
1805.....	17.....	1
1808.....	163.....	1-8
1809.....	10.....	All
1809.....	151.....	All
1809.....	159.....	All
1809.....	164.....	12, 13
1810.....	193.....	17
1811.....	123.....	All
1811.....	248.....	3
1812.....	8.....	All
1812.....	41.....	All
1812.....	239.....	13
R. L. 1813...	81.....	All
R. L. 1813...	98.....	All
1813.....	203.....	49
1817.....	55.....	All
1818.....	14.....	All
1818.....	26.....	All
1818.....	239.....	All
1818.....	258.....	All
1819.....	101.....	All
1819.....	106.....	All
1820.....	71.....	All
1822.....	226.....	All
1823.....	17.....	All
1823.....	42.....	All
1823.....	117.....	All

§ 280	Laws Repealed.		Art. 10
Laws of	Chapter	Section	
1827.....	11.....	All	
1828.....	20.....	15, ¶¶ 32-34 (2d meet.)	
1828.....	21.....	1, ¶¶ 91, 115, 276, 361, 375, 377, 386 (2d meet.)	
1830.....	258.....	1, 2	
1833.....	52.....	All	
1846.....	158.....	All	
1846.....	243.....	All	
1847.....	366.....	All	
1847.....	390.....	1	
1849.....	176.....	All	
1850.....	210.....	All	
1854.....	147.....	All	
1857.....	427.....	All	
1859.....	2.....	All	
1860.....	348.....	All	
1862.....	373.....	All	
1866.....	116.....	All	
1867.....	860.....	All	
1870.....	92.....	All	
1872.....	838.....	All	
1873.....	363.....	All	
1874.....	600.....	All	
1875.....	52.....	All	
1875.....	56.....	All	
1877.....	466.....	1-26, 28, 29	
1878.....	318.....	All	
1884.....	228.....	All	
1884.....	328.....	All	
1885.....	380.....	All	
1885.....	464.....	All	
1886.....	283.....	All	
1887.....	503.....	All	
1888.....	294.....	All	
1891.....	34.....	1, pt. relating to appraisal by as- signee.	
1893.....	697.....	All	
1894.....	134.....	All	
1897.....	266.....	All	
1897.....	624.....	All	
1907.....	476.....	All	
Code Civil Procedure §§ 1268, 1942, 1944, 2149-2218.			

# DECEDENT ESTATE LAW

---

L. 1909, Ch. 18. "An Act relating to estates of deceased persons constituting chapter thirteen of the Consolidated Laws."

(In effect February 17, 1909.)

## CHAPTER 13 OF THE CONSOLIDATED LAWS

[This is a consolidation of general statutes the former location of which is noted under each section.]

- Article 1. Short title and definitions (§§ 1, 2).
2. Wills (§§ 10-47).
  3. Descent and distribution (§§ 80-103).
  4. Executors, administrators and testamentary trustees (§§ 110-120).
  5. Laws repealed; when to take effect (§§ 130, 131).

### ARTICLE 1

#### Short Title and Definitions

- Section 1. Short title.  
2. Definitions.

§ 1. **Short title.** This chapter shall be known as the "Decedent Estate Law."

[New.]

§ 2. **Definitions.** The term "will," as used in this chapter, shall include all codicils, as well as wills.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 71.

### ARTICLE 2

#### Wills

- Section 10. Who may devise.
11. What real property may be devised.
  12. Who may take real property by devise.
  13. Devises of real property to aliens.
  14. Wills of real estate, how construed.
  15. Who may make wills of personal estate.
  16. Unwritten wills of personal property, when allowed.
  17. Devise or bequest to certain societies, associations and corporations.
  18. Devise or bequest to certain corporations.

- Section 19. Devise or bequest to certain benevolent, charitable and scientific corporations.
20. \*Devise or bequest to certain bar associations and fire corporations.
21. Manner of execution of will.
22. Witnesses to will to write names and places of residence.
23. What wills may be proved.
24. Effect of change of residence since execution of will.
25. Application of certain provisions to wills previously made.
26. Child born after making of will.
27. Devise or bequest to subscribing witness.
28. Action by child born after making of will, or by subscribing witness.
29. Devise or bequest to child or descendant not to lapse.
30. Reception of wills for safe keeping.
31. Sealing and indorsing wills received for safe keeping.
32. Delivery of wills received for safe keeping.
33. Opening wills received by surrogate for safe keeping.
34. Revocation and cancellation of written wills.
35. Revocation by marriage and birth of issue.
36. Will of unmarried woman.
37. Bond or agreement to convey property devised or bequeathed not a revocation.
38. Charge or incumbrance not a revocation.
39. Conveyance, when not to be deemed a revocation.
40. Conveyance, when to be deemed a revocation.
41. Canceling or revocation of second will not to revive first.
42. Record of wills in county clerk's office.
43. County clerk's index of recorded wills.
44. †Recording will proved in another state or foreign country.
45. Authentication of papers from another state or foreign country for use in this state.
46. Validity of purchase notwithstanding devise.
47. Validity and effect of testamentary dispositions.
48. ‡Application of certain sections in this article.

**§ 10. Who may devise.** All persons, except idiots, persons of unsound mind and infants, may devise their real estate, by a

\* So in the original.

† Am'd by L. 1909, ch. 240, § 12.

‡ Added by L. 1909, ch. 240, § 18.

last will and testament, duly executed, according to the provisions of this article.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 1, § 1, as am'd by L. 1867, ch. 782, § 3.

**§ 11. What real property may be devised.** Every estate and interest in real property descendible to heirs, may be so devised.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 1, § 2.

**§ 12. Who may take real property by devise.** Such a devise of real property may be made to every person capable by law of holding real estate; but no devise to a corporation shall be valid, unless such corporation be expressly authorized by its charter, or by statute, to take by devise.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 1, § 3.

**§ 13. Devises of real property to aliens.** Every devise of any interest in real property, to a person who, at the time of the death of the testator, shall be an alien, not authorized by statute to hold real estate, shall be void. The interest so devised, shall descend to the heirs of the testator; if there be no such heirs competent to take, it shall pass under his will to the residuary devisees therein named, if any there be, competent to take such interest.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 1, § 4.

**§ 14. Wills of real estate, how construed.** Every will that shall be made by a testator, in express terms, of all his real estate, or in any other terms denoting his intent to devise all his real property, shall be construed to pass all the real estate, which he was entitled to devise, at the time of his death.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 1, § 5.

**§ 15. Who may make wills of personal estate.** Every male person of the age of eighteen years or upwards, and every female of the age of sixteen years or upwards, of sound mind and memory, and no others, may give and bequeath his or her personal estate, by will in writing.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 2, § 21, as am'd by L. 1867, ch. 782, § 4.

**§ 16. Unwritten wills of personal property, when allowed.** No nuncupative or unwritten will, bequeathing personal estate, shall be valid, unless made by a soldier while in actual military service, or by a mariner, while at sea.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 2, § 22.

**§ 17. Devise or bequest to certain societies, associations and corporations.** No person having a husband, wife, child or parent, shall, by his or her last will and testament, devise or bequeath to any benevolent, charitable, literary, scientific, religious or missionary society, association or corporation, in trust or otherwise, more than one-half part of his or her estate, after the payment of his or her debts, and such devise or bequest shall be valid to the extent of one-half, and no more.

Formerly L. 1860, ch. 360, § 1.

**§ 18. Devise or bequest to certain corporations.** No person leaving a wife, or child, or parent shall devise or bequeath to any institution or corporation formed under laws of eighteen hundred and sixty-five, chapter three hundred and sixty-eight; laws of eighteen hundred and seventy-five, chapter two hundred and sixty-seven; laws of eighteen hundred and seventy-five, chapter three hundred and forty-three; or laws of eighteen hundred and eighty-six, chapter two hundred and thirty-six, more than one-fourth of his or her estate after payment of his or her debts, and such devise or bequest shall be valid to the extent of such one-fourth, and no such devise or bequest shall be valid in any will which shall not have been made and executed at least two months before the death of the testator.

Formerly L. 1865, ch. 368, § 6 part; L. 1875, ch. 267, § 7 part; L. 1875, ch. 343, § 5 part, and L. 1886, ch. 236, § 7 part.

**§ 19. Devise or bequest to certain benevolent, charitable and scientific corporations.** No person leaving a wife, or child, or parent, shall devise or bequeath to any institution or corporation formed under laws of eighteen hundred and forty-eight, chapter three hundred and nineteen, more than one-half of his or her estate, after the payment of his or her debts, and such devise or bequest shall be valid, to the extent of such one-half, and no such devise or bequest shall be valid, in any will which shall not have been made and executed at least two months before the death of the testator.

Formerly L. 1848, ch. 319, § 6 part, as am'd by L. 1903, ch. 623, § 1.

**§ 20. Devise or bequest to certain bar associations, veterinary associations and fire corporations.** No person leaving a wife, child or parent, shall devise or bequeath to any association or corporation formed under laws of eighteen hundred and seventy-three, chapter three hundred and ninety-seven; laws of eighteen hundred and eighty-seven, chapter three hundred and seventeen; laws of eighteen hundred and eighty-seven, chapter three hundred and fifteen, or laws of eighteen hun-



dred and ninety, chapter two hundred and eighty-six, more than one-fourth of his or her estate, after payment of all debts existing against said estate, and such devise or bequest shall be valid to the extent of such one-fourth only.

Formerly L. 1873, ch. 397, § 5 part; L. 1887, ch. 315, § 5 part; L. 1887, ch. 317, § 7 part, and L. 1890, ch. 286, § 6 part.

**§ 21. Manner of execution of will.** Every last will and testament of real or personal property, or both, shall be executed and attested in the following manner:

1. It shall be subscribed by the testator at the end of the will.

2. Such subscription shall be made by the testator in the presence of each of the attesting witnesses, or shall be acknowledged by him, to have been so made, to each of the attesting witnesses.

3. The testator, at the time of making such subscription, or at the time of acknowledging the same, shall declare the instrument so subscribed, to be his last will and testament.

4. There shall be at least two attesting witnesses, each of whom shall sign his name as a witness, at the end of the will, at the request of the testator.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 40.

**§ 22. Witnesses to will to write names and places of residence.** The witnesses to any will, shall write opposite to their names their respective places of residence; and every person who shall sign the testator's name to any will by his direction, shall write his own name as a witness to the will. Whoever shall neglect to comply with either of these provisions, shall forfeit fifty dollars, to be recovered by any person interested in the property devised or bequeathed, who will sue for the same. Such omission shall not affect the validity of any will; nor shall any person liable to the penalty aforesaid, be excused or incapacitated on that account, from testifying respecting the execution of such will.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 41.

**§ 23. What wills may be proved.** A will of real or personal property, executed as prescribed by the laws of the state, or a will of personal property executed without the state, and within the United States, the Dominion of Canada, or the Kingdom of Great Britain and Ireland, as prescribed by the laws of the state or country where it is or was executed, or a will of personal property executed by a person not a resident of the state, according to the laws of the testator's residence, may be admitted to probate in this state.

Formerly Code Civil Procedure, § 2611 part.

**§ 24. Effect of change of residence since execution of will.** The right to have a will admitted to probate, the validity of the execution thereof, or the validity or construction of any provision contained therein, is not affected by a change of the testator's residence made since the execution of the will.

Formerly Code Civil Procedure, § 2611 part.

**§ 25. Application of certain provisions to wills previously made.** The last two sections apply only to a will executed by a person dying after April eleventh, eighteen hundred and seventy-six, and they do not invalidate a will executed before that date, which would have been valid but for the enactment of sections one and two of chapter one hundred and eighteen of the laws of eighteen hundred and seventy-six, except where such a will is revoked or altered, by a will which those sections rendered valid, or capable of being proved as prescribed in article first of title third of chapter eighteen of the code of civil procedure.

Formerly Code Civil Procedure, § 2611 part.

**§ 26. Child born after making of will.** Whenever a testator shall have a child born after the making of a last will, either in the lifetime or after the death of such testator, and shall die leaving such child, so after-born, unprovided for by any settlement, and neither provided for, nor in any way mentioned in such will, every such child shall succeed to the same portion of such parent's real and personal estate, as would have descended or been distributed to such child, if such parent had died intestate, and shall be entitled to recover the same portion from the devisees and legatees, in proportion to and out of the parts devised and bequeathed to them by such will.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 49, as am'd by L. 1869, ch. 22, § 1.

**§ 27. Devise or bequest to subscribing witness.** If any person shall be a subscribing witness to the execution of any will, wherein any beneficial devise, legacy, interest or appointment of any real or personal estate shall be made to such witness, and such will can not be proved without the testimony of such witness, the said devise, legacy, interest or appointment shall be void, so far only as concerns such witness, or any claiming under him; and such person shall be a competent witness, and compellable to testify respecting the execution of the said will, in like manner as if no such devise or bequest had been made.

But if such witness would have been entitled to any share of the testator's estate, in case the will was not established, then so much of the share that would have descended, or have been distributed

to such witness, shall be saved to him, as will not exceed the value of the devise or bequest made to him in the will, and he shall recover the same of the devisees or legatees named in the will, in proportion to, and out of, the parts devised and bequeathed to them.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, §§ 50, 51.

**§ 28. Action by child born after making of will, or by subscribing witness.** A child, born after the making of a will, who is entitled to succeed to a part of the real or personal property of the testator, or a subscribing witness to a will, who is entitled to succeed to a share of such property, may maintain an action against the legatees or devisees, as the case requires, to recover his share of the property; and he is subject to the same liabilities, and has the same rights, and is entitled to the same remedies, to compel a distribution or partition of the property, or a contribution from other persons interested in the estate, or to gain possession of the property, as any other person who is so entitled to succeed.

Formerly Code Civil Procedure, § 1868.

**§ 29. Devise or bequest to child or descendant not to lapse.** Whenever any estate, real or personal, shall be devised or bequeathed to a child or other descendant of the testator, and such legatee or devisee shall die during the lifetime of the testator, leaving a child or other descendant who shall survive such testator, such devise or legacy shall not lapse, but the property so devised or bequeathed shall vest in the surviving child or other descendant of the legatee or devisee, as if such legatee or devisee had survived the testator and had died intestate.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 52.

**§ 30. Reception of wills for safe keeping.** The clerk of every county in this state, the register of deeds in the city and county of New York, and the surrogate of every county, upon being paid the fees allowed therefor by law, shall receive and deposit in their offices respectively, any last will or testament which any person shall deliver to them for that purpose, and shall give a written receipt therefor to the person depositing the same.

Formerly R. S., pt. 3, ch. 7, tit. 3, § 67.

**§ 31. Sealing and indorsing wills received for safe keeping.** Such will shall be inclosed in a sealed wrapper, so that the contents thereof can not be read, and shall have indorsed thereon the name of the testator, his place of residence, and the day, month and year when delivered; and shall not, on any pretext

whatever, be opened, read or examined, until delivered to a person entitled to the same, as hereinafter directed.

Formerly R. S., pt. 3, ch. 7, tit. 3, § 68.

**§ 32. Delivery of wills received for safe keeping.**

Such will shall be delivered only,

1. To the testator in person; or,
2. Upon his written order, duly proved by the oath of a subscribing witness; or,
3. After his death to the persons named in the indorsement on the wrapper of such will, if any such indorsement be made thereon; or,
4. If there be no such indorsement, and if the same shall have been deposited with any other officer than a surrogate, then to the surrogate of the county.

Formerly R. S., pt. 3, ch. 7, tit. 3, § 69.

**§ 33. Opening wills received by surrogate for safe keeping.** If such will shall have been deposited with a surrogate, or shall have been delivered to him as above prescribed, such surrogate, after the death of the testator, shall publicly open and examine the same, and make known the contents thereof, and shall file the same in his office, there to remain until it shall have been duly proved, if capable of proof, and then to be delivered to the person entitled to the custody thereof; or until required by the authority of some competent court to produce the same in such court.

Formerly R. S., pt. 3, ch. 7, tit. 3, § 70.

**§ 34. Revocation and cancellation of written wills.** No will in writing, except in the cases hereinafter mentioned, nor any part thereof, shall be revoked, or altered, otherwise than by some other will in writing, or some other writing of the testator, declaring such revocation or alteration, and executed with the same formalities with which the will itself was required by law to be executed; or unless such will be burnt, torn, canceled, obliterated or destroyed, with the intent and for the purpose of revoking the same, by the testator himself, or by another person in his presence, by his direction and consent; and when so done by another person, the direction and consent of the testator, and the fact of such injury or destruction, shall be proved by at least two witnesses.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 42.

**§ 35. Revocation by marriage and birth of issue.**

If after the making of any will, disposing of the whole estate of

the testator, such testator shall marry, and have issue of such marriage, born either in his lifetime or after his death, and the wife or the issue of such marriage shall be living at the death of the testator, such will shall be deemed revoked, unless provision shall have been made for such issue by some settlement, or unless such issue shall be provided for in the will, or in such way mentioned therein, as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation, shall be received.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 43.

**§ 36. Will of unmarried woman.** A will executed by an unmarried woman, shall be deemed revoked by her subsequent marriage.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 44.

**§ 37. Bond or agreement to convey property devised or bequeathed not a revocation.** A bond, agreement, or covenant, made for a valuable consideration, by a testator, to convey any property devised or bequeathed in any will previously made, shall not be deemed a revocation of such previous devise or bequest, either at law or in equity; but such property shall pass by the devise or bequest, subject to the same remedies on such bond, agreement or covenant, for a specific performance or otherwise, against the devisees or legatees, as might be had by law against the heirs of the testator, or his next of kin, if the same had descended to them.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 45.

**§ 38. Charge or incumbrance not a revocation.** A charge or incumbrance upon any real or personal estate, for the purpose of securing the payment of money, or the performance of any covenant, shall not be deemed a revocation of any will relating to the same estate, previously executed; but the devises and legacies therein contained, shall pass and take effect, subject to such charge or incumbrance.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 46.

**§ 39. Conveyance, when not to be deemed a revocation.** A conveyance, settlement, deed, or other act of a testator, by which his estate or interest in property, previously devised or bequeathed by him, shall be altered, but not wholly divested, shall not be deemed a revocation of the devise or bequest of such property; but such devise or bequest shall pass to the devisee or legatee, the actual estate or interest of the testator, which would otherwise descend to his heirs, or pass to his next of

kin; unless in the instrument by which such alteration is made, the intention is declared, that it shall operate as a revocation of such previous devise or bequest.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 47.

**§ 40. Conveyance, when to be deemed a revocation.**

But if the provisions of the instrument by which such alteration is made, are wholly inconsistent with the terms and nature of such previous devise or bequest, such instrument shall operate as a revocation thereof, unless such provisions depend on a condition or contingency, and such condition be not performed, or such contingency do not happen.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 48.

**§ 41. Canceling or revocation of second will not to revive first.** If, after the making of any will, the testator shall duly make and execute a second will, the destruction, canceling or revocation of such second will, shall not revive the first will, unless it appear by the terms of such revocation, that it was his intention to revive and give effect to his first will; or unless after such destruction, canceling or revocation, he shall duly republish his first will.

Formerly R. S., pt. 2, ch. 6, tit. 1, art. 3, § 53.

**§ 42. Record of wills in county clerk's office.** A will of real property, which has been, at any time, either before or after this chapter takes effect duly proved in the supreme court, or the court of chancery, or before a surrogate of the state with the certificate of proof thereof annexed thereto, or indorsed thereon, or an exemplified copy thereof, may be recorded in the office of the clerk or the register, as the case requires, of any county in the state, in the same manner as a deed of real property. Where the will relates to real property, the executor or administrator, with the will annexed, must cause the same, or an exemplified copy thereof, to be so recorded, in each county where real property of the testator is situated, within twenty days after letters are issued to him. An exemplification of the record of such a will, from any surrogate's or other office where the same has been so recorded, either before or after this chapter takes effect, may be in like manner recorded in the office of the clerk or register of any county. Such a record or exemplification, or an exemplification of the record thereof, must be received in evidence, as if the original will was produced and proved.

Formerly Code Civil Procedure, § 2633.

**§ 43. County clerk's index of recorded wills.** Upon recording a will or exemplification, as prescribed in the last section,

the clerk or register must index it in the same books, and substantially in the same manner, as if it was a deed recorded in his office.

Formerly Code Civil Procedure, § 2634 part.

**§ 44. Recording will proved in another state or foreign country.** Where real property situated within this state, or an interest therein, is devised or made subject to a power of disposition by a will duly executed in conformity with the laws of this state, of a person who was at the time of his, or her death, a resident elsewhere within the United States, or in a foreign country, and such will has been admitted to probate within the state or territory, or foreign country, where the decedent so resided, and is filed or recorded in the proper office as prescribed by the laws of that state or territory or foreign country, a copy of such will or of the record thereof and of the proofs or of the records thereof, or if the proofs are not on file or recorded in such office, of any statement, on file or recorded in such office, of the substance of the proofs, authenticated as prescribed in section forty-five of this chapter, or if no proofs and no statement of the substance of the proofs be on file or recorded in such office, a copy of such will or of the record thereof, authenticated as prescribed in said section forty-five, accompanied by a certificate that no proofs or statement of the substance of proof of such will, are or is on file or recorded in such office, made and likewise authenticated as prescribed in said section forty-five, may be recorded in the office of the surrogate of any county in this state where such real property is situated; and such record in the office of such surrogate or an exemplified copy thereof shall be presumptive evidence of such will and of the execution thereof, in any action or special proceeding relating to such real property. *Am'd by L. 1909, ch. 240, § 13.*

Formerly Code Civil Procedure, § 2763.

**§ 45. Authentication of papers from another state or foreign country for use in this state.** To entitle a copy of a will admitted to probate or of letters testamentary or of letters of administration, granted in any other state or in any territory of the United States, and of the proofs or of any statement of the substance of the proofs of any such will, or of the record of any such will, letters, proofs or statement, to be recorded or used in this state as provided in article seventh of title third of chapter eighteenth of the code of civil procedure or in section forty-four of this chapter, such copy must be authenticated by the seal of the court or officer by which or whom such will was

admitted to probate or such letters were granted, or having the custody of the same or of the record thereof, and the signature of a judge of such court or the signature of such officer and of the clerk of such court or officer if any; and must be further authenticated by a certificate under the great or principal seal of such state or territory, and the signature of the officer who has the custody of such seal, to the effect that the court or officer by which or whom such will was admitted to probate or such letters were granted, was duly authorized by the laws of such state or territory to admit wills to probate or to grant letters testamentary or of administration and to keep the same and records thereof; that the seal of such court or officer affixed to such copy is genuine, and that the officer making such certificate under such seal of such state or territory verily believes that each of the signatures attesting such copy is genuine; and to entitle any certificate concerning proofs accompanying the copy of the will or of the record so authenticated, to be recorded or used in this state, as provided in said article or section, such certificate must be under the seal of the court or officer by which or whom such will was admitted to probate, or having the custody of such will or record, and the signature of a judge or the clerk of such court, or the signature of such officer, authenticated by a certificate under such great or principal seal of such state or territory, and the signature of the officer having the custody thereof, to the effect that the seal of the court or officer affixed to such certificate concerning proofs is genuine, and that such officer making such certificate under such seal of such state or territory, verily believes that the signature to such certificate concerning proofs is genuine. To entitle a copy of a will admitted to probate or of letters testamentary or of letters of administration granted in a foreign country, and of the proofs or of any statement of the substance of the proofs of any such will or of the record of any such will, letters, proofs or statement to be recorded or used in this state, as provided in said article or section, such copy must be authenticated in the manner prescribed by the laws of such foreign country for the authentication of a copy of such a record or paper; and there must be annexed thereto a certificate of a consul-general, vice-consul-general, deputy-consul-general, consul, vice-consul or deputy consul of the United States residing within the country in which such will was so admitted to probate or such letters were granted, under his seal of office or the seal of the consulate to which he is attached, to the effect that such authentication is regular and in conformity to the laws of such foreign country, and also that the court or officer by which or by whom such will was so admitted to



probate or such letters were granted was duly authorized by the laws of such foreign country to admit wills to probate or to grant letters testamentary or of administration and to keep the same and records thereof; and to entitle any certificate concerning proofs accompanying the copy of a will, or of the record so authenticated, to be recorded or used in this state, as provided in said article or section, such certificate must be similarly authenticated and there must be annexed thereto a similar certificate by a consul-general, vice-consul-general, deputy-consul-general, consul, vice-consul or deputy-consul of the United States.

Formerly Code Civil Procedure, § 2704.

**§ 46. Validity of purchase notwithstanding devise.**

The title of a purchaser in good faith and for a valuable consideration, from the heir of a person who died seized of real property, shall not be affected by a devise of the property made by the latter, unless within four years after the testator's death, the will devising the same is either admitted to probate and recorded as a will of real property in the office of the surrogate having jurisdiction, or established by the final judgment of a court of competent jurisdiction of the state, in an action brought for that purpose. But if, at the time of the testator's death, the devisee is either within the age of twenty-one years, or insane, or imprisoned on a criminal charge, or in execution upon conviction of a criminal offense, for a term less than for life; or without the state; or, if the will was concealed by one or more of the heirs of the testator, the limitation created by this section does not begin until after the expiration of one year from the removal of such a disability, or the delivery of the will to the devisee or his representative, or to the proper surrogate.

Formerly Code Civil Procedure, § 2628.

**§ 47. Validity and effect of testamentary dispositions.** The validity and effect of a testamentary disposition of real property, situated within the state, or of an interest in real property so situated, which would descend to the heir of an intestate, and the manner in which such property or such an interest descends, where it is not disposed of by will, are regulated by the laws of the state, without regard to the residence of the decedent. Except where special provision is otherwise made by law, the validity and effect of a testamentary disposition of any other property situated within the state, and the ownership and disposition of such property, where it is not disposed of by will, are regulated by the laws of the state or country, of which the decedent was a resident, at the time of his death.

Formerly Code Civil Procedure, § 2694.

**§ 48. Application of certain sections in this article.** Section twenty-five hundred and fourteen of the code of civil procedure is applicable to the provisions of sections twenty-three to twenty-five, both inclusive, and sections forty-two to forty-seven, both inclusive, of this chapter. *Added by L. 1909, ch. 240, § 16.*

### ARTICLE 3

#### Descent and Distribution

- Section 80. Definitions and use of terms; effect of article.
81. General rule of descent.
82. Lineal descendants of equal degree.
83. Lineal descendants of unequal degree.
84. When father inherits.
85. When mother inherits.
86. When collateral relatives inherit; collateral relatives of equal degree.
87. Brothers and sisters and their descendants.
88. Brothers and sisters of father and mother and their descendants and grandparents.
89. Illegitimate children.
90. Relatives of the half-blood.
91. Relatives of husband or wife.
92. Cases not hereinbefore provided for.
93. Posthumous children and relatives.
94. Inheritance, sole or in common.
95. Alienism of ancestor.
96. Advancements of real and personal estates.
97. How advancement adjusted.
98. Distribution of personal property of decedent.
99. Advancements of personal estates.
100. Estates of married women.
101. Liability of heirs and devisees for debt of decedent.
102. Liability of heir or devisee not affected where will makes specific provision for payment of debt.
103. Action against husband for debts of deceased wife.
- \*104. Application of certain sections in this article.

#### **§ 80. Definitions and use of terms; effect of article.**

1. The term "real property" as used in this article, includes every estate, interest and right, legal and equitable, in lands, tenements and hereditaments, except such as are determined or extinguished by the death of an intestate, seized or possessed

\* Added by L. 1909, ch. 240, § 16.

thereof, or in any manner entitled thereto; leases for years, estates for the life of another person; and real property held in trust, not devised by the beneficiary. "Inheritance" means real property as herein defined, descended according to the provisions of this article.

2. The expressions "Where the inheritance shall have come to the intestate on the part of the father" or "mother," as the case may be, include every case where the inheritance shall have come to the intestate by devise, gift or descent from the parent referred to, or from any relative of the blood of such parent.

3. When in this article a person is described as "living," it means living at the time of the death of the intestate from whom the descent came; when he is described as having "died," it means that he died before such intestate.

4. This article does not affect a limitation of an estate by deed or will, or tenancy by the courtesy or dower.

Formerly L. 1896, ch. 547, § 280.

**§ 81. General rule of descent.** The real property of a person who dies without devising the same shall descend:

1. To his lineal descendants.
2. To his father.
3. To his mother; and
4. To his collateral relatives, as prescribed in the following sections of this article.

Formerly L. 1896, ch. 547, § 281.

**§ 82. Lineal descendants of equal degree.** If the intestate leave descendants in the direct line of lineal descent, all of equal degree of consanguinity to him, the inheritance shall descend to them in equal parts however remote from him the common degree of consanguinity may be.

Formerly L. 1896, ch. 547, § 282.

**§ 83. Lineal descendants of unequal degree.** If any of the descendants of such intestate be living, and any be dead, the inheritance shall descend to the living, and the descendants of the dead, so that each living descendant shall inherit such share as would have descended to him had all the descendants in the same degree of consanguinity who shall have died leaving issue been living; and so that issue of the descendants who shall have died shall respectively take the shares which their ancestors would have received.

Formerly L. 1896, ch. 547, § 283.

**§ 84. When father inherits.** If the intestate die without lawful descendants, and leave a father, the inheritance shall

go to such father, unless the inheritance came to the intestate on the part of his mother, and she be living; if she be dead, the inheritance descending on her part shall go to the father for life, and the reversion to the brothers and sisters of the intestate and their descendants, according to the law of inheritance by collateral relatives hereinafter provided; if there be no such brothers or sisters or their descendants living, such inheritance shall descend to the father in fee.

Formerly L. 1896, ch. 547, § 284.

**§ 85. When mother inherits.** If the intestate die without descendants and leave no father, or leave a father not entitled to take the inheritance under the last section, and leave a mother, and a brother or sister, or the descendant of a brother or sister, the inheritance shall descend to the mother for life, and the reversion to such brothers and sisters of the intestate as may be living, and the descendants of such as may be dead, according to the same law of inheritance hereinafter provided. If the intestate in such case leave no brother or sister or descendant thereof, the inheritance shall descend to the mother in fee.

Formerly L. 1896, ch. 547, § 285.

**§ 86. When collateral relatives inherit; collateral relatives of equal degree.** If there be no father or mother capable of inheriting the estate, it shall descend in the cases hereinafter specified to the collateral relatives of the intestate; and if there be several such relatives, all of equal degree of consanguinity to the intestate, the inheritance shall descend to them in equal parts, however remote from him the common degree of consanguinity may be.

Formerly L. 1896, ch. 547, § 286.

**§ 87. Brothers and sisters and their descendants.** If all the brothers and sisters of the intestate be living, the inheritance shall descend to them; if any of them be living and any be dead, to the brothers and sisters living, and the descendants, in whatever degree, of those dead; so that each living brother or sister shall inherit such share as would have descended to him or her if all the brothers and sisters of the intestate who shall have died, leaving issue, had been living, and so that such descendants in whatever degree shall collectively inherit the share which their parent would have received if living; and the same rule shall prevail as to all direct lineal descendants of every brother and sister of the intestate whenever such descendants are of unequal degrees.

Formerly L. 1896, ch. 547, § 287.

**§ 88. Brothers and sisters of father and mother and their descendants and grandparents.** If there be no heir entitled to take, under either of the preceding sections, the inheritance, if it shall have come to the intestate on the part of the father, shall descend:

1. To the brothers and sisters of the father of the intestate in equal shares, if all be living.

2. If any be living, and any shall have died, leaving issue, to such brothers and sisters as shall be living and to the descendants of such as shall have died.

3. If all such brothers and sisters shall have died, to their descendants.

4. If there be no such brothers or sisters of such father, nor any descendants of such brothers or sisters, to the brothers and sisters of the mother of the intestate, and to the descendants of such as shall have died, or if all have died, to their descendants. But, if the inheritance shall have come to the intestate on the part of his mother, it shall descend to her brothers and sisters and their descendants; and if there be none, to the brothers and sisters of the father and their descendants, in the manner aforesaid. If the inheritance has not come to the intestate on the part of either father or mother, it shall descend to the brothers and sisters both of the father and mother of the intestate, and their descendants in the same manner. In all cases mentioned in this section the inheritance shall descend to the brothers and sisters of the intestate's father or mother, as the case may be, or to their descendants in like manner as if they had been the brothers and sisters of the intestate.

5. If there be no such brothers or sisters of such father or mother, nor any descendants of such brothers or sisters, the inheritance, if it shall have come to the intestate on the part of his father, shall descend to his father's parents, then living, in equal parts, and if they be dead, then to his mother's parents, then living, in equal parts; but if the inheritance shall have come to the intestate on the part of his mother, it shall descend to his mother's parents, then living, in equal parts, and if they be dead, to his father's parents, then living, in equal parts. If the inheritance has not come to the intestate on the part of either father or mother, it shall descend to his living grandparents in equal parts.

Formerly L. 1896, ch. 547, § 288, as am'd by L. 1904, ch. 106, § 1.

**§ 89. Illegitimate children.** If an intestate who shall have been illegitimate die without lawful issue, or illegitimate issue entitled to take, under this section, the inheritance shall

descend to his mother; if she be dead, to his relatives on her part, as if he had been legitimate. If a woman die without lawful issue, leaving an illegitimate child, the inheritance shall descend to him as if he were legitimate. In any other case illegitimate children or relatives shall not inherit.

Formerly L. 1896, ch. 547, § 289.

**§ 90. Relatives of the half-blood.** Relatives of the half-blood and their descendants, shall inherit equally with those of the whole blood and their descendants, in the same degree, unless the inheritance came to the intestate by descent, devise or gift from an ancestor; in which case all those who are not of the blood of such ancestor shall be excluded from such inheritance.

Formerly L. 1896, ch. 547, § 290.

**§ 91. Relatives of husband or wife.** When the inheritance shall have come to the intestate from a deceased husband or wife, as the case may be, and there be no person entitled to inherit under any of the preceding sections, then such real property of such intestate shall descend to the heirs of such deceased husband or wife, as the case may be, and the persons entitled, under the provisions of this section, to inherit such real property, shall be deemed to be the heirs of such intestate.

Formerly L. 1896, ch. 547, § 290-a, as added by L. 1901, ch. 481, § 1.

**§ 92. Cases not hereinbefore provided for.** In all cases not provided for by the preceding sections of this article, the inheritance shall descend according to the course of the common law.

Formerly L. 1896, ch. 547, § 291.

**§ 93. Posthumous children and relatives.** A descendant or a relative of the intestate begotten before his death, but born thereafter, shall inherit in the same manner as if he had been born in the lifetime of the intestate and had survived him.

Formerly L. 1896, ch. 547, § 292.

**§ 94. Inheritance, sole or in common.** When there is but one person entitled to inherit, he shall take and hold the inheritance solely; when an inheritance or a share of an inheritance descends to several persons they shall take as tenants in common, in proportion to their respective rights.

Formerly L. 1896, ch. 547, § 293.

**§ 95. Alienism of ancestor.** A person capable of inheriting under the provisions of this article, shall not be pre-

cluded from such inheritance by reason of the alienism of an ancestor.

Formerly L. 1896, ch. 547, § 294.

**§ 96. Advancements of real and personal estates.**

If a child of an intestate shall have been advanced by him, by settlement or portion, real or personal property, the value thereof must be reckoned for the purposes of descent and distribution as part of the real and personal property of the intestate descendible to his heirs and to be distributed to his next of kin; and if such advancement be equal to or greater than the amount of the share which such child would be entitled to receive of the estate of the deceased, such child and his descendants shall not share in the estate of the intestate; but if it be less than such share, such child and his descendants shall receive so much, only, of the personal property, and inherit so much only, of the real property, of the intestate, as shall be sufficient to make all the shares of all the children in the whole property, including the advancement, equal. The value of any real or personal property so advanced, shall be deemed to be that, if any, which was acknowledged by the child by an instrument in writing; otherwise it must be estimated according to the worth of the property when given. Maintaining or educating a child, or giving him money without a view to a portion or settlement in life is not an advancement. An estate or interest given by a parent to a descendant by virtue of a beneficial power, or of a power in trust with a right of selection, is an advancement.

Formerly L. 1896, ch. 547, § 295.

**§ 97. How advancement adjusted.** When an advancement to be adjusted consisted of real property, the adjustment must be made out of the real property descendible to the heirs. When it consisted of personal property, the adjustment must be made out of the surplus of the personal property to be distributed to the next of kin. If either species of property is insufficient to enable the adjustment to be fully made, the deficiency must be adjusted out of the other.

Formerly L. 1896, ch. 547, § 296.

**§ 98. Distribution of personal property of decedent.** If the deceased died intestate, the surplus of his personal property after payment of debts; and if he left a will, such surplus, after the payment of debts and legacies, if not bequeathed, must be distributed to his widow, children, or next of kin, in manner following:

1. One-third part to the widow, and the residue in equal portions among the children, and such persons as legally represent the children if any of them have died before the deceased.

2. If there be no children, nor any legal representatives of them, then one-half of the whole surplus shall be allotted to the widow, and the other half distributed to the next of kin of the deceased, entitled under the provisions of this section.

3. If the deceased leaves a widow, and no descendant, parent, brother or sister, nephew or niece, the widow shall be entitled to the whole surplus; but if there be a brother or sister, nephew or niece, and no descendant or parent, the widow shall be entitled to one-half of the surplus as above provided, and to the whole of the residue if it does not exceed two thousand dollars; if the residue exceeds that sum, she shall receive in addition to the one-half, two thousand dollars; and the remainder shall be distributed to the brothers and sisters and their representatives.

4. If there be no widow, the whole surplus shall be distributed equally to and among the children, and such as legally represent them.

5. If there be no widow, and no children, and no representatives of a child, the whole surplus shall be distributed to the next of kin, in equal degree to the deceased, and their legal representatives; and if all the brothers and sisters of the intestate be living, the whole surplus shall be distributed to them; if any of them be living and any be dead, to the brothers and sisters living, and the descendants in whatever degree of those dead; so that to each living brother or sister shall be distributed such share as would have been distributed to him or her if all the brothers and sisters of the intestate who shall have died leaving issue had been living, and so that there shall be distributed to such descendants in whatever degree, collectively, the share which their parent would have received if living; and the same rule shall prevail as to all direct lineal descendants of every brother and sister of the intestate whenever such descendants are of unequal degrees.

6. If the deceased leave no children and no representatives of them, and no father, and leave a widow and a mother, the half not distributed to the widow shall be distributed in equal shares to his mother and brothers and sisters, or the representatives of such brothers and sisters; and if there be no widow, the whole surplus shall be distributed in like manner to the mother, and to the brothers and sisters, or the representatives of such brothers and sisters.

7. If the deceased leave a father and no child or descendant, the father shall take one-half if there be a widow, and the whole, if there be no widow.



8. If the deceased leave a mother, and no child, descendant, father, brother, sister, or representative of a brother or sister, the mother, if there be a widow, shall take one-half; and the whole, if there be no widow.

9. If the deceased was illegitimate and leave a mother, and no child, or descendant, or widow, such mother shall take the whole and shall be entitled to letters of administration in exclusion of all other persons. If the mother of such deceased be dead, the relatives of the deceased on the part of the mother shall take in the same manner as if the deceased had been legitimate, and be entitled to letters of administration in the same order.

10. Where the descendants, or next of kin of the deceased, entitled to share in his estate, are all in equal degree to the deceased, their shares shall be equal.

11. When such descendants or next of kin are of unequal degrees of kindred, the surplus shall be apportioned among those entitled thereto, according to their respective stocks; so that those who take in their own right shall receive equal shares, and those who take by representation shall receive the share to which the parent whom they represent, if living, would have been entitled.

12. No representation shall be admitted among collaterals after brothers and sisters descendants. This subdivision shall not apply to the estate of a decedent who shall have died prior to May eighteenth, nineteen hundred and five. *Subd. 12, am'd by L. 1909, ch. 240, § 14.*

13. Relatives of the half-blood shall take equally with those of the whole blood in the same degree; and the representatives of such relatives shall take in the same manner as the representatives of the whole blood.

14. Descendants and next of kin of the deceased, begotten before his death, but born thereafter, shall take in the same manner as if they had been born in the lifetime of the deceased, and had survived him.

15. If a woman die, leaving illegitimate children, and no lawful issue, such children inherit her personal property as if legitimate.

16. If there be no husband or wife surviving and no children, and no representatives of a child, and no next of kin, then the whole surplus shall be distributed equally to and among the next of kin of the husband or wife of the deceased, as the case may be, and such next of kin shall be deemed next of kin of the deceased for all the purposes specified in this article or in chapter eighteenth of the code of civil procedure; but such surplus shall not, and shall not be construed to, embrace any personal property except

such as was received by the deceased from such husband or wife as the case may be, by will or by virtue of the laws relating to the distribution of the personal property of the deceased person.

Formerly Code Civil Procedure, § 2732. L. 1905, ch. 539, § 2, incorporated in subd. 12.

**§ 99. Advancements of personal estates.** If any child of such deceased person have been advanced by the deceased, by settlement or portion of real or personal property, the value thereof shall be reckoned with that part of the surplus of the personal property, which remains to be distributed among the children; and if such advancement be equal or superior to the amount, which, according to the preceding section, would be distributed to such child, as his share of such surplus and advancement, such child and his descendants shall be excluded from any share in the distribution of the surplus. If such advancement be not equal to such amount, such child, or his descendants, shall be entitled to receive so much only, as is sufficient to make all the shares of all the children, in such surplus and advancement, to be equal, as near as can be estimated. The maintaining or educating, or the giving of money to a child, without a view to a portion or settlement in life, shall not be deemed an advancement, within the meaning of this section, nor shall the foregoing provisions of this section apply in any case where there is any real property of the intestate to descend to his heirs.

Formerly Code Civil Procedure, § 2733 part.

**§ 100. Estates of married women.** The provisions of this article respecting the distribution of property of deceased persons apply to the personal property of married women dying, leaving descendants them surviving. The husband of any such deceased married woman shall be entitled to the same distributive share in the personal property of his wife to which a widow is entitled in the personal property of her husband by the provisions of this article and no more.

Formerly Code Civil Procedure, § 2734.

**§ 101. Liability of heirs and devisees for debt of decedent.** The heirs of an intestate, and the heirs and devisees of a testator, are respectively liable for the debts of the decedent, arising by simple contract, or by specialty, to the extent of the estate, interest, and right in the real property, which descended to them from, or was effectually devised to them by, the decedent.

Formerly Code Civil Procedure, § 1843.

**§ 102. Liability of heir or devisee not affected where will makes specific provision for payment of debt.** The preceding section and article two of title three of chapter fifteen of the code of civil procedure do not affect the liability of an heir or devisee, for a debt of a testator, where the will expressly charges the debt exclusively upon the real property descended or devised, or makes it payable exclusively by the heir or devisee, or out of the real property descended or devised, before resorting to the personal property, or to any other real property descended or devised.

Formerly Code Civil Procedure, § 1859.

**§ 103. Action against husband for debts of deceased wife.** If a surviving husband does not take out letters of administration on the estate of his deceased wife, he is presumed to have assets in his hands sufficient to satisfy her debts, and is liable therefor. A husband is liable as administrator for the debts of his wife only to the extent of the assets received by him. If he dies leaving any assets of his wife unadministered, except as otherwise provided by law, they pass to his executors or administrators as part of his personal property, but are liable for her debts in preference to the creditors of the husband. *Am'd by L. 1909, ch. 240, § 15.*

Formerly Code Civil Procedure, § 2660 part.

**§ 104. Application of certain sections in this article.** Section twenty-five hundred and fourteen of the code of civil procedure is applicable to the provisions of sections ninety-eight to one hundred, both inclusive, and section one hundred and three, of this chapter. *Added by L. 1909, ch. 240, § 16.*

## ARTICLE 4

### Executors, Administrators and Testamentary Trustees

Section 110. Sales of real estate by executors under authority of will.

111. \*Investment of trust funds by executor or administrator.

112. Executors de son tort abolished.

113. Special promise to answer for debt of testator or intestate.

114. Liability of executors and administrators of executors and administrators.

\*So in original.

- Section 115. Rights of administrators de bonis non.  
 116. Actions upon contract by and against executors.  
 117. Administrators to have same rights and liabilities as executors.  
 118. Actions of trespass by executors and administrators.  
 119. Actions of trespass against executors and administrators.  
 \*120. Actions for wrongs, by or against executors and administrators.  
 \*121. Action or proceeding by executor or executor.  
 †122. Appraisal of estate of deceased person.

**§ 110. Sales of real estate by executors under authority of will.** Sales of real estate situate within the state of New York, made by executors in pursuance of an authority given by any last will, unless otherwise directed in such will, may be public or private and on such terms as in the opinion of the executor shall be most advantageous to those interested therein.

Formerly L. 1883, ch. 65, § 1.

**§ 111. Investment of trust funds.** An executor, administrator, trustee or other person holding trust funds for investment may invest the same in the same kind of securities as those in which savings banks of this state are by law authorized to invest the money deposited therein, and the income derived therefrom, and in bonds and mortgages on unincumbered real property in this state worth fifty per centum more than the amount loaned thereon. Any executor, administrator, trustee or other person holding trust funds may require such personal bonds or guaranties of payment to accompany investments as may seem prudent, and all premiums paid on such guaranties may be charged to or paid out of income, providing that such charge or payment be not more than at the rate of one-half of one per centum per annum on the par value of such investments. But no trustee shall purchase securities hereunder from himself.

Formerly L. 1897, ch. 417, § 9 part, as am'd by L. 1902, ch. 295, § 1 and L. 1907, ch. 669, § 1.

**§ 112. Executors de son tort abolished.** No person shall be liable to an action as executor of his own wrong, for having received, taken or interfered with, the property or effects of a deceased person; but shall be responsible as a wrong-doer in the proper action to the executors, or general or special administrators, of such deceased person, for the value of any property or effects so taken or received, and for all damages caused by his acts, to the estate of the deceased.

Formerly R. S., pt. 3, ch. 8, tit. 3, § 17.

\* Added by L. 1909, ch. 240, § 16.

† Section 120 renumbered 122 by L. 1900, ch. 240, § 17.

---

Art. 4      Executors, Administrators, Testamentary Trustees.    §§ 113-117

---

**§ 113. Special promise to answer for debt of testator or intestate.** No executor or administrator shall be chargeable upon any special promise to answer damages, or to pay the debts of the testator or intestate, out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, be in writing, and signed by such executor or administrator, or by some other person by him thereunto specially authorized.

Formerly R. S., pt. 2, ch. 6, tit. 5, § 1.

**§ 114. Liability of executors and administrators of executors and administrators.** The executors and administrators of every person, who, as executor, either of right or in his own wrong, or as administrator, shall have wasted or converted to his own use, any goods, chattels, or estate, of any deceased person, shall be chargeable in the same manner as their testator or intestate would have been, if living.

Formerly R. S., pt. 2, ch. 6, tit. 5, § 6.

**§ 115. Rights of administrators de bonis non.** When administration of the effects of a deceased person, which shall have been left unadministered by any previous executor or administrator of the same estate, shall be granted to any person, such person may appeal from any judgment obtained against such previous executor or administrator of the same estate, or against the original testator or intestate; and shall defend any appeal from any such judgment; and shall have the same remedies, in the prosecution or defense of any action, by or against such previous executors or administrators, and for the collection and enforcing of any judgment obtained by them, as they would have by law.

Formerly R. S., pt. 3, ch. 8, tit. 3, § 18.

**§ 116. Actions upon contract by and against executors.** Actions of account, and all other actions upon contract, may be maintained by and against executors, in all cases in which the same might have been maintained, by or against their respective testators.

Formerly R. S., pt. 2, ch. 6, tit. 5, § 2.

**§ 117. Administrators to have same rights and liabilities as executors.** Administrators shall have actions to demand and recover the debts due to their intestate, and the personal property and effects of their intestate; and shall answer and be accountable to others to whom the intestate was holden or bound, in the same manner as executors.

Formerly R. S., pt. 2, ch. 6, tit. 5, § 3.

**§ 118. Actions of trespass by executors and administrators.** Executors and administrators shall have actions of trespass against any person who shall have wasted, destroyed, taken or carried away, or converted to his own use, the goods of their testator or intestate in his lifetime. They may also maintain actions for trespass committed on the real estate of the deceased, in his lifetime.

Formerly R. S., pt. 2, ch. 6, tit. 5, § 4.

**§ 119. Actions of trespass against executors and administrators.** Any person, or his personal representatives, shall have actions of trespass against the executor or administrator of any testator or intestate, who in his lifetime shall have wasted, destroyed, taken or carried away, or converted to his own use, the goods or chattels of any such person, or committed any trespass on the real estate of any such person.

Formerly R. S., pt. 2, ch. 6, tit. 5, § 5.

**§ 120. Actions for wrongs, by or against executors and administrators.** For wrongs done to the property, rights or interests of another, for which an action might be maintained against the wrong-doer, such action may be brought by the person injured, or after his death, by his executors or administrators, against such wrong-doer, and after his death against his executors or administrators, in the same manner and with the like effect in all respects, as actions founded upon contracts. This section shall not extend to an action for personal injuries, as such action is defined in section thirty-three hundred and forty-three of the code of civil procedure; except that nothing herein contained shall affect the right of action now existing to recover damages for injuries resulting in death. *Added by L. 1909, ch. 240, § 16.*

Formerly R. S., pt. 3, ch. 8, tit. 3, § 1 and § 2 part.

**§ 121. Action or proceeding by executor of executor.** An executor of an executor shall have no authority to commence or maintain any action or proceeding relating to the estate, effects or rights of the testator of the first executor, or to take any charge or control thereof, as such executor. *Added by L. 1909, ch. 240, § 16.*

Formerly R. S., pt. 3, ch. 8, tit. 3, § 11.

**§ 122. Appraisal of estate of deceased person.** Whenever by reason of the provisions of any law of this state it shall become necessary to appraise in whole or in part the estate of any deceased person, the persons whose duty it shall be to

Arts. 4, 5.                      Laws Repealed; When to take Effect.                      §§ 130, 131

make such appraisal shall value the real estate at its full and true value, taking into consideration actual sales of neighboring real estate similarly situated during the year immediately preceding the date of such appraisal, if any; and they shall value all such property, stocks, bonds, or securities as are customarily bought or sold in open markets in the city of New York or elsewhere, for the day on which such appraisal or report may be required, by ascertaining the range of the market and the average of prices as thus found, running through a reasonable period of time. *L. 1909, ch. 18, § 120, as renumbered 122 by L. 1909, ch. 240, § 17.*  
Formerly L. 1891, ch. 34, § 1 part.

**ARTICLE 5**

**Laws Repealed; When to Take Effect**

Section 130. Laws repealed.

131. When to take effect.

**§ 130. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

[New.]

**§ 131. When to take effect.** This chapter shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.... Part 2, chapter 6, title 1, §§ 1-5, 21, 22,  
40-53, 69-71  
Revised Statutes.... Part 2, chapter 6, title 4, §§ 55, 58  
Revised Statutes.... Part 2, chapter 6, title 5, §§ 1-6, 23  
Revised Statutes.... Part 3, chapter 7, title 3, §§ 67-70  
Revised Statutes.... Part 3, chapter 8, title 3, §§ \*1, \*2, \*11,  
17, 18

Laws of	Chapter	Section
1787.....	47.....	All
1799.....	75.....	All
1801.....	9.....	All
R. L. 1813...	23.....	All
R. L. 1813...	75.....	All
1815.....	157.....	All
1821.....	207.....	All
1828.....	21.....	1, ¶¶ 83, 95, 196, 336, 544 (2d meet.)
1828.....	313.....	All

\* Repealed by L. 1909, ch. 240, § 93.

---

§ 130	Laws Repealed.	Art. 5
-------	----------------	--------

---

Laws of	Chapter	Section
1829.....	148.....	All
1835.....	264.....	All
1837.....	234.....	All
1840.....	348.....	1
1848.....	319.....	Proviso in § 6
1860.....	360.....	All
1865.....	368.....	Proviso in § 6.
1867.....	782.....	3, 4
1869.....	22.....	All
1873.....	397.....	Proviso in § 5.
1875.....	267.....	Proviso in § 7.
1875.....	343.....	Proviso in § 5.
1876.....	118.....	All
1883.....	65.....	All
1886.....	236.....	Proviso in § 7.
1887.....	315.....	Proviso in § 5.
1887.....	317.....	Proviso in § 7.
1890.....	286.....	Proviso in § 6.
1891.....	34.....	1, pt. relating to estates of deceased persons.
1893.....	100.....	All
1896.....	547.....	280-296
1897.....	417.....	9, pt. relating to executors, administrators and other trustees of estates of deceased persons.
1902.....	295.....	1, pt. amending L. 1897, Ch. 417, § 9, as to executors, administrators and other trustees of estates of deceased persons.
1903.....	623.....	Pt. amending the proviso in L. 1848, Ch. 319, § 6.
1904.....	106*.....	All
1904.....	146.....	All
1907.....	669.....	1, pt. amending L. 1897, Ch. 417, § 9, as to executors, administrators and other trustees of estates of deceased persons.

Code Civil Procedure §§ 1843, 1859, 1868, 2611, 2628, 2633: § 2634, to and including words "in his office"; § 2660, words "If a surviving husband" to "creditors of the husband"; §§ 2694, 2703, 2704, 2732; § 2733, except last two sentences; § 2734.

---

\*Repealed by L. 1909, ch. 240, § 106.



# DOMESTIC RELATIONS LAW

---

L. 1909, Ch. 19. "An Act relating to the domestic relations constituting chapter fourteen of the Consolidated Laws."

(In effect February 17, 1909.)

## CHAPTER 14 OF THE CONSOLIDATED LAWS

[Formerly L. 1896, Ch. 272, being chapter 48 of the General Laws.]

- Article 1. Short title; definitions (§§ 1, 2).
2. Marriages (§§ 5-8).
  3. Solemnization, proof and effect of marriage (§§ 10-25).
  4. Certain rights and liabilities of husband and wife (§§ 50-60).
  5. The custody and wages of children (§§ 70-72).
  6. Guardians (§§ 80-88).
  7. The adoption of children (§§ 110-118).
  8. Apprentices and servants (§§ 120-127).
  9. Laws repealed; when to take effect (§§ 140, 141).

### ARTICLE 1

#### Short Title; Definitions

- Section 1. Short title.  
2. Definitions.

§ 1. **Short title.** This chapter shall be known as the "Domestic Relations Law."

Formerly L. 1896, ch. 272, § 1 part.

§ 2. **Definitions.** A minor is a person under the age of twenty-one years. A minor reaches majority at that age.

Formerly L. 1896, ch. 272, § 1 part.

### ARTICLE 2

#### Marriages

- Section 5. Incestuous and void marriages.  
6. Void marriages.

---

**Explanation.**—For location and disposition of former sections of the Domestic Relations Law see L. 1896, Ch. 272, in "Consolidated Schedule of Repeals," Vol. 7.

## Section 7. Voidable marriages.

## 8. Marriage after divorce for adultery.

**§ 5. Incestuous and void marriages.** A marriage is incestuous and void whether the relatives are legitimate or illegitimate between either:

1. An ancestor and a descendant;
2. A brother and sister of either the whole or the half blood;
3. An uncle and niece or an aunt and nephew.

If a marriage prohibited by the foregoing provisions of this section be solemnized it shall be void, and the parties thereto shall each be fined not less than fifty nor more than one hundred dollars and may, in the discretion of the court in addition to said fine, be imprisoned for a term not exceeding six months. Any person who shall knowingly and wilfully solemnize such marriage, or procure or aid in the solemnization of the same, shall be deemed guilty of a misdemeanor and shall be fined or imprisoned in like manner.

Formerly L. 1896, ch. 272, § 2, as am'd by L. 1907, ch. 742, § 1.

**§ 6. Void marriages.** A marriage is absolutely void if contracted by a person whose husband or wife by a former marriage is living, unless either:

1. Such former marriage has been annulled or has been dissolved for a cause other than the adultery of such person;
2. Such former husband or wife has been finally sentenced to imprisonment for life;
3. Such former husband or wife has absented himself or herself for five successive years then last past without being known to such person to be living during that time.

Formerly L. 1896, ch. 272, § 3.

**§ 7. Voidable marriages.** A marriage is void from the time its nullity is declared by a court of competent jurisdiction if either party thereto:

1. Is under the age of legal consent, which is eighteen years;
2. Is incapable of consenting to a marriage for want of understanding;
3. Is incapable of entering into the married state from physical cause;
4. Consents to such marriage by reason of force, duress or fraud;
5. Has a husband or a wife by a former marriage living, and such former husband or wife has absented himself or herself for

five successive years then last past without being known to such party to be living during that time.

Actions to annul a void or voidable marriage may be brought only as provided in the code of civil procedure.

Formerly L. 1896, ch. 272, § 4.

**§ 8. Marriage after divorce for adultery.** Whenever a marriage has been or shall be dissolved, the complainant may marry again during the lifetime of the defendant; but no defendant convicted of adultery shall marry again until the death of the complainant, unless the court in which the judgment of divorce was rendered shall in that respect modify such judgment, which modification shall only be made upon satisfactory proof that five years have elapsed since the decree of divorce was rendered, and that the conduct of the defendant since the dissolution of said marriage has been uniformly good. But this section does not prevent the remarriage of the parties to the action.

Formerly R. S., pt. 2, ch. 8, tit. 1, § 49, as am'd by L. 1879, ch. 164, § 1; L. 1879, ch. 321, § 1, and L. 1897, ch. 452, § 1. Code Civil Procedure, § 1761 incorporated.

### ARTICLE 3

#### Solemnization, Proof and Effect of Marriage

- Section 10. Marriage a civil contract.
11. By whom a marriage must be solemnized.
  12. Marriage, how solemnized.
  13. \*Marriages licenses.
  14. Town and city clerks to issue marriage licenses; form.
  15. Duty of town and city clerks.
  16. False statements and affidavits.
  17. Clergyman or officer violating article; penalty.
  18. Clergyman or officer, when protected.
  19. Records to be kept by town and city clerks.
  20. Records to be kept by the county clerk.
  21. Forms and books to be furnished.
  22. Penalty for violation.
  23. Presumptive evidence.
  24. Effect of marriage of parents of illegitimates.
  25. License, when to be obtained.

**§ 10. Marriage a civil contract.** Marriage, so far as its validity in law is concerned, continues to be a civil contract,

\* So in original.

to which the consent of parties capable in law of making a contract is essential.

Formerly L. 1896, ch. 272, § 10, as am'd by L. 1901, ch. 339, § 1 and renumbered § 5 and am'd by L. 1907, ch. 742, § 3.

**§ 11. By whom a marriage must be solemnized.**

The marriage must be solemnized by either:

1. A clergyman or minister of any religion, or by the leader, or either of the two assistant leaders, of the society for ethical culture in the city of New York;

2. A mayor, recorder, alderman, city magistrate, police justice or police magistrate of a city, except that in cities which contain more than one hundred thousand and less than one million inhabitants, a marriage shall be solemnized by the mayor, or police justice, and by no other officer of such city, except as provided in subdivisions one and three of this section;

3. A justice or judge of a court of record, or of a municipal court, or a justice of the peace; except that justices of the peace in cities which contain more than one hundred thousand and less than one million inhabitants, shall have no power to solemnize marriages; or,

4. A written contract of marriage signed by both parties and at least two witnesses who shall subscribe the same, stating the place of residence of each of the parties and witnesses and the date and place of marriage, and acknowledged by the parties and witnesses in the manner required for the acknowledgment of a conveyance of real estate to entitle the same to be recorded, provided, however, that all such contracts of marriage must in order to be valid be acknowledged before a judge of a court of record. Such contract shall be recorded within six months after its execution in the office of the clerk of the county in which the marriage was solemnized.

The word "clergyman," when used in the following sections of this article, includes each person referred to in the first subdivision of this section. The word "magistrate," when so used, includes any person referred to in the second or third subdivision.

Formerly L. 1896, ch. 272, § 11, as am'd by L. 1901, ch. 339, § 2; L. 1902, ch. 522, § 1; L. 1905, ch. 499, § 1; L. 1907, ch. 480, § 1, and renumbered § 6, and am'd by L. 1907, ch. 742, § 4 and am'd by L. 1908, ch. 73, § 1.

**§ 12. Marriage, how solemnized.** No particular form or ceremony is required when a marriage is solemnized as herein provided by a clergyman or magistrate, but the parties must solemnly declare in the presence of a clergyman or magistrate and the attending witness or witnesses that they take each other as

husband and wife. In every case, at least one witness beside the clergyman or magistrate must be present at the ceremony.

The preceding provisions of this chapter, so far as they relate to the manner of solemnizing marriages, shall not affect marriages among the people called friends or quakers; nor marriages among the people of any other denominations having as such any particular mode of solemnizing marriages; but such marriages must be solemnized in the manner heretofore used and practiced in their respective societies or denominations, and marriages so solemnized shall be as valid as if this article had not been enacted.

Formerly L. 1896, ch. 272, § 12, as renumbered § 7, and am'd by L. 1907, ch. 742, § 5.

**§ 13. Marriage licenses.** It shall be necessary for all persons intending to be married to obtain a marriage license from the town or city clerk of the town or city in which the woman to be married resides and to deliver said license to the clergyman or magistrate who is to officiate before the marriage can be performed. If the woman or both parties to be married are nonresidents of the state such license shall be obtained from the clerk of the town or city in which the marriage is to be performed.

Formerly L. 1896, ch. 272, § 8, as added by L. 1907, ch. 742, § 6.

**§ 14. Town and city clerks to issue marriage licenses; form.** The town or city clerk of each and every town or city in this state is hereby empowered to issue marriage licenses to any parties applying for the same who may be entitled under the laws of this state to contract matrimony, authorizing the marriage of such parties, which license shall be substantially in the following form:

STATE OF NEW YORK,  
County of .....

City or town of .....

Know all men by this certificate that any person authorized by law to perform marriage ceremonies within the state of New York to whom this may come, he, not knowing any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between ..... of ..... in the county of ..... and state of New York and ..... of ..... in the county of ..... and state of New York and to certify the same to be said parties or either of them under his hand and seal in his ministerial or official capacity and thereupon he is required to return his certificate in the form hereto annexed.

the county clerks of the various counties of the state in the quantities needed from time to time, and the county clerk of each county shall distribute them to town and city clerks in his county in such quantities as their necessities shall require. The expense of distributing the same to said town and city clerks is hereby made a county charge.

Formerly L. 1896, ch. 272, § 16, as added by L. 1907, ch. 742, § 6.

**§ 22. Penalty for violation.** Any town, city or county clerk who shall violate any of the provisions of this article or shall fail to comply therewith shall be deemed guilty of a misdemeanor and shall pay a fine not exceeding the sum of one hundred dollars on conviction thereof.

Formerly L. 1896, ch. 272, § 17, as added by L. 1907, ch. 742, § 6.

**§ 23. Presumptive evidence.** Copies of the records of marriages including the license and certificate of marriage and all other records pertaining thereto duly certified by the clerk of the county where the same are recorded under his official seal shall be evidence in all courts.

Formerly L. 1896, ch. 272, § 18, as added by L. 1907, ch. 742, § 6.

**§ 24. Effect of marriage of parents of illegitimates.** All illegitimate children whose parents have heretofore intermarried or who shall hereafter intermarry shall thereby become legitimized and shall become legitimate for all purposes and entitled to all the rights and privileges of legitimate children; but an estate or interest vested or trust created before the marriage of the parents of such child shall not be divested or affected by reason of such child being legitimized. Nothing in this article shall be deemed or construed to in any manner impair or affect the validity of any lawful marriage contract made before the passage of this article.

Formerly L. 1896, ch. 272, § 19, as added by L. 1907, ch. 742, § 6.

**§ 25. License, when to be obtained.** The provisions of this article pertaining to the granting of the licenses before a marriage can be lawfully celebrated apply to all persons who assume the marriage relation in accordance with subdivision four of section eleven of this chapter. Nothing in this article contained shall be construed to render void by reason of a failure to procure a marriage license any marriage solemnized between persons of full age nor to render void any marriage between minors or with a minor under the legal age of consent where the consent of parent or guardian has been given and such mar-

---

Arts. 3, 4 Certain Rights and Liabilities of Husband and Wife. §§ 50, 51

---

riage shall be for such cause voidable only as to minors or a minor upon complaint of such minors or minor or of the parent or guardian thereof.

Formerly L. 1896, ch. 272, § 20, as added by L. 1907, ch. 742, § 6.

## ARTICLE 4

### Certain Rights and Liabilities of Husband and Wife

Section 50. Property of married woman.

51. Powers of married woman.

52. Insurance of husband's life.

53. Contracts in contemplation of marriage.

54. Liability of husband for ante-nuptial debts.

55. Contract of married woman not to bind husband.

56. Husband and wife may convey to each other or make partition.

57. Right of action by or against married woman for torts.

58. Pardon not to restore marital rights.

59. Compelling transfer of trust property.

60. Married woman's right of action for wages.

**§ 50. Property of married woman.** Property, real or personal, now owned by a married woman, or hereafter owned by a woman at the time of her marriage, or acquired by her as prescribed in this chapter, and the rents, issues, proceeds and profits thereof, shall continue to be her sole and separate property as if she were unmarried, and shall not be subject to her husband's control or disposal nor liable for his debts.

Formerly L. 1896, ch. 272, § 20.

**§ 51. Powers of married woman.** A married woman has all the rights in respect to property, real or personal, and the acquisition, use, enjoyment and disposition thereof, and to make contracts in respect thereto with any person, including her husband, and to carry on any business, trade or occupation, and to exercise all powers and enjoy all rights in respect thereto and in respect to her contracts, and be liable on such contracts, as if she were unmarried; but a husband and wife can not contract to alter or dissolve the marriage or to relieve the husband from his liability to support his wife. All sums that may be recovered in actions or special proceedings by a married woman to recover damages to her person, estate or character shall be the separate property of the wife. Judgment for or against a married woman,

§§ 52-54 Certain Rights and Liabilities of Husband and Wife. Art. 4

may be rendered and enforced, in a court of record, or not of record, as if she was single. A married woman may confess a judgment specified in section one thousand two hundred and seventy-three of the code of civil procedure.

Formerly L. 1896, ch. 272, § 21. Code Civil Procedure, §§ 450 part, 1206, and 1273 part, incorporated.

**§ 52. Insurance of husband's life.** A married woman may, in her own name, or in the name of a third person, with his consent, as her trustee, cause the life of her husband to be insured for a definite period, or for the term of his natural life. Where a married woman survives such period or term she is entitled to receive the insurance money, payable by the terms of the policy, as her separate property, and free from any claim of a creditor or representative of her husband, except, that where the premium actually paid annually out of the husband's property exceeds five hundred dollars, that portion of the insurance money which is purchased by excess of premium above five hundred dollars, is primarily liable for the husband's debts. The policy may provide that the insurance, if the married woman dies before it becomes due and without disposing of it, shall be paid to her husband or to his, her or their children, or to or for the use of one or more of those persons; and it may designate one or more trustees for a child or children to receive and manage such money until such child or children attain full age. The married woman may dispose of such policy by will or written acknowledged assignment to take effect on her death, if she dies thereafter leaving no descendants surviving. After the will or the assignment takes effect, the legatee or assignee takes such policy absolutely.

A policy of insurance on the life of any person for the benefit of a married woman is also assignable and may be surrendered to the company issuing the same, by her, or her legal representative, with the written consent of the assured.

Formerly L. 1896, ch. 272, § 22.

**§ 53. Contracts in contemplation of marriage.**

A contract made between persons in contemplation of marriage, remains in full force after the marriage takes place.

Formerly L. 1896, ch. 272, § 23.

**§ 54. Liability of husband for ante-nuptial debts.**

A husband who acquires property of his wife by ante-nuptial contract or otherwise, is liable for her debts contracted before marriage, but only to the extent of the property so acquired.

Formerly L. 1896, ch. 272, § 24.



**§ 55. Contract of married woman not to bind husband.** A contract made by a married woman does not bind her husband or his property.

Formerly L. 1896, ch. 272, § 25.

**§ 56. Husband and wife may convey to each other or make partition.** Husband and wife may convey or transfer real or personal property directly, the one to the other, without the intervention of a third person; and may make partition or division of any real property held by them as tenants in common, joint tenants or tenants by the entireties. If so expressed in the instrument of partition or division, such instrument bars the wife's right to dower in such property, and also, if so expressed, the husband's tenancy by courtesy.

Formerly L. 1896, ch. 272, § 26.

**§ 57. Right of action by or against married woman for torts.** A married woman has a right of action for an injury to her person, property or character or for an injury arising out of the marital relation, as if unmarried. She is liable for her wrongful or tortious acts; her husband is not liable for such acts unless they were done by his actual coercion or instigation; and such coercion or instigation shall not be presumed, but must be proved. This section does not affect any right, cause of action or defense existing before the eighteenth day of March, eighteen hundred and ninety.

Formerly L. 1896, ch. 272, § 27.

**§ 58. Pardon not to restore marital rights.** A pardon granted to a person sentenced to imprisonment for life within this state does not restore that person to the rights of a previous marriage or to the guardianship of a child, the issue of such a marriage.

Formerly L. 1896, ch. 272, § 28.

**§ 59. Compelling transfer of trust property.** A person who holds property as trustee of a married woman, under a deed of conveyance or otherwise, may, on the written request of such married woman, accompanied by a certificate of a justice of the supreme court, that he has examined the condition and situation of the property, and made inquiry into the capacity of such married woman to manage and control the same, convey to such married woman all or any portion of such property, or the rents, issues or profits thereof.

Formerly L. 1896, ch. 272, § 29.

**§ 60. Married woman's right of action for wages.**

A married woman shall have a cause of action in her own sole and separate right for all wages, salary, profits, compensation or other remuneration for which she may render work, labor or services, or which may be derived from any trade, business or occupation carried on by her, and her husband shall have no right of action therefor unless she or he with her knowledge and consent has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation or other remuneration. In any action or proceeding in which a married woman or her husband shall seek to recover wages, salary, profits, compensation or other remuneration for which such married woman has rendered work, labor or services or which was derived from any trade, business or occupation carried on by her or in which the loss of such wages, salary, profits, compensation or other remuneration shall be an item of damage claimed by a married woman or her husband, the presumption of law in all such cases shall be that such married woman is alone entitled thereto, unless the contrary expressly appears. This section shall not affect any right, cause of action or defense existing prior to May seventeenth, nineteen hundred and five.

Formerly L. 1896, ch. 272, § 30, as added by L. 1902, ch. 289, § 1, and am'd by L. 1905, ch. 495, § 1. L. 1905, ch. 495, § 2, incorporated.

**ARTICLE 5****The Custody and Wages of Children**

Section 70. Habeas corpus for child detained by parent.

71. Habeas corpus for child detained by Shakers.

72. Payment of wages to minor; when valid.

**§ 70. Habeas corpus for child detained by parent.**

A husband or wife, being an inhabitant of this state, living in a state of separation, without being divorced, who has a minor child, may apply to the supreme court for a writ of habeas corpus to have such minor child brought before such court; and on the return thereof, the court, on due consideration, may award the charge and custody of such child to either parent for such time, under such regulations and restrictions, and with such provisions and directions, as the case may require, and may at any time thereafter vacate or modify such order.

Formerly L. 1896, ch. 272, § 40.

**§ 71. Habeas corpus for child detained by Shakers.**

If it shall appear on such application, or the return of the

writ, that the husband or wife of the applicant has become attached to the society of Shakers, and detains a child of the marriage among them, and that such child is secreted or concealed among them, the court may issue a warrant in aid of such writ of habeas corpus, directed to the sheriff of the county where the child is suspected to be, commanding such sheriff, in the day time, to search the dwelling-houses and other buildings of such society, or of any members thereof, or any other building specified in the warrant, for such child, and to bring him before the court, and the sheriff must forthwith execute such warrant.

Formerly L. 1896, ch. 272, § 41.

**§ 72. Payment of wages to minor; when valid.**

Where a minor is in the employment of a person other than his parent or guardian, payment to such minor of his wages is valid, unless such parent or guardian notify the employer in writing, within thirty days after the commencement of such service, that such wages are claimed by such parent or guardian, but whenever such notice is given at any time payments to the minor shall not be valid for services rendered thereafter.

Formerly L. 1896, ch. 272, § 42.

## ARTICLE 6

### Guardians

Section 80. Guardians in socage.

81. Appointment of guardians by parent.

82. Powers and duties of such guardians.

83. Duties and liabilities of all general guardians.

84. Guardianship of married woman.

85. Investment of trust funds by guardian.

86. Guardianship of indigent children by incorporated orphan asylums.

87. Record of children to be kept by orphan asylums.

88. Care and custody of poor children in institutions.

**§ 80. Guardians in socage.** Where a minor for whom a general guardian of the property has not been appointed shall acquire real property, the guardianship of his property with the rights, powers and duties of a guardian in socage belongs:

1. To the father;

2. If there be no father, to the mother;

3. If there be no father or mother, to the nearest and eldest relative of full age, not under any legal incapacity; and as

between relatives of the same degree of consanguinity, males shall be preferred.

The rights and authority of every such guardian shall be superseded by a testamentary or other guardian appointed in pursuance of this article.

Formerly L. 1896, ch. 272, § 50.

**§ 81. Appointment of guardians by parent.** A married woman is a joint guardian of her children with her husband, with equal powers, rights and duties in regard to them. Upon the death of either father or mother, the surviving parent, whether of full age or a minor, of a child likely to be born, or of any living child under the age of twenty-one years and unmarried, may, by deed or last will, duly executed, dispose of the custody and tuition of such child during its minority or for any less time, to any person or persons. Either the father or mother may in the life-time of them both, by last will duly executed, appoint the other the guardian of the person and property of such child, during its minority. A person appointed guardian in pursuance of this section shall not exercise the power or authority thereof unless such will is admitted to probate, or such deed executed and recorded as provided by section twenty-eight hundred and fifty-one of the code of civil procedure.

Formerly L. 1896, ch. 272, § 51, as am'd by L. 1899, ch. 159, § 1.

**§ 82. Powers and duties of such guardians.** Every such disposition, from the time it takes effect, shall vest in the person to whom made, if he accepts the appointment, all the rights and powers, and subject him to all the duties and obligations of a guardian of such minor, and shall be valid and effectual against every other person claiming the custody and tuition of such minor, as guardian in socage or otherwise. He may take the custody and charge of the tuition of such minor, and may maintain all proper actions for the wrongful taking or detention of the minor, and shall recover damages in such actions for the benefit of his ward. He shall also take the custody and management of the personal estate of such minor and the profits of his real estate, during the time for which such disposition shall have been made, and may bring such actions in relation thereto as a guardian in socage might by law.

Formerly L. 1896, ch. 272, § 52.

**§ 83. Duties and liabilities of all general guardians.** A general guardian or guardian in socage shall safely keep the property of his ward that shall come into his cus-

tody, and shall not make or suffer any waste, sale or destruction of such property or inheritance, but shall keep in repair and maintain the houses, gardens and other appurtenances to the lands of his ward, by and with the issues and profits thereof, or with such other moneys belonging to his ward as shall be in his possession; and shall deliver the same to his ward, when he comes to full age, in at least as good condition as such guardian received the same, inevitable decay and injury only excepted; and shall answer to his ward for the issues and profits of the real estate, received by him, by a lawful account, to be settled before any court, judge or surrogate having authority to settle the accounts of general and testamentary guardians; and any order, judgment or decree in any action or proceeding to settle such accounts may be enforced to the same extent, and in like manner as in the case of general and testamentary guardians. If any guardian shall make or suffer any waste, sale or destruction of the inheritance of his ward, he shall lose the custody of the same, and of such ward, and shall forfeit to the ward treble damages.

Formerly L. 1896, ch. 272, § 53, as am'd by L. 1903, ch. 369, § 1.

**§ 84. Guardianship of married woman.** The lawful marriage of a woman before she attains her majority terminates a general guardianship with respect to her person, but not with respect to her property.

Formerly L. 1896, ch. 272, § 54.

**§ 85. Investment of trust funds by guardian.** A guardian holding trust funds for investment has the powers provided by section one hundred and eleven of the decedent estate law for an executor or administrator.

Formerly L. 1897, ch. 417, § 9 part, as am'd by L. 1902, ch. 295, § 1, and L. 1907, ch. 669, § 1.

**§ 86. Guardianship of indigent children by incorporated orphan asylums.** The guardianship of the person and the custody of an indigent child may be committed to an incorporated orphan asylum or other institution incorporated for the care of orphan, friendless or destitute children, by an instrument in writing signed:

1. By the parents of such child, if both such parents shall then be living, or by the surviving parent, if either parent of such child be dead;

2. If either one of such parents shall have for a period of six months then next preceding abandoned such child, by the other of such parents;

3. If the father of such child shall have neglected to provide for his family during the six months next preceding, or if such child is a bastard, by the mother of such child;

4. If both parents of such child are dead, by the guardian of the person of such child lawfully appointed, with the approval of the court or officer which appointed such guardian to be entered of record;

5. If both parents of such child are dead, and no legal guardian of the person of such child has been appointed, and no such guardian has been appointed by will or by deed by either parent thereof, or if the parents have abandoned such child for the period of six months, then next preceding, by the mayor of the city or by the county judge of the county in which such asylum or such other institution is located.

Such instrument shall be upon such terms, for such time and subject to such conditions as may be agreed upon by the parties thereto. It may also provide for the absolute surrender of such child to such corporation. But no such corporation shall draw or receive money from public funds for the support of any such child committed under the provisions of this section, unless it shall have been determined by a court of competent jurisdiction that such child has no relative, parent or guardian living, or that such relative, parent or guardian, if living, is destitute and actually unable to provide for the support of such child.

Formerly L. 1884, ch. 438, § 1.

**§ 87. Record of children to be kept by orphan asylums.** All institutions, public or private, incorporated or not incorporated, for the reception of minors, whether as orphans, or as pauper, indigent, destitute, vagrant, disorderly or delinquent persons, are hereby required to provide and keep a record, in which shall be entered the date of reception, and the names and places of birth and residence, as nearly as the same can reasonably be ascertained, of all children admitted in such institutions, and how and by whom and for what cause such children shall be placed therein, and the names, residence, birthplace and religious denomination of the parents of such children so admitted, as nearly as the same can be reasonably ascertained; and whenever any such child shall leave such institution, the proper entry shall be made in such record, showing in what manner such child shall have been disposed of, and if apprenticed to or adopted by any person or family, or otherwise placed out at service or on trial, the name and place of residence of the person or head of the family to or with whom such child shall have been so apprenticed, adopted or other-

wise placed out. The supreme court may, upon application by a parent, relative or legal guardian of such child, after due notice to the institution and hearing had thereon, by order direct the officers of such institution to furnish such parent, relative or legal guardian with such extracts from such record relating to such child as such court may deem proper. Nothing in this section shall be construed to prevent visitation by relatives and friends in accordance with the established rules of such institutions.

Formerly L. 1884, ch. 438, § 3, as am'd by L. 1894, ch. 54, § 1.

**§ 88. Care and custody of poor children in institutions.** The parent of a poor child, committed to an asylum or other institution by a county superintendent, overseer of the poor, board of charities or other officer, shall not be entitled to the custody thereof, except in pursuance of a judgment or order of a court or judicial officer of competent jurisdiction, adjudging or determining that the interests of such child will be promoted thereby and that such parent is fit, competent and able to duly maintain, support and educate such child. The name of such child shall not be changed while in such asylum or institution.

Formerly L. 1884, ch. 438, § 4 part.

## ARTICLE 7

### The Adoption of Children

- Section 110. Definitions; effect of article.
111. Whose consent necessary.
112. Requisites of voluntary adoption.
113. Order.
114. Effect of adoption.
115. Adoption from charitable institutions.
116. Abrogation of voluntary adoption.
117. Application in behalf of child for the abrogation of an adoption from a charitable institution.
118. Application by foster parent for the abrogation of such an adoption.

**§ 110. Definitions; effect of article.** Adoption is the legal act whereby an adult takes a minor into the relation of child and thereby acquires the rights and incurs the responsibilities of parent in respect to such minor. Hereafter, in this article, the person adopting is designated the "foster parent." A volun-

tary adoption is any other than that of an indigent child, or one who is a public charge from an orphan asylum or charitable institution.

An adult unmarried person, or an adult husband or wife, or an adult husband and his adult wife together, may adopt a minor in pursuance of this article, and a child shall not hereafter be adopted except in pursuance thereof. Proof of the lawful adoption of a minor heretofore made may be received in evidence, and any such adoption shall not be abrogated by the enactment of this chapter and shall have the effect of an adoption hereunder. Nothing in this article in regard to an adopted child inheriting from the foster parent applies to any will, devise or trust made or created before June twenty-fifth, eighteen hundred and seventy-three, or alters, changes or interferes with such will, devise or trust, and as to any such will, devise or trust, a child adopted before that date is not an heir so as to alter estates or trusts or devises in wills so made or created.

Formerly L. 1896, ch. 272, § 60.

**§ 111. Whose consent necessary.** Consent to adoption is necessary as follows:

1. Of the minor, if over twelve years of age;
2. Of the foster parent's husband or wife, unless lawfully separated, or unless they jointly adopt such minor;
3. Of the parents or surviving parent of a legitimate child, and of the mother of an illegitimate child; but the consent of a parent who has abandoned the child, or is deprived of civil rights, or divorced because of his or her adultery or cruelty, or adjudged to be insane, or to be an habitual drunkard, or judicially deprived of the custody of the child on account of cruelty or neglect, is unnecessary;
4. Of a person of full age having lawful custody of the child, if any such person can be found, where the child has no father or mother living, or no father or mother whose consent is necessary under the last subdivision. If such child has no father or mother living, and no person can be found who has the lawful custody of the child, the judge or surrogate shall recite such facts in the order allowing the adoption.

Formerly L. 1896, ch. 272, § 61.

**§ 112. Requisites of voluntary adoption.** In adoption the following requirements must be followed:

1. The foster parents or parent, the minor and all the persons



whose consent is necessary under the last section, must appear before the county judge or the surrogate of the county where the foster parent or parents reside, and be examined by such judge or surrogate, except as provided by the next subdivision.

2. They must present to such judge or surrogate an instrument containing substantially the consents required by this chapter, an agreement on the part of the foster parent or parents to adopt and treat the minor as his, her or their own lawful child, and a statement of the age of the child, as nearly as the same can be ascertained, which statement shall be taken prima facie as true. The instrument must be signed by the foster parent or parents and by each person whose consent is necessary to the adoption, and severally acknowledged by said persons before such judge or surrogate; but where a parent or person or institution having the legal custody of the minor resides in some other country, state or county, his or their written acknowledged consent, or the written acknowledged consent of the officers of such institution, certified as conveyances are required to be certified to entitle them to record in a county in this state, is equivalent to his or their appearance and execution of such instrument.

Formerly L. 1896, ch. 272, § 62, as am'd by L. 1899, ch. 498, § 1.

**§ 113. Order.** If satisfied that the moral and temporal interests of the child will be promoted thereby, the judge or surrogate must make an order allowing and confirming such adoption, reciting the reasons therefor, and directing that the minor shall thenceforth be regarded and treated in all respects as the child of the foster parent or parents. Such order, and the instrument and consent, if any, mentioned in the last section must be filed and recorded in the office of the county clerk of such county.

Formerly L. 1896, ch. 272, § 63.

**§ 114. Effect of adoption.** Thereafter the parents of the minor are relieved from all parental duties toward, and of all responsibility for, and have no rights over such child, or to his property by descent or succession. Where a parent who has procured a divorce, or a surviving parent, having lawful custody of a child, lawfully marries again, or where an adult unmarried person who has become a foster parent and has lawful custody of a child, marries, and such parent or foster parent consents that the person who thus becomes the stepfather or the stepmother of such child may adopt such child, such parent or such foster parent, so con-

senting, shall not thereby be relieved of any of his or her parental duties toward, or be deprived of any of his or her rights over said child, or to his property by descent or succession. The child takes the name of the foster parent. His rights of inheritance and succession from his natural parents remain unaffected by such adoption. The foster parent or parents and the minor sustain toward each other the legal relation of parent and child, and have all the rights and are subject to all the duties of that relation, including the right of inheritance from each other, except as the same is affected by the provisions in this section in relation to adoption by a stepfather or stepmother, and such right of inheritance extends to the heirs and next of kin of the minor, and such heirs and next of kin shall be the same as if he were the legitimate child of the person adopting, but as respects the passing and limitation over of real or personal property dependent under the provisions of any instrument on the foster parent dying without heirs, the minor is not deemed the child of the foster parent so as to defeat the rights of remaindermen.

Formerly L. 1896, ch. 272, § 64, as am'd by L. 1897, ch. 408, § 1.

**§ 115. Adoption from charitable institutions.** An orphan asylum or charitable institution, incorporated for the care of orphan, friendless or destitute children may place children for adoption and the adoption of every such child shall, when practicable, be given to persons of the same religious faith as the parents of such child. The adoption shall be effected by the execution of an instrument containing substantially the same provisions as the instrument provided in this article for voluntary adoption, signed and sealed in the corporate name of such corporation by the officer or officers authorized by the directors thereof to sign the corporate name to such instruments, and signed by the foster parent or parents and each person whose consent is necessary to the adoption; and may be signed by the child, if over twelve years of age; all of whom shall appear before the county judge or surrogate of the county where such foster parents reside and be examined, except that such officers need not appear; and such judge or surrogate may thereupon make the order of adoption provided by this article. Such instrument and order shall be filed and recorded in the office of the county clerk of the county where the foster parent resides and the adoption shall take effect from the time of such filing and recording.

Formerly L. 1896, ch. 272, § 65. L. 1884, ch. 438, § 7 part, incorporated.

**§ 116. Abrogation of voluntary adoption.** A minor may be deprived of the rights of a voluntary adoption by the following proceedings only:

The foster parent, the minor and the persons whose consent would be necessary to an original adoption, must appear before the county judge or surrogate of the county where the foster parent resides, who shall conduct an examination as for an original adoption. If he is satisfied that the abrogation of the adoption is desired by all parties concerned, and will be for the best interests of the minor, the foster parent, the minor and the persons whose consent would have been necessary to an original adoption shall execute an agreement, whereby the foster parent and the minor agree to relinquish the relation of parent and child and all rights acquired by such adoption, and the parents or guardian of the child or the institution having the custody thereof agree to re-assume such relation. The judge or surrogate shall indorse, upon such agreement, his consent to the abrogation of the adoption. The agreement and consent shall be filed and recorded in the office of the county clerk of the county where the foster parent resides, and a copy thereof filed and recorded in the office of the county clerk of the county where the parents or guardian reside, or such institution is located, if they reside, or such institution is located, within this state. From the time of the filing and recording thereof, the adoption shall be abrogated, and the child shall re-assume its original name and the parents or guardian of the child shall re-assume such relation. Such child, however, may be adopted directly from such foster parents by another person in the same manner as from parents, and as if such foster parents were the parents of such child.

Formerly L. 1896, ch. 272, § 66.

**§ 117. Application in behalf of child for the abrogation of an adoption from a charitable institution.** A minor who shall have been adopted in pursuance of this chapter or of any act repealed thereby, from an orphan asylum or charitable institution, or any corporation which shall have been a party to the agreement by which such child was adopted, or any person on the behalf of such child, may make an application to the county judge or the surrogate's court of the county in which the foster parent then resides, for the abrogation of such adoption, on the ground of cruelty, misusage, refusal of necessary provisions or clothing, or inability to support, maintain or educate such child, or of any violation of duty

on the part of such foster parent toward such child; which application shall be by a petition setting forth the grounds thereof, and verified by the person or by some officer of the corporation making the same. A citation shall thereon be issued by such judge or surrogate, in or out of such court, requiring such foster parent to show cause why the application should not be granted. The provisions of the code of civil procedure relating to the issuing, contents, time and manner of service of citations issued out of a surrogate's court, and to the hearing on the return thereof, and to enforcing the attendance of witnesses, and to all proceedings thereon, and to appeals from decrees of surrogate's courts, not inconsistent with this chapter, shall apply to such citation, and to all proceedings thereon. Such judge or court shall have power to order or compel the production of the person of such minor. If on the proofs made before him, on the hearing on such citation, the judge or surrogate shall determine that either of the grounds for such application exists, and that the interests of such child will be promoted by granting the application, and that such foster parent has justly forfeited his right to the custody and services of such minor, an order shall be made and entered abrogating the adoption, and thereon the status of such child shall be the same as if no proceedings had been had for the adoption thereof.

After one such petition against a foster parent has been denied, a citation on a subsequent petition against the same foster parent may be issued or refused in the discretion of the judge or surrogate to whom such subsequent petition shall be made.

Formerly L. 1896, ch. 272, § 67.

**§ 118. Application by foster parent for the abrogation of such an adoption.** A foster parent who shall have adopted a minor in pursuance of this chapter or of any act repealed thereby, from an orphan asylum or charitable institution, may apply to the county judge or surrogate's court of the county in which such foster parent resides, for the abrogation of such adoption on the ground of the wilful desertion of such child from such foster parent, or of any misdemeanor or ill-behavior of such child, which application shall be by petition, stating the grounds thereof, and the substance of the agreement of adoption, and shall be verified by the petitioner; and thereon a citation shall be issued by such judge or surrogate in or out of such court, directed to such child, and to the corporation which was a party to such adoption, or, if such corporation does not

then exist, to the superintendent of the poor of such county, requiring them to show cause why such petition should not be granted. Unless such corporation shall appear on the return of such citation, before the hearing thereon shall proceed, a special guardian shall be appointed by such judge or court to protect the interests of such child in such proceeding, and the foster parent shall pay to such special guardian such sum as the court shall direct for the purpose of paying the fees and the necessary disbursements in preparing for and contesting such application on behalf of the child. If such judge or surrogate shall determine, on the proofs made before him, on the hearing of such citation, that the child has violated his duty toward such foster parent, and that due regard to the interests of both require that such adoption be abrogated, an order shall be made and entered accordingly; and such judge or court may make any disposition of the child which any court or officer shall then be authorized to make of vagrant, truant or disorderly children. If such judge or surrogate shall otherwise determine, an order shall be made and entered denying the petition.

Formerly L. 1896, ch. 272, § 68.

## ARTICLE 8

### Apprentices and Servants

- Section 120. Definitions; effect of article.
- 121. Contents of indenture.
  - 122. Indenture by minor; by whom signed.
  - 123. Indenture by poor officers; by whom signed.
  - 124. Binding out children by charitable corporation; indenture; by whom signed.
  - 125. Penalty for failure of master or employer to perform provisions of indenture.
  - 126. Assignment of indenture on death of master or employer.
  - 127. Contract with apprentice in restraint of trade void.

**§ 120. Definitions; effect of article.** The instrument whereby a minor is bound out to serve as a clerk or servant in any trade, profession or employment, or is apprenticed to learn the art or mystery of any trade or craft, is an indenture.

Every indenture made in pursuance of the laws repealed by this chapter shall be valid hereunder, but hereafter a minor shall

not be bound out or apprenticed except in pursuance of this article.

Formerly L. 1896, ch. 272, § 70.

**§ 121. Contents of indenture.** Every indenture must contain:

1. The names of the parties;
2. The age of the minor as nearly as can be ascertained, which age on the filing of the indenture shall be taken prima facie to be the true age;
3. A statement of the nature of the service or employment to which the minor is bound or apprenticed;
4. The term of service or apprenticeship, stating the beginning and end thereof;
5. An agreement that the minor will not leave his master or employer during the term for which he is indentured;
6. An agreement that suitable and proper board, lodging and medical attendance for the minor during the continuance of the term shall be provided, either by the master or employer, or by the parent or guardian of the apprentice;
7. A statement of every sum of money paid or agreed to be paid in relation to the service;
8. If such minor is bound as an apprentice to learn the art or mystery of any trade or craft, an agreement on the part of the employer to teach, or cause to be carefully and skilfully taught, to such apprentice, every branch of the business to which such apprentice is indentured, and that at the expiration of such apprenticeship he will give to such apprentice a certificate, in writing, that such apprentice has served at such trade or craft a full term of apprenticeship specified in such indenture;
9. If a minor is indentured by the poor officers of a county, city or town, or by the authorities of an orphan asylum, penal or charitable institution, an agreement that the master or employer will cause such child to be instructed in reading, writing and the general rules of arithmetic, and that at the expiration of the term of service he will give to such minor a new bible.

Every such indenture shall be filed in the office of the county clerk of the county where the master or employer resides.

Formerly L. 1896, ch. 272, § 71. Subd. 6 am'd by L. 1899, ch. 448, § 1.

**§ 122. Indenture by minor; by whom signed.** Any minor may, by the execution of the indenture provided by this article, bind himself or herself:

1. As an apprentice to learn the art or mystery of any trade or craft for a term of not less than three nor more than five years;

2. As a servant or clerk in any profession, trade or employment for a term of service not longer than the minority of such minor, unless such indenture be made by a minor coming from a foreign country, for the purpose of paying his passage, when such indenture may be made for a term of one year although such term may extend beyond the time when such person will be of full age.

An indenture made in pursuance of this section must be signed,

1. By the minor;
2. By the father of the minor unless he is legally incapable of giving consent or has abandoned his family;
3. By the mother of the minor unless she is legally incapable of giving consent;
4. By the guardian of the person of the minor, if any;
5. If there be neither parents nor guardian of the minor legally capable of giving consent, by the county judge of the county, or a justice of the supreme court of the district, in which the minor resides; whose consent shall be necessary to the binding out or apprenticing in pursuance of this section of a minor coming from a foreign country or of the child of an Indian woman, in addition to the other consents herein provided;
6. By the master or employer.

Formerly L. 1896, ch. 272, § 72.

**§ 123. Indenture by poor officers; by whom signed.**

The poor officers of a municipal corporation may, by an execution of the indenture provided by this article, bind out or apprentice any minor whose support shall become chargeable to such municipal corporation.

In such case the indenture shall be signed,

1. By the officer or officers binding out or apprenticing the minor;
2. By the master or employer;
3. By the county judge of the county, if the support of such child was chargeable to the county, by two justices of the peace, if chargeable to the town, or by the mayor and aldermen or any two of them, if chargeable to the city.

The poor officers by whom a child is indentured and their successors in office shall be guardians of every such child and shall inquire into the treatment thereof, and redress any grievance as provided by law.

Formerly L. 1896, ch. 272, § 73.

**§ 124. Binding out children by charitable corporation; indenture; by whom signed.** An orphan asylum or

charitable institution, incorporated for the care of orphans, friendless or destitute children, may bind out as an apprentice, clerk or servant, an indigent or poor child by an indenture in writing. Such child must have been absolutely surrendered to the care and custody of such asylum or institution in pursuance of this chapter, or have been placed therein as a poor person, as provided in section fifty-six of the poor law, or have been left to the care of such asylum or institution with no provision by the parent, relative or legal guardian of such child, for its support, for a period of one year then next preceding. Such indenture shall bind such child, if a male, for a period which shall not extend beyond his twenty-first year, and if a female, for a period which shall not extend beyond her eighteenth year. Every such child shall, when practicable, be bound out or apprenticed to persons of the same religious faith as the parents of such child. The indenture shall in such case be signed:

1. In the corporate name of such institution by the officer or officers thereof authorized by the directors to sign the corporate name to such instrument, and shall be sealed with the corporate seal;

2. By the master or employer.

Such indenture may also be signed by the child, if over twelve years of age.

Formerly L. 1896, ch. 272, § 74. L. 1884, ch. 438, § 5 part, incorporated.

**§ 125. Penalty for failure of master or employer to perform provisions of indenture.** If a master or employer to whom a minor has been indentured shall fail, during the term of service, to perform any provision of such indenture on his part, such minor or any person in his behalf may bring an action against the master or employer to recover damages for such failure; and if satisfied that there is sufficient cause, the court shall direct such indenture to be canceled, and may render judgment against such master or employer for not to exceed one thousand nor less than one hundred dollars, to be collected and paid over for the use and benefit of such minor to the corporation or officers indenturing such minor, if so indentured, and otherwise, to the parents or guardian of the child.

Formerly L. 1896, ch. 272, § 75.

**§ 126. Assignment of indenture on death of master or employer.** On the death of a master or employer to whom a person is indentured by the poor officers of a municipal corporation, the personal representatives of the master or employer



may, with the written and acknowledged consent of such person, assign such indenture and the assignee shall become vested with all the rights and subject to all the liabilities of his assignor, or if such consent be refused, the assignment may be made with like effect by the county judge of the county, on proof that fourteen days' notice of the application therefor has been given to the person indentured, to the officers by whom indentured, and to his parent or guardian, if in the country.

Formerly L. 1896, ch. 272, § 76.

**§ 127. Contract with apprentice in restraint of trade void.** No person shall accept from any apprentice any agreement or cause him to be bound by oath, that after his term of service expires he will not exercise his trade, profession or employment in any particular place; nor shall any person exact from any apprentice, after his term of service expires, any money or other thing, for exercising his trade, profession or employment in any place. Any security given in violation of this section shall be void; and any money paid, or valuable thing delivered, for the consideration, in whole or in part, of any such agreement or exaction, may be recovered by the person paying the same with interest; and every person accepting such agreement, causing such obligation to be entered into, or exacting money or other thing, is also liable to the apprentice in the penalty of one hundred dollars, which may be recovered in a civil suit.

Formerly L. 1896, ch. 272, § 77.

## ARTICLE 9

### Laws Repealed; When to Take Effect

Section 140. Laws repealed.

141. When to take effect.

**§ 140. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

Formerly L. 1896, ch. 272, § 90.

**§ 141. When to take effect.** This chapter shall take effect immediately.

Formerly L. 1896, ch. 272, § 91.

## SCHEDULE OF LAWS REPEALED.

Revised Statutes....	Part 2,	chapter 1, title 1, sections 5-7
Revised Statutes....	Part 2,	chapter 8.....All
Laws of	Chapter	Section
1788.....	15.....	1-3
1796.....	20.....	All
1801.....	11.....	1-5, 7, 8, 14
1815.....	221.....	All
1816.....	75.....	All
1818.....	47.....	2
1822.....	206.....	All
1826.....	254.....	All
1828.....	20.....	18 (2d Meet.)
1828.....	21.....	1, ¶¶ 43, 201, 208, 231, 247, 358, 481 (2d Meet.)
1830.....	320.....	24-29
1840.....	80.....	All
1845.....	11.....	All
1848.....	200.....	All
1849.....	375.....	All
1850.....	266.....	All
1851.....	321.....	All
1853.....	576.....	All
1855.....	159.....	All
1858.....	187.....	All
1860.....	90.....	All
1862.....	70.....	All
1862.....	172.....	All
1866.....	656.....	All
1870.....	277.....	All
1870.....	431.....	All
1871.....	32.....	All
1871.....	934.....	All
1873.....	25.....	All
1873.....	821.....	All
1873.....	830.....	All
1875.....	522.....	All
1877.....	430.....	All
1878.....	112.....	1, 2
1878.....	300.....	All
1879.....	164.....	All
1879.....	248.....	All
1879.....	321.....	All

Art. 9	Laws Repealed.	§ 140
Laws of	Chapter	Section
1880.....	472.....	All
1881.....	442.....	939, 940
1884.....	381.....	All
1884.....	438.....	All, except § 2 and first sentence of § 4.
1886.....	340.....	All
1887.....	24.....	All
1887.....	77.....	All
1887.....	537.....	All
1887.....	703.....	All
1888.....	78.....	All
1888.....	437.....	All
1888.....	454.....	All
1888.....	485.....	All
1889.....	58.....	All
1889.....	415.....	All
1890.....	51.....	All
1892.....	594.....	All
1893.....	175.....	All
1893.....	242.....	All
1893.....	284.....	All
1893.....	601.....	All
1894.....	54.....	All
1895.....	531.....	All
1896.....	272.....	All
1897.....	408.....	All
1897.....	417.....	9, pt. relating to guardians.
1897.....	452.....	All
1899.....	159.....	All
1899.....	448.....	All
1899.....	498.....	All
1899.....	725.....	All
1901.....	339.....	All
1902.....	289.....	All
1902.....	295.....	1, pt. amending L. 1897, Ch. 417, § 9, as to guardians.
1902.....	522.....	All
1903.....	369.....	All
1905.....	495.....	All
1905.....	499.....	All
1907.....	480.....	All
1907.....	669.....	1, pt. amending L. 1897, Ch. 417, § 9, as to guardians.

§ 140	Laws Repealed.		Art. 9
Laws of	Chapter	Section	
1907.....	742.....	All	
1908.....	73.....	All	
Code Civil Procedure.....		450, from words "and all sums" to "of the wife;" 1206; 1273, last sentence; 1761.	

# DRAINAGE LAW

---

## L. 1909, Ch. 20. "An Act relating to drainage constituting chapter fifteen of the Consolidated Laws."

(In effect February 17, 1909.)

### CHAPTER 15 OF THE CONSOLIDATED LAWS

[This is a consolidation, principally, of the provisions of R. S., Pt. 3, Ch. 8, Tit. 16, as amended by L. 1869, Ch. 888.]

- Article 1. Short title (§ 1).
2. Drainage for protection of public health (§§ 2-19).
  3. Assessments to pay cost of drainage (§§ 30-47).
  4. Maintenance and enlargement of ditches (§§ 60-74).
  5. Miscellaneous provisions (§§ 80-84).
  6. Drainage of agricultural lands (§§ 90-94).
  7. Laws repealed; when to take effect (§§ 100, 101).

#### ARTICLE 1

##### Short Title

Section 1. Short title.

§ 1. **Short title.** This chapter shall be known as the "Drainage Law."

[New.]

#### ARTICLE 2

##### Drainage for Protection of Public Health

- Section 2. Petition for drainage; who may make, and to what court.
3. Consolidation of applications for drainage.
  4. Proceedings on presentation of petition; appointment of commissioners.
  5. Vacancies, how filled.
  6. Commissioners to take and file oath of office.
  7. Majority of commissioners to constitute quorum.
  8. Organization of commission; chairman and treasurer.
  9. Duties and bond of treasurer.

---

**Explanation.**— For location and disposition of former sections of R. S., pt. 3, ch. 8, tit. 16, and L. 1869, Ch. 888, see "Consolidated Schedule of Repeals," Vol. 7.

- Section 10.** Commissioners to determine whether drainage necessary; to file their determination, and give notice thereof.
11. Appeal from determination of commissioners; witnesses.
  12. Survey to be made and map prepared in case drainage found necessary
  13. Map or duplicate thereof to be filed.
  14. Compensation and expenses of commissioners.
  15. Commissioners authorized to borrow funds.
  16. Bonds to be issued and sold to repay moneys so borrowed.
  17. Compensation for land taken or damages inflicted.
  18. Condemnation of land.
  19. Provisions of this article to apply to proceedings for deepening outlets of ponds.

**§ 2. Petition for drainage; who may make, and to what court.** Any person owning or possessing any swamp, bog, meadow, or other low or wet lands within this state, who shall be desirous to drain the same and who shall deem it necessary in order thereto, that a ditch or ditches or other channels for the free passage of water should be opened through lands belonging to another person and any person who shall deem it necessary for the public health that any such swamp, bog, meadow or low or wet lands should be drained, or that the outlet of any pond should be deepened or cleared out so as to permit the free passage of the waters of such pond through such outlet, may present a petition, duly verified, to the county court of the county in which such lands lie, or in case the same are situated in more than one county, to the supreme court, setting forth the fact and the names of the owners of all lands to be affected by the proceedings, so far as the same can with reasonable diligence be ascertained, and praying for the appointment of three commissioners for the purposes and with the powers hereinafter set forth.

The application provided for by this section may be made by the supervisor of any town on behalf of the town, or by the president of the board of trustees of any incorporated village on behalf of said village.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 1 part, as am'd by L. 1869, ch. 888, § 1; L. 1886, ch. 636, § 1, and L. 1906, ch. 115, § 1.

**§ 3. Consolidation of applications for drainage.** Two or more applications under this section respecting different

lands or parcels within the same town or incorporated village, may be made by one proceeding or petition, or two or more such proceedings or petitions may, in the discretion of the court, upon the application of any party in interest, be consolidated, and one commission be appointed for all, and in such case the proceedings shall continue thenceforth as if but one petition had been presented, or one proceeding commenced.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 1 part, as am'd by L. 1869, ch. 888, § 1; L. 1886, ch. 636, § 1, and L. 1906, ch. 115, § 1.

**§ 4. Proceedings on presentation of petition; appointment of commissioners.** The court to which such application is made, if satisfied that such drainage is necessary, shall thereupon appoint and commission three persons, who shall be freeholders or householders in the county or counties wherein the lands are situated, and who shall not be interested in said lands, nor in any of them, and one of whom shall be a civil engineer or surveyor, if there be one within the county, to hear and determine, first, whether it is necessary, in order to drain such lands, that a ditch or ditches or other channels for the free passage of water should be opened through lands belonging to others; second, whether it is necessary for the public health that such lands should be drained, and to take such other and further steps with reference thereto as are hereinafter provided for.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 2, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 2.

**§ 5. Vacancies, how filled.** In all cases where, either by death, resignation or otherwise, a vacancy shall occur in the office of commissioners appointed under the provisions of this chapter, such vacancy shall on the application of the commissioners then in office, or of any other person interested, be supplied and filled by the court in which such commissioners were originally appointed, and such application shall be upon such notice as the court to which the application is made shall prescribe. The commissioner thus appointed shall possess all the powers and be subject to all the liabilities of the commissioner whose office he is appointed to supply, provided that until such vacancy in the office of the commissioners shall be supplied and filled, the remaining or surviving commissioners shall possess and exercise all the powers conferred by the provisions of this chapter as fully to all intents and purposes as if no such vacancy had occurred or existed.

Formerly section 19, as added by L. 1870, ch. 38, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1886, ch. 636, § 11.

**§ 6. Commissioners to take and file oath of office.**

The said commissioners shall, before they enter upon the duties of their office, make and file an oath with the county clerk of the county in which they are appointed, or in case they shall have been appointed by the supreme court, then in the county where a part of such lands are situated, in which the court shall direct the same to be filed, that they will faithfully discharge the duties of their office according to the best of their knowledge and ability.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 3 part, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 3.

**§ 7. Majority of commissioners to constitute quorum.** A majority of the commissioners present at any meeting, of which all have notice, may exercise the powers of the commission.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 3 part, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 3.

**§ 8. Organization of commission; chairman and treasurer.** The commissioners shall, with all convenient speed, after qualifying as provided in section six of this article, meet and organize by appointing one of the members chairman and another treasurer of the commission.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 3 part, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 3.

**§ 9. Duties and bond of treasurer.** The treasurer shall collect and be custodian of all moneys to be collected or received by the commissioners under the provisions of this chapter, and shall pay out the same only upon the orders of the commissioners, signed by at least two of said commissioners. The treasurer shall, in all cases where the amount to be collected or received by him exceeds five hundred dollars, give a bond with sufficient sureties to the people of the state of New York, to be approved by the county judge of the county in which such lands or a part thereof are situated, or by a justice of the supreme court, conditioned for the faithful performance of the duties of his office, such bond to be filed in the office of the clerk of the county in which the oath of said commissioners is filed.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 3 part, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 3.

**§ 10. Commissioners to determine whether drainage necessary; to file their determination, and give notice thereof.** The said commissioners shall after notice to the petitioner and the parties named in the petitions, in such manner as they shall order, proceed by personal view of lands and



otherwise to determine whether it is necessary in order to drain such lands, that a ditch or ditches or other channels for the free passage of water shall be opened through lands belonging to others than the petitioner, and also whether it is necessary for the public health that such lands shall be drained.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 4, as am'd by L. 1869, ch. 888, § 1.

The said commissioners shall file in the office of the county clerk for said county their determination signed by them, or by a majority of them, if they do not all concur; and in case the lands are situated in more than one county, then the said commissioners shall cause a duplicate of their determination so made and filed as aforesaid to be made and filed in each of the other counties in which a part of such lands are situated, which duplicate shall be signed by them as aforesaid, and give notice of such filing to all whom it may concern, by publishing such notice at least twice in some newspaper published in a town in which such lands or a part thereof are situated; or if there be no such newspaper, then in a newspaper published at a place nearest to said lands respectively, and by mailing a copy of such notice directed to each person interested in such lands or any part thereof at his last known post-office address, who has not been personally served with such notice.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 5 part, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 4.

**§ 11. Appeal from determination of commissioners; witnesses.** Any party feeling aggrieved by such determination may appeal therefrom to the county court, or to the supreme court in the event the proceedings were instituted or are pending in that court, by giving written notice of such appeal to said commissioners within ten days after the last publication of such notice. The said court to which such appeal is taken shall thereupon on motion of either party and on at least ten days' notice proceed to hear said appeal and to determine the same. The attendance of witnesses in any proceeding taken pursuant to the provisions of this chapter may be compelled as in civil actions in such court with like fees.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 5 part, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 4.

**§ 12. Survey to be made and map prepared in case drainage found necessary.** If it shall be adjudged and determined either by the said commissioners or by the court on

appeal that for the benefit of the public health such ditches, drains or channels should be opened, or that such lands should be drained, it shall be their duty, unless the same shall be done by the petitioner and owners of such lands to their satisfaction, to cause an accurate survey of all the said lands to be made and a map thereof to be made on a scale of three hundred and thirty feet to one inch, showing all the lands that are proposed to be drained, the number of acres in each separate tract to be benefited by such drainage, the names of the owners or occupants thereof so far as can with due diligence be ascertained, and the relative levels of each tract, and the width, depth, slope of sides, shape and course of such ditch or ditches or channels for the passage of water as they shall determine to be necessary for the drainage of such lands, and for the purposes of this chapter such commissioners are empowered to employ a competent civil engineer or surveyor, or to authorize such commissioner as may be a civil engineer or surveyor to act as such, and to enter upon any and all the lands named in the petition or deemed necessary by such commissioners and survey the same and take levels thereof, and by themselves, their servants and agents to do all things necessary to the preparation for the construction and necessary for the construction and completion of all such ditches and channels for the passage of water, as they shall deem to be necessary for the complete drainage of the said swamps, bog, meadow or other low lands.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 6, as am'd by L. 1869, ch. 888, § 1; L. 1871, ch. 303, § 1, and L. 1880, ch. 636, § 5.

**§ 13. Map or duplicate thereof to be filed.** The said commissioners shall, in the completion of the work, cause such map, or a duplicate thereof, certified by them, to be filed in the office of each county clerk in which their determination is by section ten of this chapter required to be filed, which, or a duly authenticated copy of which, may be used in evidence in any suit or proceeding in this state.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 7, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 6.

**§ 14. Compensation and expenses of commissioners.** The said commissioners shall be paid for their services five dollars each, for each full day actually employed in their said duties. They shall keep an account of all their expenses and of all the costs and expenses incurred in draining said lands, including all the costs and expenses incurred in any proceedings under this chapter and preliminary or incident thereto, and any land damages

as hereinafter provided, all of which shall be a lien upon the property benefited.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 8 part, as am'd by L. 1869, ch. 888, § 1; L. 1886, ch. 636, § 7; L. 1901, ch. 523, § 1, and L. 1904, ch. 75, §1.

**§ 15. Commissioners authorized to borrow funds.**

In case it shall be necessary to raise funds for construction of said ditches or channels, or land damages, before the assessment hereinafter provided for can be made and collected, the said commissioners are hereby empowered from time to time, with the approval of the court in which the proceeding was initiated or is pending, to borrow so much money as may be necessary therefor, upon such evidences of indebtedness as they may deem proper, bearing interest at the rate of six per centum per annum, payable upon the completion of such assessment and collection; and the interest accruing thereon shall be assessed as other expenses for the said construction. Such evidences of indebtedness shall not be issued for less than par, and shall be receivable in payment of such assessments.

Said commissioners shall thereafter certify such amount to be borrowed to the supervisor or supervisors of the town or towns in which the lands to be assessed are located.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 8 part, as am'd by L. 1869, ch. 888, § 1; L. 1886, ch. 636, § 7; L. 1901, ch. 523, § 1, and L. 1904, ch. 75, §1.

**§ 16. Bonds to be issued and sold to repay moneys so borrowed.** The supervisor or supervisors of such town or towns shall thereupon immediately issue bonds of the town or towns to the total amount named in said statement prepared by said commissioners, and so certified by them to him or them, such bonds to be made payable on or before such time or times, not to exceed five years from the date thereof, as the said commissioners shall determine. In case the lands to be drained are located in more than one town, the total amount to be so raised, as certified by the commissioners, shall be apportioned by the court in which the proceeding is pending among the several towns in which the lands to be drained are located, upon application of said commissioners to said court, written notice of said application having been first served on the supervisors, or town clerks, of such several towns, not less than eight days before such application, unless, upon order to show cause, a shorter notice is permitted to be so served. Upon service of notice of such apportionment, specifying the amount to be raised by each town, the supervisor of each town shall thereupon immediately issue bonds of the town to the

total amount so apportioned to his town, payable in manner, time and form as herein otherwise provided. All such bonds shall bear interest at a rate not exceeding six per centum per annum, and shall be negotiated for not less than their par value. They shall be sold on sealed proposals or at public auction upon notice published in the official paper, if any, and also in each other newspaper actually printed in the town, and in such other newspapers as the supervisor of each town may determine, and posted in three public places in the town, at least ten days before the sale, to the person who will take them at the lowest rate of interest. They shall be consecutively numbered from one to the highest number issued, and the clerk shall keep a record of the number of each bond or obligation, its date, amount, rate of interest, when and where payable, and the purchaser thereof, or the person to whom they are issued. The proceeds from the sale of said bonds shall immediately be delivered by the said supervisor to the treasurer of said commission. The said commissioners shall, from the proceeds derived from the sale of said bonds, pay all obligations incurred by them for draining said lands, authorized by this chapter, including such evidences of indebtedness as they may have theretofore issued in pursuance of authority contained in this chapter.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 8 part, as am'd by L. 1869, ch. 888, § 1; L. 1886, ch. 636, § 7; L. 1901, ch. 523, § 1, and L. 1904, ch. 75, § 1.

**§ 17. Compensation for land taken or damages inflicted.** Any person whose land is taken in the construction of any such ditch or channel shall be paid by said commissioners on or before the commencement of the work the value of the land so taken, and such other injuries as the party may sustain.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 9 part, as am'd by L. 1869, ch. 888, § 1, and L. 1908, ch. 439, § 1.

**§ 18. Condemnation of land.** If the commissioners can not agree with any person upon the compensation and damages for making and maintaining forever such ditches or channels, the said commissioners shall proceed to acquire title to the said easement upon and across the land of such person in the manner, so far as the same is applicable, prescribed by the condemnation law. The easements over and upon all lands included in or affected by the work determined upon by the commissioners may be obtained by one proceeding under this section. In case said commissioners become satisfied before the easements and rights for the maintaining forever of any or all of the ditches or drains previously determined by them to be necessary for the drainage of the lands, as hereinbefore provided, have been fully acquired,

that part of such drains are no longer necessary for the public health they may, with the consent in writing of the owners of the land whereon the same are located, abandon the said drains, so deemed by them to be unnecessary for the public health, and they shall thereupon make a certificate in writing setting forth and describing the ditches and drains so to be abandoned, and file the same in the county clerk's office wherein their determination of the necessity of the draining such lands has been filed, and thereupon the said drains set forth and described in said last named certificate and any and all easements and rights to construct and maintain the same, shall be deemed to be forthwith abandoned and extinguished, but any costs and expenses previously incurred in connection with such drains so abandoned shall be assessed and collected as in this chapter provided.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 9 part, as am'd by L. 1869, ch. 888, § 1, and L. 1906, ch. 439, § 1.

**§ 19. Provisions of this article to apply to proceedings for deepening outlets of ponds.** The provisions of this article shall apply, so far as practicable, to proceedings for deepening and clearing out the outlet of any pond so as to permit the free passage of waters therefrom, and to the performance of the work required therefor, and to the assessment and the payment of the cost of such work.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 1 part, as am'd by L. 1869, ch. 888, § 1; L. 1886, ch. 636, § 1, and L. 1906, ch. 115, § 1.

## ARTICLE 3

### Assessments to Pay Cost of Drainage

- Section 30. Commissioners to make statement of cost of work and assess same according to benefits received.
31. Statement and assessment to be filed.
  32. Notice to be given to owners and officers of towns or villages assessed.
  33. Appeal from assessment.
  34. Levying assessments.
  35. Towns or villages authorized to borrow money to pay assessments.
  36. Method of payment in case of annual assessments.
  37. Commissioners to file and present to court for audit statement of moneys received and disbursed.
  38. Proceedings thereupon.
  39. Appeals on questions of law; how taken.
  40. Land to be sold for non-payment of assessment.
  41. Rights of purchaser on such sale.

Section 42. Redemption of lands so sold; correction of errors in proceedings.

43. Additional assessments to cover deficiencies.

44. Statement of amount and cause of deficiency to be filed.

45. Notice thereof to be given.

46. Appeals and proceedings thereupon.

47. Enforcement of such assessments.

**§ 30. Commissioners to make statement of cost of work and assess same according to benefits received.**

The said commissioners shall, as soon as the said costs, expenses, land damages and compensation, hereinbefore provided for, can be determined and ascertained, make a complete and detailed statement thereof, including all the claims of said commissioners, which statement shall be duly verified by said commissioners or by a majority of them. They shall also, in case they have decided that the public health requires that such lands shall be drained, determine whether any, and if so, how much of the said sum shall be assessed to and paid by the incorporated village, town or county in which the said lands are situated, and whether the same shall be paid in one assessment or in annual instalments, not exceeding thirty in all; the remainder, or in case they shall determine that no portion of said sum shall be paid by said village, town or county, then all of said sum shall be apportioned among the several owners or occupants of such of the lands included in the said map or adjacent thereto, as they shall deem to be directly benefited by said drainage, in proportion to the amount of benefit which each receives therefrom, and they shall in like manner determine, whether said sum so apportioned shall be paid in one assessment, or in annual instalments, as above provided, in reference to assessments to be paid by a village, town or county; provided, however, that the board of supervisors of any such county, the town board of any such town, the board of trustees of any such village, or any such owner or occupant of lands upon which, or to whom said sum or any part thereof is apportioned, may elect to pay the whole of their said apportionment, or the portion thereof at any time remaining unpaid in one assessment, instead of in instalments as above provided. The several amounts so adjudged shall constitute liens upon the respective tracts until paid or otherwise removed with interest from the service of notice of such decision of said commissioners as hereinafter provided, that no portion of the costs, expenses, land damages and compensation provided for in and by this chapter shall be assessed to or

paid by any incorporated village, town or county in which the lands so to be drained are situated, unless a majority of the board of trustees in case of a village; a majority of the town board in case of a town; and a majority of the board of supervisors in case of a county, shall have joined in the petition required by the second section of this chapter. Except, however, that in any case where under the provisions of this chapter a petition shall have heretofore been or hereafter be presented by the supervisor of a town on behalf of such town, as provided in the second section of this chapter, in which petition no other member of the town board shall have joined, the said commissioners shall, in case they have decided that the public health requires the drainage of the land, upon the consent of a majority of the town board of such town, manifested by the adoption of a resolution to that effect, in such case determine whether any, and if so, how much of said sum so ascertained for costs, expenses, land damages and compensation shall be assessed to and paid by such town, and thereupon the amount so determined to be paid by such town shall be assessed upon and paid by such town in one assessment or in annual instalments as such commissioners shall determine.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 10 part. as am'd by L. 1869, ch. 888, § 1; L. 1871, ch. 303, § 2; L. 1886, ch. 636, § 8; L. 1892, ch. 321, § 1; L. 1901, ch. 523, § 2, and L. 1908, ch. 439, § 2.

**§ 31. Statement and assessment to be filed.** The said commissioners shall file in each clerk's office in which their determination of the necessity of draining such lands or duplicate thereof, as provided by section ten of this chapter, is required to be filed, a copy of the said statement, and of the said determination, as to the village or town or county, in case there be any such, and of the said apportionment, and of the time and manner of payment thereof, certified by them, which, or a duly authenticated copy of which, may be received in evidence in any suit or proceedings in this state.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 10 part. as am'd by L. 1869, ch. 888, § 1; L. 1871, ch. 303, § 2; L. 1886, ch. 636, § 8; L. 1892, ch. 321, § 1; L. 1901, ch. 523, § 2, and L. 1908, ch. 439, § 2.

**§ 32. Notice to be given to owners and officers of towns or villages assessed.** They shall also cause notice, written or printed, to be given to each person whose lands are assessed by them, to pay any part of said sum, and also to the supervisor of any town or the president of any village, or the chairman of any board of supervisors of any county that may be assessed by them, which notice shall state the time and place of filing such statement and determination. The said notice

shall be served personally upon such supervisor, president or chairman, and also upon each person whose lands are so assessed, when he can be found with due diligence in a county in which such lands or a part thereof are situated, and when not so found, then by delivering such notice to some person of reasonable age and discretion, residing upon said premises, directed to the owner or occupant thereof, or if no such person be found residing upon said premises and such owner or occupant be not found, then by depositing such notice in the post-office duly enveloped and directed to such owner or occupant at his last known place of residence with the postage prepaid. A copy of such notice with the affidavit of the person who served the same, that he delivered the original to the person to whom it was addressed, shall be evidence of such service.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 10 part, as am'd by L. 1869, ch. 888, § 1; L. 1871, ch. 303, § 2; L. 1886, ch. 636, § 8; L. 1892, ch. 321, § 1; L. 1901, ch. 523, § 2, and L. 1908, ch. 439, § 2.

If the owner or occupant of any land to be affected by proceedings taken pursuant to the provisions of this chapter, be unknown and can not, with due and reasonable diligence, be ascertained, or if a place or places where such owner or occupant would probably receive matter transmitted through the post-office can not with reasonable diligence be ascertained, service of any notice required by this chapter may be made upon such owner or occupant by delivery thereof to the clerk of the county in which said land of such owner or occupant or a part thereof is situated.

Formerly section 22, as added by L. 1886, ch. 636, § 13, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1.

**§ 33. Appeal from assessment.** Any person deeming himself aggrieved thereby, or any officer on whom a notice was served as required by section thirty-two of this article, who deems his village or town or county aggrieved, may appeal from the decision of the said commissioners to the court in which such proceedings were instituted or are pending, for the correction of such assessment, provided he serves upon said commissioners notice of said appeal within ten days after the service upon him of the notice of filing such statement, and the party making the appeal shall, within ten days from the service of notice thereof on the commissioners, make a full statement of the grounds of his appeal setting forth the points on which he feels aggrieved by the determination of said commissioners, and file a certified copy thereof in the office of the clerk of the county in which such lands or a portion thereof affected by said proceedings



are situated, and present the said statement to the court, and the court shall thereupon proceed, without further delay than such as is necessary to give proper notice to the parties interested, to hear and finally determine the appeal. The court may award costs to the successful party on such appeal, not exceeding fifteen dollars besides his necessary disbursements to be taxed by the clerk of the court.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 10 part, as am'd by L. 1869, ch. 888, § 1; L. 1871, ch. 303, § 2; L. 1886, ch. 636, § 8; L. 1892, ch. 321, § 1; L. 1901, ch. 523, § 2, and L. 1908, ch. 439, § 2.

**§ 34. Levying assessments.** The said commissioners shall within thirty days after filing said statement, in case the same is not appealed from, and within thirty days after notice of the final determination of the appellate court thereon, in case the same is appealed from, levy the assessments herein provided for in one sum or annually thereafter until said sum is paid, and proceed to collect the same. In cases where any persons have been awarded land damages, such damages shall be deducted from the assessment, and only the balance shall be collected.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 11 part, as am'd by L. 1869, ch. 888, § 1; L. 1892, ch. 321, § 2; L. 1897, ch. 249, § 1, and L. 1901, ch. 523, § 3.

**§ 35. Towns or villages authorized to borrow money to pay assessments.** In case it is determined that any town or village shall pay any part of such sum, the supervisor of such town, or the board of trustees of such village, is authorized to borrow money on the credit of the town or village, as the case may be, to pay the same, or any instalment thereof, and the board of supervisors shall at their next ensuing annual meeting include the amount assessed on any town in the next tax levy on said town, together with any sum to be paid by said county, which shall be included in the sum to be raised for such county. Money so borrowed shall be upon obligation of the village or town issued at not less than par, bearing interest at six per centum, payable out of the moneys raised by tax levy as aforesaid, and receivable in payment of such taxes.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 11 part, as am'd by L. 1869, ch. 888, § 1; L. 1892, ch. 321, § 2; L. 1897, ch. 249, § 1, and L. 1901, ch. 523, § 3.

**§ 36. Method of payment in case of annual assessments.** In case it is determined that said assessments shall be levied annually, the said commissioners shall also determine the number of assessments not to exceed thirty into which the total assessment shall be divided, and the amount of each annual

**§ 39. Appeals on questions of law; how taken.** An appeal on questions of law arising under articles two, three, four and five of this chapter may be taken from the decision of the court to the appellate division of the supreme court at any time within thirty days after such decision shall have been made and filed; and the same shall be heard as appeals from an order are heard; costs therein to be adjudged in the discretion of the court.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 12 part, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 9.

**§ 40. Land to be sold for non-payment of assessment.** In case any of said assessments, made and perfected as provided for in this chapter, shall not be paid within thirty days after the same shall have been made and demanded of the owner of the land so assessed, or of the occupant or person in charge, if any, or, if the owner shall be a nonresident of the county, and there shall be no occupant or person in charge, and the owner's residence shall not be known, the said commissioners shall proceed to make a proper description of the land on which such unpaid assessment is made, and they shall cause the assessment and description to be published for six successive weeks in a paper published in the town, or if there is no paper published in the town, then in a paper published in the nearest town to said land, together with a notice that if the said assessment is not paid, with the expenses of advertising, on or before a certain day, to be therein designated, and which shall not be less than six weeks from the first publication thereof, the lands so described will be sold at public auction to the person who shall take them for the shortest period and pay the assessment and expenses incurred thereon with interest. On the day designated, or on such other day as the sale may be duly adjourned to, the said premises shall be so sold, and the commissioners on receiving the money bid therefor shall give to the purchaser a certificate of such sale, which certificate shall be presumptive evidence of all the facts stated, and such certificate shall be recorded in the office of the county clerk, as evidence of mortgage sales under the statute is recorded. *Am'd by L. 1909, ch. 240, § 18.*

Formerly R. S., pt. 3, ch. 8, tit. 16, § 13 part, as am'd by L. 1869, ch. 888, § 1.

**§ 41. Rights of purchaser on such sale.** The said certificate shall authorize and empower the purchaser therein named, or his assignee, such assignment to be in writing, duly acknowledged, and in like manner recorded, on the first day of April, July, October or January, then next, to enter into

and take possession of the said land so sold, and to use, occupy and enjoy the same, with the rights of a life tenant, during the time for which he shall have purchased the same, unless the same shall be redeemed as hereinafter provided.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 13 part, as am'd by L. 1869, ch. 888, § 1.

**§ 42. Redemption of lands so sold; correction of errors in proceedings.** The owner, mortgagee, occupant or other person interested, and entitled to redeem lands sold on execution, may at any time within fifteen months from the date of said sale redeem the lands by paying to the purchaser, or to the county clerk for his use, the said purchase-money with fifteen per centum per annum in addition thereto, together with any other tax or assessment which the said purchaser may have paid, chargeable to such land, and a certificate of the clerk stating the payment, and showing what land the payment is intended to redeem, shall be evidence of such redemption, and shall entitle the person so redeeming to a return of such lands. Infants whose lands shall be sold, may redeem at any time within fifteen months after they shall become of full age, on repaying the purchase-money, with six per centum per annum interest thereon to the purchaser; but the purchaser shall in all cases of redemption have a right to all growing crops which he shall have sown after taking possession under such certificate; and he shall have a right to remove all property, or structures which he shall have put upon the land after such purchase, provided the same can be removed without serious injury to the reversion. The court may, at any time, correct any manifest error in any of the proceedings under this chapter, when such correction shall be in furtherance of justice, and the said court may allow such amendments and make such orders and impose such terms as shall promote the objects of this chapter and be equitable to all parties.

Formerly R. S., pt. 3, ch. 8, tit. 16, § 14, as am'd by L. 1869, ch. 888, § 1, and L. 1886, ch. 636, § 10.

**§ 43. Additional assessments to cover deficiencies.** In any case where proceedings have heretofore been taken, pursuant to the provisions of any statute in force at the time of the taking effect of this chapter, or shall hereafter be taken pursuant to the provisions hereof for the drainage of any lands, if the commissioners in the discharge of their duties shall have heretofore incurred, or shall hereafter incur any expenses or obligations in excess of the amount contemplated and provided for by them in the assessment made pursuant to sections thirty to thirty-

two inclusive of this chapter, or the amount collected upon such assessment, after due diligence, shall be found insufficient to meet all lawful and necessary expenditures and obligations contemplated by said statutes in force at the time of the taking effect of this chapter or pursuant to the provisions hereof, the commissioners in such case shall have power to make a further assessment to provide for such deficiency.

Formerly section 21 part, as added by L. 1881, ch. 608, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1886, ch. 636, § 12.

**§ 44. Statement of amount and cause of deficiency to be filed.** For the purpose of making such further assessment, the commissioners shall make and file in the office of the clerk of each county in which this chapter requires the original assessment, or a duplicate thereof, to be filed, a statement duly verified and signed by at least two of them, setting forth the items of such deficiency, and the occasion or cause thereof, and the name of each person to be affected thereby, so far as the same can with reasonable diligence be ascertained, and shall attach thereto an order, signed by two or more of them, that the amount thereof be assessed and levied upon the property originally assessed in such proceeding.

Formerly section 21 part, as added by L. 1881, ch. 608, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1886, ch. 636, § 12.

**§ 45. Notice thereof to be given.** Said commissioners shall thereupon cause notice, written or printed, to be given to the several owners or occupants of the lands to be affected by such assessment, stating the time and place of the filing of such statement and order, which notice shall be served personally upon such owners or occupants, when they can be found, after due diligence, in a county in which such lands or a part thereof are situated, and when not so found, then by delivering such notice to some person of reasonable age and discretion, residing upon said premises, directed to the owner or occupant thereof, or if no such person be found residing upon said premises, and such owner or occupant be not found, then by depositing such notice in the post-office, duly enveloped and directed to such owner or occupant, at his last known place of residence, with postage prepaid.

Formerly section 21 part, as added by L. 1881, ch. 608, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1886, ch. 636, § 12.

**§ 46. Appeals and proceedings thereupon.** Within ten days after service of such notice, any person feeling aggrieved

thereby may appeal to the court, in which said proceedings shall have been instituted, or are pending, from such order and statement, by serving a notice of appeal upon one of said commissioners, stating distinctly and specifically the error complained of in respect to said order or statement. If the proceedings are taken or are pending in the county court, said court shall be deemed always open for the hearing of such appeal, and the same may be brought to hearing on eight days' notice by either party, or his attorney, if any shall have appeared for him. The court to which such appeal is taken shall have power to hear the proofs of parties and determine whether, or to what extent such new assessment is necessary for the payment of all obligations actually incurred by said commissioners, in the discharge of their duties, provided the said court shall not consider any question not distinctly and specifically raised by said notice of appeal. Said court may, if it seems just, direct that said statement be amended to conform to its determination in respect thereto, and shall award costs, to be paid by such appellant, to such commissioners, if such appeal be unsuccessful, which costs shall be the same as those given by law for like services in cases of appeal from justices' courts where a new trial is had in the appellate court. In case such appeal be in any part successful, costs shall not be allowed unless such commissioners be guilty of fraud or intentional wrong in respect to the matters so reviewed, and in that case the court may, in its discretion, allow costs to the appellant, to be paid by such commissioners personally. Costs when allowed shall be adjusted and collected in the same way as an action in the court. Such determination in said court shall be final and conclusive.

Formerly section 21 part, as added by L. 1881, ch. 608, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1886, ch. 636, § 12.

**§ 47. Enforcement of such assessments.** After the time for appeal has expired, if no appeal is taken, or if such appeal is taken, then, when such appeal has been finally determined, said commissioners shall apportion the amount so to be assessed upon the real estate included in the original assessments in the same proportion or ratio as such original assessment was made and levied, and they shall thereupon make and file in each clerk's office, and wherever else such statement first herein provided for was filed, a statement showing each piece of land so assessed, and the name of the owner or occupant thereof, at such time, and the amount assessed against each, duly verified by at least two of said commissioners. Such assessment

article, or may have the said work done by days' work under his supervision, or under the supervision of some person to be designated and appointed by him. When the said repairs or enlargement shall be finished, it shall be the duty of the said water commissioner to make up an itemized account of his expenditures in making the said repairs or enlargement, and file the same in the town clerk's office of the town or towns in which the said ditch or ditches are situated, and also in the office of the county clerk of the county or counties embracing the said town or towns. At the next meeting of the town board of the town for the audit of claims against the said town, it shall be the duty of the said board to audit and allow the said expenditures so made by the said water commissioner not exceeding the sum of five hundred dollars in any one year; and the same shall be certified with the other town audits of the said town to the board of supervisors of the county or counties in which the said town or towns are situated, and the expenses thereof shall be apportioned among the owners of any premises which were originally assessed, for the construction of the said ditch or ditches, according to the valuations thereof on the last assessment-roll, and the said tax shall be placed in the annual tax roll in a separate column opposite the name of the person assessed, which column shall be headed "Ditch Tax," and shall be collected by the collector with the annual state and county taxes against the said person or his property, in the same manner and at the same time that other taxes are levied and collected. And in case any town has contributed to the construction of the said ditch or ditches, the said town shall be liable for the said repairs or enlargement of the said ditch or ditches, in the same proportion that they were originally assessed for the construction of the same, which shall also be levied and collected out of the taxable inhabitants of said town, in the same manner that other town taxes are levied and collected. When the said ditch tax shall be so collected, it shall be paid over by the collector to the said water commissioner, who shall use the same in the payment of the liabilities for repairing or enlarging the said ditch or ditches, and upon such payment he shall take vouchers therefor, and the same shall be filed by him in the town clerk's office of the town or towns in which the said ditch or ditches are situated.

Formerly section 36, as added by L. 1899, ch. 111, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1.

**§ 63. Determination as to necessity for repairs or enlargement.** If it shall appear that such ditch or channel

is filled up in whole or in part or the passage of water therein to any considerable extent is impeded, or that said ditch or channel is not large enough to carry off the waters properly, which it was intended to carry off, the water commissioner shall make and sign an order directing that the said ditch or channel be repaired or enlarged or both as the case may be and file the same in the office of the county clerk of each county wherein said ditch or channel is located, which order shall be final and no appeal therefrom or review thereof of any kind shall be allowed.

Formerly section 27 part, as added by L. 1890, ch. 557, § 1 to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, § 4.

**§ 64. Survey and report of engineer.** Thereupon said water commissioner shall cause a survey to be made, by a competent civil engineer who shall be employed by him, of such ditch or channel and such measurements as shall show the work and excavations required to restore such ditch or channel to its depth or width as originally surveyed and designed for construction as shown by the maps, surveys, plans and specifications made for such original work. When the order is for the enlargement of such ditch or channel the survey shall show the extent of the enlargement that may be necessary. When sufficient data can not be found the measurements and surveys shall be such as will show the proper depth and width required to drain the lands originally sought to be drained, conforming, however, to the original design and work so far as the same can be ascertained except that the measurement and surveys shall not be limited to the original design when an enlargement of such ditch or channel has been ordered. A report shall be made by the engineer to the water commissioner showing plans and specifications of the needed repairs or enlargement giving all data sufficient to designate the place where repair or enlargement is required, the grade and width at such point, and all the data of such excavation or any work required and the amount and nature thereof, for each tract or lot of land traversed by said ditch separate from the others and numbered as a section. The report shall be verified by the engineer to the effect that it contains all the data required by this chapter, and that no other estimates are included therein and shall be filed in the county clerk's office of the county in which proceedings were instituted. Thereupon the work for such repairs or enlargement shall be let by the water commissioner to the lowest bidder therefor.

Formerly section 27 part, as added by L. 1890, ch. 557, § 1 to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, § 4.

**§ 65. Proposals and contracts for work.** The work of such repair or enlargement required to be done upon each such lot or parcel of land traversed by said ditch or channel and designated by number of section on said engineer's report shall be offered separately from the others, and let to the lowest bidder for such part or section of said work; said water commissioner shall advertise for bids or proposals for said work, to be made in writing, in two newspapers published in said county, or if the ditch be in more than one county, then in each such county, for not less than once in each of two successive weeks, stating the time and place for receiving the bids and where the plans and specifications can be examined. Upon receipt of the proposals, said water commissioner may enter into contract with the lowest bidder for the work to be done on any of said sections, or may reject any or all bids, and again advertise for further bids. He may require of any contractor security for the proper performance of any contract. Such contract shall provide for the payment of the contract price, when the work is done according to the specifications, by an issue of said commissioner of certificates of indebtedness made payable by the collector of taxes of the town in which the work is done, or, if any such tract or lot of land is situated in more than one town, then of the town wherein said lot is taxed for state and county taxes.

Any contractor for such repairs or enlargement shall have the right to enter upon the premises and have free access thereto with all necessary tools and teams, and may deposit the earth or material excavated along the bank of the ditch or channel within a reasonable distance, provided he shall leave the surface thereof as nearly smooth as is practicable, and shall do the work without causing damage to crops further than is necessary.

Formerly sections 28 and 31, as added by L. 1890, ch. 557, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, §§ 5, 7.

**§ 66. Statement of expense to be made and filed.** When the total cost and expense of such repairs or enlargement is ascertained the water commissioner shall make and file in said county clerk's office a detailed statement, giving each item of expense and the date thereof, including the day of the month on which each water commissioner was employed, and the nature of his employment, which statement shall be verified to the effect that it is just and true.

Formerly section 29 part, as added by L. 1890, ch. 557, § 1 to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, § 6; L. 1896, ch. 819, § 1, and L. 1905, ch. 325, § 1.



**§ 67. Notice of assessments.** Immediately after filing the statement required by section sixty-six of this article the water commissioner shall, unless he shall deem a new assessment desirable, levy and assess the total cost and expenses of such repairs or enlargement upon the lands originally assessed for the construction of such ditch or channel, and upon the same basis or ratio, and shall make a roll or statement thereof containing a description of each tract or parcel of land assessed, so far as may be required to identify the same, the number of acres assessed in each tract, the name of the owner thereof and his post-office address, or where the person is not known, or his post-office address can not be ascertained, then the name and post-office address of the occupant thereof and also the amount assessed on each tract or lot. In case the situation, condition or ownership, of the lands and premises affected or benefited as originally assessed for the construction of said ditch or channel shall have become changed, so as to make a new assessment desirable, the water commissioner may assess the total cost and expenses of such repairs or enlargement upon the lands benefited by the drain repaired according to the situation of the same and the benefit which shall be derived thereto from the repair or enlargement of said ditch or channel. When any assessment shall exceed twenty-five dollars the water commissioner, in his discretion, may make it payable in two instalments by indicating the same upon such roll, the last instalment to be due one year after the first. The roll or assessment shall be verified by the oath of the water commissioner by whom the same is made to the effect that the same is in all respects just and true, and shall be filed in the office of the clerk of the county in which said ditch or channel or any part thereof is located.

The said water commissioner shall give notice of such assessment and of the filing thereof to each person whose lands are assessed by him to pay any part of said sum, and also to the president of any village or to the chairman of the board of supervisors in the county that may be assessed by him. Such notice shall be given in the manner prescribed for giving notice of assessment provided in section thirty-two of this chapter.

Formerly section 29 part, as added by L. 1890, ch. 557, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, § 6; L. 1896, ch. 819, § 1, and L. 1905, ch. 325, § 1.

In case any repairs, alterations or enlargement has been made, or proceedings have been taken for the making of any such repairs, alterations or enlargement of any ditch or ditches or other channels for the free passage of water or for the making or collecting of any assessment to defray the expense

thereof prior to the passage of this chapter, such assessment or collection thereof shall not be affected hereby; but the water commissioner having jurisdiction of such proceedings shall cause notice of such assessment, written or printed, to be given to the person whose land is assessed by him to pay any part of said sum, and also to the supervisor of the town or the president of any village or chairman of the board of supervisors of any county that may be assessed by him, of such assessment, which notice shall state the time and place of filing of the detailed statement of such assessment which notice shall be served in the manner prescribed for giving notices of assessment provided for in section thirty-two of this chapter. If any proceedings have been heretofore taken for the repairing, altering or enlarging of any such ditches or drains, and no assessment has been made or levied to defray the expenses thereof, the water commissioner of his town or his successor in office, shall proceed to make and levy such assessment and give notice thereof in the manner and form provided for levying assessments and giving notice thereof provided in sections thirty to thirty-two inclusive of this chapter. If any water commissioner shall have heretofore levied an assessment for repairs, alterations or enlargement of any such ditches or drains and such assessment shall for any reason be, or be adjudged void by a court of competent jurisdiction the water commissioner having jurisdiction or authority over such ditches or drains shall have power to make a new assessment for the purpose of paying the expenses of said proceedings, which assessments shall be made and notice given thereof as provided in sections thirty to thirty-two inclusive of this chapter, and if any new assessment shall be made in any case as provided in this section the sums that have been paid by any person in respect of any land assessable under this chapter for or toward paying such void assessments upon such lands shall be credited upon the amounts chargeable upon said lands in any new assessment. *Am'd by L. 1909, ch. 240, § 19.*

Formerly section 33, as added by L. 1890, ch. 557, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, § 8, and L. 1896, ch. 819, § 2.

**§ 68. Appeals from assessments.** Appeals from any such assessment may be made by any person deeming himself aggrieved thereby, or by any officer on whom a notice was served as provided in section sixty-seven of this article, who deems his village or town or county aggrieved, in the same manner as is provided for appeals under similar assessments in section thirty-

three of this chapter, and the provision of said section thirty-three in regard to appeals from assessments and the procedure thereof shall govern and control the parties and proceedings in all appeals that may be taken from assessments made under this article.

Formerly section 29 part, as added by L. 1890, ch. 557, § 1 to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, § 6; L. 1896, ch. 819, § 1, and L. 1905, ch. 325, § 1.

**§ 69. Collection of assessments.** The assessment made thereby, or such modification thereof as shall be made upon any appeal taken therefrom shall become a lien upon the several lots or tracts of land on which the same shall be assessed as of the date of such filing, and shall be forthwith collected by the collector of the town or towns in which the same shall be situated. Provided that in case where any such ditch or channel has been kept open and cleaned to its full width and depth as originally laid out, by the owners of the land through or across which it was constructed, at their own expense, such lands shall be exempt from such proportion of the tax or assessment for any repairs or enlargement of such ditch or channel as shall be equal to the cost or expense of so having kept the same open and cleaned, to be fixed and determined by said water commissioner and the tax or assessment on any such lands shall be lessened accordingly.

Formerly section 29 part, as added by L. 1890, ch. 557, § 1 to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1, and as so added am'd by L. 1892, ch. 321, § 6; L. 1896, ch. 819, § 1, and L. 1905, ch. 325, § 1.

**§ 70. Proceedings of collector; enforcement of payment.** On receipt of the roll or statement the collector shall mail forthwith to each person named therein as owner or occupant of any tract or parcel of land assessed within his town at his post-office address stated therein, postage prepaid, a notice stating the amount of the assessment upon the tract or parcel of land owned or occupied by him and the date within which the same must be paid, which shall be thirty days from the mailing of such notice. If such assessment is not paid within that time the collector shall, within thirty days thereafter, proceed to enforce payment thereof and of the interest thereon from the time it became payable as aforesaid, in the manner provided for collecting assessments by section forty of this chapter, and sections forty-one and forty-two of said chapter shall be applicable to any case where an assessment has been so enforced. All moneys collected on said roll as the same shall be received by the collector, shall be paid by him upon the certificates of indebtedness issued

said new map shall conform in all particulars to the requirements contained in section twelve of this chapter. The said maps shall be prepared by a competent civil engineer upon such data as may be obtained from the maps and plans according to which said existing drains, ditches and channels were or shall have been constructed and such additional surveys and levels to be made or taken by said engineer as may be required and the said engineer shall certify that the proposed changes will not according to his best knowledge and belief impair the existing drainage for the public use. The changes hereby authorized may include the change of the form and manner of construction of any ditch or drain, the substitution of a covered or closed drain for an open ditch or drain, the change of the line or course of any ditch or drain and the abandonment of lateral or subsoil pipes, ditches or drains the necessity for which is to be obviated by filling the lands to a proper depth. Any drains or ditches intended to be discontinued shall not be shown on said new map. If the water commissioner to whom such petition is presented shall be satisfied that the drainage for the public use will not be impaired by the proposed changes he may approve of such proposed new plan or map and shall in such case certify his approval in writing and file said petition, maps and certificate in the office of the clerk of the county wherein the lands described in the petition are situated; provided, however, that the said water commissioner shall not approve said new map or plan unless the same shall have been previously approved by a majority of the board of trustees of the village in which all or any portion of the said drains, ditches and channels to be affected by the proposed change are located. The petitioner may thereafter proceed to construct at his own cost and expense the new drains and ditches and to fill in the lands in accordance with the new map so approved by the water commissioner and upon the completion of the work and in case the drains and ditches upon the lands of the petitioner and which are shown upon said new map or plan shall then prove to be sufficient and proper for the public use and necessity for which the easements were originally acquired without the continuance of the ditches, drains and pipes intended to be superseded and discontinued by such plan and not shown thereon the petitioner, his heirs and assigns shall be entitled to and the water commissioner shall issue to him or to them a certificate to the foregoing effect and such certificate shall thereupon be filed in the said clerk's office with said petition, maps and certificate of approval. Upon such filing the easements for the public use in all drains, ditches and channels upon the petitioner's

said lands now shown upon said new map shall be extinguished and corresponding easements of the same nature, quality and duration shall be acquired for the public use for the maintenance of the new ditches, drains and channels constructed by the petitioner and shown and described on said new map. The petitioner shall be responsible for all damages he may cause by carelessness or negligence in making the changes authorized as above provided and the water commissioner may require reasonable security for the payment of such damages as a condition of his approval of the proposed changes.

Formerly section 38, as added by L. 1908, ch. 439, § 3 to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1.

**§ 74. Kings county excepted from provisions of this article.** This article shall not apply to the county of Kings.

Formerly L. 1890, ch. 557, § 2.

## ARTICLE 5

### Miscellaneous Provisions

Section 80. Penalties.

81. Notice of court proceedings.

82. Notice to superintendent of public works.

83. Persons injured through failure to keep ditch open may apply to fence viewers; proceedings thereupon.

84. Town of Newcastle exempted from the foregoing provisions of this chapter.

**§ 80. Penalties.** Any person who shall do any act to hinder or obstruct the flow of water in a ditch made or repaired under the provisions of this and the preceding articles of this chapter, or who by his negligence or carelessness shall suffer or permit the flow of water in said ditch to be hindered or obstructed, shall be guilty of a misdemeanor.

Formerly section 35, as added by L. 1892, ch. 321, § 10, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1.

**§ 81. Notice of court proceedings.** Any appeal or other proceeding before the court, taken pursuant to the provisions of articles two, three and four of this chapter, in a proceeding initiated or pending in the supreme court, except in a proceeding for the condemnation of real property, may be noticed for hearing at any special term of said court at which a motion on notice may

be made in an action pending in a county in which such lands or a part thereof are situated.

Formerly section 23, as added by L. 1886, ch. 636, § 13, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1.

**§ 82. Notice to superintendent of public works.** In any case where the lands sought to be drained lie in two or more counties, no order of court shall be entered for the drainage thereof, under the provisions of this chapter until the certificates of the superintendent of public works and state engineer and surveyor shall have been first obtained, that such drainage would not affect injuriously, the navigation of any of the canals of this state.

Formerly section 24, as added by L. 1886, ch. 636, § 13, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1.

**§ 83. Persons injured through failure to keep ditch open may apply to fence viewers; proceedings thereupon.** If any person through whose lands regularly constructed ditches now exist and run, fails to keep the same opened through his said lands, after a request in writing has been served on him at least for a period of ten days, then, and in that case, any person whose lands are damaged by said failures shall apply to the fence viewers of the town in which such ditch or ditches run, that are not properly opened, to open such ditch or ditches, and then on such failure said fence viewers shall notify the person complained of requesting him to open said ditches or appoint a fence viewer to represent him, and such person complaining shall appoint a fence viewer to represent him. In the event of the person complained of not opening the ditch or appointing a fence viewer, after a lapse of the said ten days, it shall be lawful for the person complaining to appoint another fence viewer, and those two shall examine the ditches and assess the damages thereof for cleaning the same. In the event of the two not agreeing they shall appoint a third fence viewer and the decision of two shall be binding on all parties concerned, and the expense of said fence viewers and the charges for cleaning said ditches shall be a charge and lien against the premises through which said ditch or ditches run, or such proportion thereof as runs through said land. In event of fence viewers finding against the complainant, the fees of fence viewers and expenses of proceedings shall be a charge against the complainant. The fence viewers in these proceedings shall receive the same compensation as in their other official duties.

Formerly section 37 as added by L. 1904, ch. 433, § 1, to R. S., pt. 3, ch. 8, tit. 16, as am'd by L. 1869, ch. 888, § 1.

**§ 84. Town of Newcastle exempted from the foregoing provisions of this chapter.** The town of Newcastle in the county of Westchester is hereby exempted from the provisions of articles two, three, four and five of this chapter, and all proceedings for the drainage of swamps, marshes and other low lands in such town shall be conducted in conformity with the provisions of the revised statutes, part three, chapter eight, title sixteen, as they existed prior to the amendment of chapter eight hundred and eighty-eight of the laws of eighteen hundred and sixty-nine.

Formerly L. 1871, ch. 43, which was repealed by L. 1879, ch. 282, § 1, and revived in part by L. 1880, ch. 388, § 1.

## ARTICLE 6

### Drainage of Agricultural Lands

- Section 90. Use of ditches along or across highways.
91. Fence viewers to determine differences between owners who have entered into agreement for drainage.
  92. Proceedings of fence viewers; disqualification.
  93. Findings of fence viewers and their compensation.
  94. Water directed into natural channel not to be deemed diversion thereof from lands drained.

**§ 90. Use of ditches along or across highways.** Whenever any owner of agricultural lands desires to drain the same, or to reclaim and secure for tillage or other farming purposes, any low, marshy or wet lands, by draining the same, the said owner or as many owners of such lands as may join for said purpose under any agreement, contract or writing entered into by them, may, with the consent and under the supervision of the commissioners of highways of any town wherein the said lands are located, lay out and construct the necessary drains or ditches for draining such lands, so as to connect with and flow into the drains, ditches or other water courses along or across any public road or highway, or through or under any sluice, or under any bridge upon any public road, or highway, provided that the draining of any land in such manner shall not endanger any such road or highway, or impede travel thereon on account of overflow. In case any additional quantity of water thus emptied into the highway ditches or other courses for carrying off water be in excess of their usual capacity, the commissioners of highways are hereby authorized to so enlarge or cause to be enlarged, the said highway ditches or other courses that they can receive the

waters thus drained into them, without damage, or danger of damage or obstruction to the highway.

Formerly L. 1891, ch. 310, § 1.

**§ 91. Fence viewers to determine differences between owners who have entered into agreement for drainage.** In case of any difference or disagreement arising over the laying out and construction of drains or ditches by the owners of adjoining lands, who have previously entered into an agreement for the drainage of any such lands possessed by them, as in section ninety of this chapter mentioned, which agreement shall be in writing, the said owners may make in writing, in which all said owners interested shall unite, an application to the fence viewers of the town wherein the land to be drained is situated, to hear and determine the matters of difference between said owners, upon submission to said fence viewers, in the same manner as they would a matter touching any divisions of lands or farm lines for the building and maintaining of line fences, or any other matter which may now be by law submitted to said fence viewers. And the said fence viewers shall, before making their report, view the premises or lands included within the area of the proposed drainage, and give opportunity to any party interested to be heard. And any agreement made by any of said owners for said submission to the said fence viewers, shall be held and construed to be as legal and binding upon the parties thereto, as any contract or agreement made for any lawful purpose.

Formerly L. 1891, ch. 310, § 2.

**§ 92. Proceedings of fence viewers; disqualification.**

It shall be the duty of the fence viewers to act when called upon, in the manner and for the purpose hereinbefore provided, and they shall meet and proceed upon any application made as provided, within ten days after receiving the same; and said application shall contain a particular statement of all the matters and things upon which their action is requested, within the meaning of this article, by the parties to said application, but no fence viewer who is an owner of any land or has any personal interest in any matter involved in the proceeding, shall be competent to act; and in case of such disqualification of any said officer, his place may be filled by any justice of the peace of the town who may not be for the same reason disqualified, and whom the persons uniting in the application for such proceeding as provided, may agree upon.

Formerly L. 1891, ch. 310, § 5.



**§ 93. Findings of fence viewers and their compensation.** The conclusions and findings of said fence viewers shall be in writing, one copy of which shall be delivered to the applicants in every such proceeding, and one copy shall be filed in the office of the clerk of the town wherein the land proposed to be drained is located. The compensation or fees of said fence viewers in such proceeding, shall be the same as now allowed by law, in the case of establishing and maintaining line fences and shall be paid by the parties making the application hereinbefore mentioned.

Formerly L. 1891, ch. 310, § 3.

**§ 94. Water directed into natural channel not to be deemed diversion thereof from lands drained.** Where any water or drainage has been carried or directed by owners of lands as in this chapter provided, across, through or under said land to a point of intersection with the natural flow, drainage or outlet of water, upon the surface, along or by the side of any lands adjoining, but not embraced within the portion or district of land so drained as by this chapter provided, the same shall not be deemed as a diversion of any drainage or flow of water from the lands included within the area so drained.

Formerly L. 1891, ch. 310, § 4.

## ARTICLE 7

### Laws Repealed; When to Take Effect

Section 100. Laws repealed.

101. When to take effect.

**§ 100. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

[New.]

**§ 101. When to take effect.** This chapter shall take effect immediately.

#### SCHEDULE OF LAWS REPEALED.

Revised Statutes....	Part 3, chapter 8, title 16.....	All.
Laws of	Chapter	Section
1816.....	143.....	All
1828.....	21.....	1, ¶ 212 (2d meet.)
1851.....	345.....	All
1851.....	503.....	All

§ 100	Laws Repealed.		Art. 7
Laws of	Chapter	Section	
1869.....	888.....	All	
1870.....	38.....	All	
1871.....	43.....	All	
1871.....	303.....	All	
1873.....	243.....	All	
1879.....	282.....	All	
1880.....	388.....	All	
1881.....	608.....	All	
1882.....	326.....	All	
1886.....	636.....	All	
1888.....	259.....	All	
1888.....	527.....	All	
1890.....	557.....	All	
1891.....	310.....	All	
1892.....	321.....	All	
1895.....	384.....	All	
1896.....	502.....	All	
1896.....	819.....	All	
1897.....	168.....	All	
1897.....	249.....	All	
1899.....	111.....	All	
1901.....	523.....	All	
1904.....	75.....	All	
1904.....	433.....	All	
1905.....	325.....	All	
1906.....	115.....	All	
1908.....	439.....	All	

# EDUCATION LAW

---

**L. 1909, Ch. 21. "An Act relating to education, constituting chapter sixteen of the Consolidated Laws."**

(In effect February 17, 1909.)

## CHAPTER 16 OF THE CONSOLIDATED LAWS

[This is a consolidation of The Consolidated School Law, The University Law and independent statutes not heretofore incorporated in any General Law.]

## CHAPTER 16 OF THE CONSOLIDATED LAWS EDUCATION LAW

- Article**
1. Short title and definitions (§§ 1, 2).
  2. School districts (§§ 20-49).
  3. School neighborhoods (§§ 60-62).
  4. District meetings (§§ 80-97).
  5. School buildings and sites (§§ 110-126).
  6. School district officers; general provisions (§§ 140-152).
  7. District clerk, treasurer, collector (§§ 170-177).
  8. Trustees (§§ 190-205).
  9. Boards of education (§§ 220-248).
  10. Town clerks (§§ 260, 261).
  11. Supervisors (§§ 280-285).
  12. School commissioners (§§ 300-315).
  13. Commissioner of education (§§ 330-341).
  14. Appeals or petitions to commissioner of education (§§ 360-362).
  15. Assessment and collection of taxes (§§ 380-410).
  16. School district bonds (§ 430).
  17. School moneys (§§ 450-461).
  18. Trusts for schools; gospel and school lots (§§ 480-488).
  19. Fines, penalties, forfeitures and costs (§§ 500-512).
  20. Compulsory education (§§ 530-538).
  21. Teachers and pupils (§§ 550-568).

---

**Explanation.**—For location and disposition of former sections of The Consolidated School Law and The University Law see respectively L. 1894, Ch. 556, and L. 1892, Ch. 378, in "Consolidated Schedule of Repeals," Vol. 7.

- Article 22.** Text-books (§§ 580-583).
23. Contract system (§§ 600-602).
24. Teachers' institutes (§§ 620-626).
25. Training classes and training schools (§§ 640-645).
26. Normal schools; state normal college (§§ 660-679).
27. The flag (§§ 700-703).
28. Fire drills (§§ 720-723).
29. Arbor day (§§ 740-743).
30. Physiology and hygiene (§§ 760, 761).
31. Special instruction by pictorial or graphic reproduction (§§ 780, 781).
32. Instruction in drawing and in vocal music (§§ 800-802).
33. General industrial and trade schools (§§ 820-824).
34. Kindergartens (§ 840).
35. Orphan schools (§§ 860-862).
36. Indian schools (§§ 880-883).
37. Compulsory education of Indians (§§ 900-909).
38. Instruction of deaf mutes and of the blind (§§ 920-930).
39. New York state school for the blind (§§ 940-961).
40. Schools for colored children (§§ 980-982).
41. School census (§§ 1000-1004).
42. Libraries (§§ 1020-1071).
43. University of the state of New York (§§ 1080-1106).
44. Cornell university (§§ 1120-1129).
45. State school of agriculture at St. Lawrence university (§§ 1140-1142).
46. State school of agriculture at Alfred university (§§ 1160-1162).
47. State school of agriculture at Morrisville (§§ 1180-1183).
48. Laws repealed; saving clause; when to take effect (§§ 2000-2002)

## ARTICLE 1

### Short Title and Definitions

- Section 1.** Short title.  
2. Definitions.

**§ 1. Short title.** This chapter shall be known as the "Education Law."

New.

**§ 2. Definitions.** Academy. The term "academy," when used in this chapter, means an incorporated institution for instruction in higher branches of education, but not authorized to confer degrees, and such high schools, academic departments in union schools and similar unincorporated schools as are admitted by the regents to the university as of academic grades.

College. The term "college," when used in this chapter, includes universities and other institutions for higher education authorized to confer degrees.

University. The term "university," when used in this chapter, means university of the state of New York.

Regents. The term "regents," when used in this chapter, means board of regents of the university of the state of New York.

Commissioner. The term "commissioner," when used in this chapter, means commissioner of education.

School commissioner. The term "school commissioner," when used in this chapter, means the local officer provided for in article twelve.

Higher education. The term "higher education," when used in this chapter, means education in advance of common elementary branches, and includes the work of academies, colleges, universities, professional and technical schools, and educational work connected with libraries, museums, university extension courses and similar agencies.

Trustee. The term "trustees," when not used in reference to a school district, includes directors, managers or other similar members of the governing board of an educational institution.

Parental relation. The term "persons in parental relation" to a child, when used in this chapter, includes the parents, guardians or other persons, whether one or more, lawfully having the care, custody or control of such child.

School authorities. The term "school authorities," when used in this chapter, means the trustees, or board of education, or corresponding officers, whether one or more, and by whatever name known, of a city, union free school district, common school district, or school district created by special law. *Amended by L. 1909, ch. 240, § 20.*

Formerly L. 1892, ch. 378, § 2, and L. 1894, ch. 556, tit. 16, § 2 part as added by L. 1894, ch. 671, § 13, and am'd by L. 1903, ch. 459, § 1.

## ARTICLE 2

### School Districts

Section 20. Formation.

21. Formation, alteration and dissolution of certain joint districts.

- Section 22. Special meeting of joint district to act regarding dissolution.
23. Alteration by consent.
  24. Alteration without consent.
  25. Hearing of objections to order for alteration without consent.
  26. Dissolution by consent and consequent alteration of districts.
  27. Dissolution, re-formation and consolidation of districts.
  28. Division of union free school district which contains two incorporated villages.
  29. Method and result of election.
  30. Apportionment of indebtedness.
  31. Temporary attendance of pupils as before division.
  32. Continuance of dissolved district for payment of debts.
  33. Deposit of records of dissolved district.
  34. Property of districts consolidated.
  35. Sale of property of dissolved district and disposition of proceeds.
  36. Collection and distribution of moneys due dissolved district.
  37. Fees of supervisor and town clerk.
  38. Notice of meeting for establishment of union free school district.
  39. Posting, publication and service of notice.
  40. Expense of notice.
  41. Notice and expense in case of adjoining districts.
  42. Proceedings at meeting and effect of affirmative vote.
  43. Meeting to determine regarding reorganization as common school district.
  44. Result of vote for or against reorganization.
  45. Reversion to form of original school districts.
  46. School commissioner may require equality of partition.
  47. Effect of veto by school commissioner regarding subsequent meeting.
  48. Report of proceedings to commissioner of education.
  49. Distribution of moneys on dissolution.

**§ 20. Formation.** It shall be the duty of each school commissioner, in respect to the territory within his district:

1. To divide it, so far as practicable, into a convenient number of school districts, and alter the same as herein provided.

2. In conjunction with the commissioners of adjoining school commissioner districts, to set off joint districts, composed of adjoining parts of their respective districts and separately to institute proceedings to alter the same in respect to the territory within his own district.

3. To describe and number the school districts, and joint districts, and to deliver, in writing, to the town clerk, the description and number of each district lying in whole or in part in his town, together with all notices, consents and proceedings relating to the formation or alteration thereof, immediately after such formation or alteration. Every joint district shall bear the same number in every school commissioner district of whose territory it is in part composed.

Formerly L. 1894, ch. 556, tit. 6, § 1, subd. 2, as am'd by L. 1895, ch. 223, § 1.

**§ 21. Formation, alteration and dissolution of certain joint districts.** Whenever it may become necessary or convenient to form a school district out of parcels of two or more school commissioner districts, the school commissioners of such districts, or a majority of them, may form such district; and the school commissioners within whose districts any such school district lies, or a majority of them, may alter or dissolve it.

Formerly L. 1894, ch. 556, tit. 6, § 7.

**§ 22. Special meeting of joint district to act regarding dissolution.** If a school commissioner, by notice in writing, shall require the attendance of the other school commissioners, at a joint meeting for the purpose of altering or dissolving such a joint district, and a majority of all the commissioners shall refuse or neglect to attend, such commissioners attending, or any one of them, may call a special meeting of such school district for the purpose of deciding whether such district shall be dissolved; and its decision of that question shall be as valid as though made by such commissioners.

Formerly L. 1894, ch. 556, tit. 6, § 8.

**§ 23. Alteration by consent.** With the written consent of the trustees of all the districts to be affected thereby, the school commissioner may, by order, alter any school district within his jurisdiction, and fix, by said order, a day when the alteration shall take effect.

Formerly L. 1894, ch. 556, tit. 6, § 2.

**§ 24. Alteration without consent.** If the trustees of any districts affected thereby refuse to consent, the school commissioner may make and file with the town clerk his order making the alteration, but reciting the refusal, and directing that the order shall not take effect, as to the dissenting districts, until a day therein to be named, and not less than three months after the date of such order.

Formerly L. 1894, ch. 556, tit. 6, § 3.

**§ 25. Hearing of objections to order for alteration without consent.** Within ten days after making and filing such order the school commissioner shall give at least a week's notice in writing to one or more of the assenting and dissenting trustees of any districts to be affected by the proposed alterations, that at a specified time, and at a named place within the town in which either of the districts to be affected lies, he will hear the objections to the alteration. The trustees of any district to be affected by such order may request the supervisor and town clerk of the towns, within which such districts shall wholly or partly lie, to be associated with the school commissioner. At the time and place mentioned in the notice, such commissioner, with the supervisors and town clerks, if they shall attend and act, shall hear and decide the matter, and the decision shall be final unless duly appealed from. Such decision must either affirm or vacate such order, and must be filed with and recorded by the town clerk of the town in which the district to be affected shall lie, and a tie vote shall be regarded a decision for the purposes of an appeal on the merits. Upon such appeal the commissioner of education may affirm, modify or vacate the order of the school commissioner or the action of the local board.

Formerly L. 1894, ch. 556, tit. 6, § 4, as am'd by L. 1895, ch. 223, § 2, and L. 1896, ch. 264, § 3.

**§ 26. Dissolution by consent and consequent alteration of districts.** 1. Whenever one or more common school districts shall adjoin any union free school district whose limits do not correspond with those of an incorporated village or city, upon the written consent of the trustees of all the districts to be affected, the school commissioner having jurisdiction may dissolve such common school districts and annex the territory of such districts so dissolved to such union free school district, and the school commissioner having jurisdiction may alter any union free school district whose limits do not correspond with those of any



incorporated village or city, in the manner provided by this article, but no such district shall be divided, upon which there is an outstanding bonded indebtedness.

2. Such school commissioner on the written consent of the boards of education of the districts affected may also dissolve a union free school district when it adjoins another union free school district and both of such union free school districts are wholly or partly located within the limits of a city or an incorporated village, and annex the territory of such dissolved district to the remaining union free school district. The bonded indebtedness of each of such districts shall, upon such dissolution and annexation, become a charge upon the enlarged district thus formed. Such district shall succeed to all the rights of property possessed by the annulled district. The board of education of such district shall raise by tax an amount sufficient to pay any of the bonds and interest thereon of such district as the same shall become due.

Formerly L. 1894, ch. 556, tit. 8, § 30, as am'd by L. 1899, ch. 540, § 1; L. 1905, ch. 258, § 1, and L. 1907, ch. 609, § 1.

**§ 27. Dissolution, re-formation and consolidation of districts.** Any school commissioner may dissolve one or more districts, and may from such territory form a new district; he may also unite such territory or a portion thereof to any existing adjoining common or union free school district.

Formerly L. 1894, ch. 556, tit. 6, § 9 part, as am'd by L. 1896, ch. 264, § 4.

**§ 28. Division of union free school district which contains two incorporated villages.** In any union free school district within the limits of which there shall be territory of two or more incorporated villages, the board of trustees of any village whose entire district is within said school district may call a special meeting of the voters, duly qualified under this chapter to vote at a school meeting, to determine whether that portion of any such school district comprising the village holding such special meeting, shall be separated from such school district and be a separate union free school district with limits corresponding with the limits of such village. Notice of the time and place of any such special meeting shall be published by the board of trustees calling the same, once a week for two successive weeks in each newspaper actually printed and published in such village, and if there be no such newspaper published in such village, such notice shall then be given by posting in at least ten conspicuous places in said village.

Formerly L. 1903, ch. 125, § 1.

**§ 29. Method and result of election.** The village clerk of the village holding such special meeting shall cause to be prepared and furnished for the use of the voters at any such special meeting ballots, which shall conform as near as may be to the election law, in favor of and against organizing the territory within such village into a separate school district. The members of the board of trustees of any village holding such special meeting shall act as inspectors and shall canvass the votes cast, and if a majority thereof shall be in favor of constituting the territory within such village a separate school district said board of trustees shall forthwith certify the result of such canvass to the school commissioner of the school commissioner district in which such village is situated; and said school commissioner shall thereupon declare by certificate under his hand the territory within such village limits a separate school district and designate it as union free school district number..... of the town of .....

Formerly L. 1903, ch. 125, § 2.

**§ 30. Apportionment of indebtedness.** If at the time of the organization of any school district as provided in the last two sections and the election of a board of education as provided in section two hundred and twenty-four, there shall be any outstanding bonded or other indebtedness chargeable against the school district of which the territory so separately organized was a part, the school commissioner shall apportion said indebtedness between the newly organized district and the remaining portion of the old district according to the assessed valuation of each and the amounts of said indebtedness so apportioned shall become a charge for principal and interest upon the respective districts as though the same had been incurred by said districts separately.

Formerly L. 1903, ch. 125, § 5.

**§ 31. Temporary attendance of pupils as before division.** Nothing contained in the last three sections shall be construed so as to prevent any child of school age residing in any part of a school district so divided from attending school in the part of the district remaining after any such division until the close of the school year in which such division was made, provided, however, that the tax for said school year has theretofore been levied on the real and personal property of the school district before the division for the support of such school for the current school year.

Formerly L. 1903, ch. 125, § 6.

**§ 32. Continuance of dissolved district for payment of debts.** Though a district be dissolved, it shall continue to exist in law, for the purpose of providing for and paying all its just debts; and to that end the trustees and other officers shall continue in office, and the inhabitants may hold special meetings, elect officers to supply vacancies and vote taxes; and all other acts necessary to raise money and pay such debts shall be done by the inhabitants and officers of the district.

Formerly L. 1894, ch. 556, tit. 6, § 12.

**§ 33. Deposit of records of dissolved district.** The school commissioner, or a majority of such commissioners in whose districts a dissolved school district was situated, shall by his or their order in writing, delivered to the clerk of the district, or to any person in whose possession the books, papers and records of the district, or any of them, may be, direct such clerk or other person to deposit the same in the clerk's office in the town in the order named. Such clerk or other person, by neglect or refusal to obey the order, shall forfeit fifty dollars, to be applied to the benefit of the common schools of said town. Such commissioners shall file a duplicate of the order with such clerk.

Formerly L. 1894, ch. 556, tit. 6, § 13.

**§ 34. Property of districts consolidated.** When two or more districts shall be consolidated into one, the new district shall succeed to all the rights of property possessed by the annulled districts.

Formerly L. 1894, ch. 556, tit. 6, § 9 part, as am'd by L. 1896, ch. 264, § 4.

**§ 35. Sale of property of dissolved district and disposition of proceeds.** When a district is parted into portions, which are annexed to other districts, its property shall be sold by the supervisor of the town, within which its school-house is situated, at public auction, after at least five days' notice, by notice posted in three or more public places of the town in which the school-house is situated, one of which shall be posted in the district so dissolved. The supervisor, after deducting the expenses of the sale, shall apply its proceeds to the payment of the debts of the district, and apportion the residue, if any, among the owners or possessors of taxable property in the district, in the ratio of their several assessments on the last corrected assessment-roll of the towns, and pay it over accordingly.

Formerly L. 1894, ch. 556, tit. 6, § 10.

**§ 36. Collection and distribution of moneys due dissolved district.** The supervisor of the town within which the school-house of the dissolved district was situated may demand, sue for and collect, in his name of office, any money of the district outstanding in the hands of any of its former officers, or any other person; and, after deducting his costs and expenses, shall report the balance to the school commissioner who shall apportion the same equitably among the districts to which the parts of the dissolved district were annexed, to be by them applied as their district meeting shall determine.

Formerly L. 1894, ch. 556, tit. 6, § 11.

**§ 37. Fees of supervisor and town clerk.** The supervisor and town clerk shall be entitled each, to one dollar and fifty cents a day, for each day's service in any proceeding under section twenty-five of this article, to be levied and paid as a charge upon their town.

Formerly L. 1894, ch. 556, tit. 6, § 5.

**§ 38. Notice of meeting for establishment of union free school district.** Whenever fifteen persons entitled to vote at any meeting of the inhabitants of any school district in the state, shall sign a request for a meeting, to be held for the purpose of determining whether a union free school shall be established therein in conformity with the provisions of this article, it shall be the duty of the trustees of such district, within ten days after such request shall have been presented to them, to give public notice that a meeting of the inhabitants of such district entitled to vote thereat will be held for such purpose as aforesaid, at the school-house, or other more suitable place, in such district, on a day and at an hour in such notice to be specified, not less than twenty nor more than thirty days after the publication of such notice. If the trustees shall refuse to give such notice, or shall neglect to give the same for twenty days, the commissioner of education may authorize and direct any inhabitant of such district to give the same. The qualifications of the inhabitants entitled to vote at such meeting, shall be sufficiently set forth in the notice aforesaid.

Formerly L. 1894, ch. 556, tit. 8, § 1, as am'd by L. 1896, ch. 264, § 9.

**§ 39. Posting, publication and service of notice.** Whenever such district shall correspond wholly or in part with an incorporated village, in which there shall be published a daily or weekly newspaper, the notice aforesaid shall be given by

posting at least five copies thereof, severally, in various conspicuous places in said district, at least twenty days prior to such meeting, and by causing the same to be published once a week for three consecutive weeks before such meeting, in all the newspapers published in said district. In other districts the said notice shall be given by posting the same as aforesaid, and in addition thereto, the trustees of such district shall authorize and require any taxable inhabitant of the same, to notify every other inhabitant, qualified to vote as aforesaid, of such meeting, to be called as aforesaid, who shall give such notification by reading said notice in his hearing, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode at least twenty days prior to the time of such meeting.

Formerly L. 1894, ch. 556, tit. 8, § 2.

**§ 40. Expense of notice.** The reasonable expense of such notices, and of their publication and service, shall be chargeable upon the district, in case a union free school is established by the meeting so convened, to be levied and collected by the trustees, as in case of taxes now levied for school purposes; but in the event that such union free school shall not be established, then the said expense shall be chargeable upon the inhabitants signing the request, jointly and severally, to be sued for, if necessary, in any court having jurisdiction of the same.

Formerly L. 1894, ch. 556, tit. 8, § 3, as am'd by L. 1896, ch. 264, § 10.

**§ 41. Notice and expense in case of adjoining districts.** Whenever fifteen persons, entitled as aforesaid, from each of two or more adjoining districts, shall unite in a request for a meeting of the inhabitants of such districts, to determine whether such districts shall be consolidated by the establishment of a union free school therefor and therein, it shall be the duty of the trustees of such districts, or a majority of them, to give like public notice of such meeting, at some convenient place within such districts, and as central as may be, within the time and to be published and served in the manner set forth in sections thirty-eight and thirty-nine of this article, in each of such districts. The reasonable expenses of preparing, publishing and serving such notices shall be chargeable upon the union free school district, and be collected by tax, if a union free school shall be established pursuant to such request, but otherwise the signers of the request shall be jointly and severally liable for such expenses. The com-

missioner of education may order such meeting under the conditions and in the manner prescribed in section thirty-eight of this article.

Formerly L. 1894, ch. 556, tit. 8, § 4, as am'd by L. 1896, ch. 264, § 11.

**§ 42. Proceedings at meeting and effect of affirmative vote.** 1. Any such meeting held pursuant to the foregoing provisions shall be organized by the election of a chairman and secretary, and may be adjourned from time to time, by a majority vote, provided that such adjournment shall not be for a longer period than ten days; and whenever at any such meeting duly called and held under the provisions of sections thirty-eight and thirty-nine of this article, at least fifteen qualified voters of the districts shall be present; or at such meeting duly called and held under the provisions of section forty-one of this article, at least fifteen qualified voters of each of the two or more adjoining districts, joining in the request, shall be present, such meeting may, by the affirmative vote of a majority present and voting, adopt a resolution to establish a union free school in said district, or to consolidate the two or more adjoining districts by establishing a union free school in said districts pursuant to the notice of said meeting. If said meeting shall determine to establish a union free school in said districts as aforesaid, it shall be lawful for such meeting thereafter to proceed to the election of a board of education as provided in sections two hundred and twenty-one and two hundred and twenty-two of this chapter.

2. The school commissioner in whose district the union free school district is thus organized shall designate such district as union free school district number . . . . of the town of . . . . . and the said board shall have the name and style of the board of education of (adding the designation aforesaid).

3. Copies of said request, notice of meeting, order of the commissioner of education directing some inhabitant to call said meeting, if any, and minutes of said meeting, duly certified by the chairman and secretary thereof, shall be transmitted and deposited, immediately after such meeting by one of such officers, one to and with the town clerk, one to and with the school commissioner in whose jurisdiction said districts are located, and one to and with the commissioner of education.

4. If at any such meeting, the question as to the establishment of a union free school shall not be decided in the affirmative, as aforesaid, then all further proceedings at such meeting, except a motion to reconsider or adjourn, shall be dispensed with,

and no such meeting shall be again called within one year thereafter. And when any such meeting shall have established a union free school in said districts, such union free school district shall not be dissolved within the period of one year from the first Tuesday of August next after such meeting.

Formerly L. 1894, ch. 556, tit. 8, § 5 part, as am'd by L. 1896, ch. 264, § 12.

**§ 43. Meeting to determine regarding reorganization as common school district.** In any union free school district established under the laws of this state, and which shall have been established for the period of one year or more, it shall be the duty of the board of education, upon the application of fifteen resident taxpayers of such district, to call a special meeting in the manner prescribed by law, for the purpose of determining whether application shall be made in the manner hereinafter provided, for the dissolution of such union free school district, and for its reorganization as one or more common school districts.

Formerly L. 1894, ch. 556, tit. 8, § 32.

**§ 44. Result of vote for or against reorganization.**

1. Whenever, at any such meeting called and held as aforesaid, it shall be determined by a majority vote of the legal voters present and voting, to be ascertained by taking and recording the ayes and noes, not to dissolve such union free school district, no other meeting for a similar purpose shall be held in said district within three years from the time the first meeting was held.

2. Whenever at any such meeting called and held as aforesaid it shall be determined by a two-thirds vote of the legal voters present and voting, to be ascertained by taking and recording the ayes and noes, to dissolve such union free school district, it shall be the duty of the board of education to present to the school commissioner of the commissioner district in which said union free school is situated, a certified copy of the call, notice and proceedings. If such school commissioner shall approve the proceedings of said meeting, he shall certify the same to the board of education. Such approval shall not take effect until the day preceding the first Tuesday of August next succeeding; but after that date such district shall cease to be a union free school district.

Formerly L. 1894, ch. 556, tit. 8, § 33.

**§ 45. Reversion to form of original school districts.** If any union free school district dissolved under the

foregoing provisions shall have been established by the consolidation of two or more districts, it shall be lawful for such school commissioner to order that its territory be divided into two or more districts, to correspond, so far as practicable, with the districts theretofore consolidated.

Formerly L. 1894, ch. 556, tit. 8, § 34.

**§ 46. School commissioner may require equality of partition.** Such school commissioner may make his approval of the proceedings of any such meeting held as aforesaid conditional upon the payment, by the district which has been most greatly benefited by the consolidation in the way of buildings and other improvements to the other districts into which the said union free school district is divided, of such sum of money as he may deem equitable.

Formerly L. 1894, ch. 556, tit. 8, § 36.

**§ 47. Effect of veto by school commissioner regarding subsequent meeting.** If such school commissioner shall not approve the proceedings of any such meeting, held as aforesaid, for the purpose of dissolving a union free school district, no other meeting shall be held in such district, for a similar purpose, within three years from the time the first meeting was held.

Formerly L. 1894, ch. 556, tit. 8, § 39.

**§ 48. Report of proceedings to commissioner of education.** Whenever the proceedings of a meeting, held as aforesaid, for the purpose of dissolving a union free school district, shall have been approved by such school commissioner and shall have been certified by him to the board of education, it shall be the duty of the board of education of the district affected forthwith to notify the commissioner of education, and to furnish him copies of the call, notice, proceedings of the meeting, and the action taken by such school commissioner thereon.

Formerly L. 1894, ch. 556, tit. 8, § 40.

**§ 49. Distribution of moneys on dissolution.** All moneys remaining in the hands of the treasurer of the union free school district when the order of dissolution shall take effect shall be apportioned equitably among the several districts into which such union free school district is divided, and shall be paid over to the collectors or treasurers of such districts when they shall have been elected and have qualified according to law.

Formerly L. 1894, ch. 556, tit. 8, § 37.



**ARTICLE 3****School Neighborhoods**

Section 60. Setting off school neighborhoods.

61. Neighborhood meetings.

62. Duties of neighborhood clerk and trustee.

**§ 60. Setting off school neighborhoods.** Each school commissioner in respect to the territory within his district shall have power, with the approval of the commissioner of education, to set off by itself any neighborhood adjoining any other state of the union, where it shall be found most convenient for the inhabitants to send their children to a school in such adjoining state, and to deliver to the town clerk of the town in which it lies, in whole or in part, a description of each such separate neighborhood. He shall also prepare a notice, describing such neighborhood, and appointing a time and place for the first neighborhood meeting, and deliver such notice to a taxable inhabitant of such neighborhood. It shall be the duty of such inhabitant to notify every other inhabitant of the neighborhood, qualified to vote at the meeting, by reading the notice in his hearing, or, in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting. In case such meeting shall not be held, and in the opinion of the school commissioner it shall be necessary to hold such meeting before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the neighborhood, who shall serve it as hereinbefore provided.

Formerly L. 1894, ch. 556, tit. 15, § 51, as am'd by L. 1897, ch. 293, § 1.

**§ 61. Neighborhood meetings.** The annual meeting of each neighborhood shall be held on the first Tuesday of August in each year, at the hour and place fixed by the last previous neighborhood meeting; or, if such hour and place has not been so fixed, then at the hour and place of such last meeting; or, if such place be no longer accessible, then at such other place as the trustee, or, if there be no trustee, the clerk, shall in the notices designate. The proceedings of no neighborhood meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent. The inhabitants of any neighborhood, entitled to vote, when as-

sembled in any annual meeting or any special meeting called by the commissioner as above provided, shall have power, by a majority vote of those present, to appoint a chairman for the time being, and to choose a neighborhood clerk and one trustee, and to fill vacancies in office. The provisions of sections ninety-one to ninety-four, inclusive, of this chapter, shall apply to and govern such meeting, so far as the same can in substance be applied to the proceedings; and the provisions of sections one hundred and forty to one hundred and forty-three inclusive, one hundred and forty-six, one hundred and forty-seven and one hundred and fifty to one hundred and fifty-two inclusive, of this chapter shall apply to and govern the officers of such neighborhood, so far as the same can in substance be applied thereto.

Formerly L. 1894, ch. 556, tit. 15, § 52, as added by L. 1897, ch. 293, § 2.

**§ 62. Duties of neighborhood clerk and trustee.**

The neighborhood clerk shall keep a record of the proceedings of his neighborhood, and of the reports of the trustees, and deliver the same to his successor. In case such neighborhood shall be annexed to a district within this state its records shall be filed in the office of the clerk of such district. The trustee shall, between the twenty-fifth day of July and the first day of August in every year, make his annual report to the school commissioner, and file it in the office of the clerk of the town of which the neighborhood is a part. Such report shall specify the whole amount of public moneys received during the year and from what public officer, and the manner in which it was expended; the whole number of such children as can be included in the district trustees' report residing in the neighborhood on the thirtieth day of June prior to the making of such report; and any other matters which the commissioner of education may require.

Formerly L. 1894, ch. 556, tit. 15, § 53, as added by L. 1897, ch. 293, § 2.

**ARTICLE 4**

**District Meetings**

Section 80. Notice of first meeting of district.

81. Service of notice of first meeting of district.

82. Second notice of first meeting of district.

83. Notice of annual meeting.

84. Time and place of annual meeting.

85. Special meeting to transact business of annual meeting.

- Section 86. Special meetings in common school districts.
87. Annual meetings of districts re-formed after dissolution.
88. Special meetings in union free school district.
89. Call by school commissioner of special district meeting.
90. Effect of want of due notice of district meetings.
91. Penalty for failure to serve notice.
92. Duty to attend district meetings.
93. Qualifications of voters at district meetings.
94. Declaration in case of challenge of voter.
95. Penalty for false declaration or unauthorized vote.
96. Powers of voters.
97. Vote to be by ballot on proposition to expend money.

**§ 80. Notice of first meeting of district.** Whenever any school district shall be formed, the school commissioner or any one or more of such commissioners, within whose districts it may be, shall prepare a notice describing such district, and appointing a time and place for the first district meeting, and deliver such notice to a taxable inhabitant of the district.

Formerly L. 1894, ch. 556, tit. 7, § 1.

**§ 81. Service of notice of first meeting of district.** It shall be the duty of such inhabitant to notify every other inhabitant of the district qualified to vote at the meeting, by reading the notice in his hearing, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting.

Formerly L. 1894, ch. 556, tit. 7, § 2.

**§ 82. Second notice of first meeting of district.** In case such meeting shall not be held, and in the opinion of the school commissioner it shall be necessary to hold such meeting, before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the district, who shall serve it as provided in section eighty-one.

Formerly L. 1894, ch. 556, tit. 7, § 3.

**§ 83. Notice of annual meeting.** 1. The district clerk of each common school district shall give notice of the time and place of the annual meeting by posting five notices of such meeting in five conspicuous places in the district five days previous to the date of such meeting. One of such notices must be posted on the front door of the school-house.

2. The clerk of each union free school district shall give notice of the time and place of the annual meeting in the manner provided by subdivision three of section one hundred and twenty-six of this chapter.

Formerly L. 1894, ch. 556, tit. 7, § 34, subs. 3, 4.

**§ 84. Time and place of annual meeting.** The annual meeting of each school district shall be held on the first Tuesday of August in each year, and, unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the school-house at seven-thirty o'clock in the evening. If a district possesses more than one school-house, it shall be held in the one usually employed for that purpose, unless the trustees designate another. If the district possesses no school-house, or if the school-house shall be no longer accessible, then the annual meeting shall be held at such place as the trustees, or, if there be no trustee, the clerk, shall designate in the notice.

Formerly L. 1894, ch. 556, tit. 7, § 8.

**§ 85. Special meeting to transact business of annual meeting.** Whenever the time for holding the annual meeting in school districts shall pass without such meeting being held in any district, a special meeting shall thereafter be called by the trustees or by the clerk of such district for the purpose of transacting the business of the annual meeting; and if no such meeting be called by the trustees or the clerk within twenty days after such time shall have passed, the school commissioner of the commissioner district in which said school district is situated or the commissioner of education may order any inhabitant of such district to give notice of such meeting in the manner provided in section eighty-one, and the officers of the district shall make to such meeting the reports required to be made at the annual meeting, subject to the same penalty in case of neglect; and the officers elected at such meeting shall hold their respective offices only until the next annual meeting and until their successors are elected and shall have qualified as in this chapter provided.

Formerly L. 1894, ch. 556, tit. 7, § 9.

**§ 86. Special meetings in common school districts.** A special district meeting shall be held whenever called by the trustees. The notice thereof shall state the purposes for which it is called, and no business shall be transacted at such special meeting, except that which is specified in the notice; and the district

clerk, or, if the office be vacant, or the clerk be sick or absent, or shall refuse to act, a trustee, or some taxable inhabitant, by order of the trustees, shall serve the notice upon each inhabitant of the district qualified to vote at district meetings, at least five days before the day of the meeting, in the manner prescribed in section eighty-one. But the inhabitants of any district may, at any annual meeting, adopt a resolution prescribing some other mode of giving notice of special meetings, which resolution and the mode prescribed thereby shall continue in force until rescinded or modified at some subsequent annual meeting.

Formerly L. 1894, ch. 556, tit. 7, § 6.

**§ 87. Annual meetings of districts re-formed after dissolution.** The districts formed by the dissolution of a union free school district, as provided in sections twenty-seven and twenty-eight of this chapter, shall hold their annual meetings on the first Tuesday of August next after the dissolution of such union free school district, and shall elect officers as now required by law.

Formerly L. 1894, ch. 556, tit. 8, § 38.

**§ 88. Special meetings in union free school district.** 1. Boards of education shall have power to call special meetings of the inhabitants of their respective districts whenever they shall deem it necessary and proper, in the manner prescribed in subdivision three of section one hundred and twenty-six of this chapter.

2. In union free school districts whose limits correspond with those of any incorporated village or city, the boards of education shall have power to call special meetings of the inhabitants of their respective districts for the purposes mentioned in section two hundred and forty-seven, in the manner prescribed in said subdivision three of section one hundred and twenty-six.

Formerly L. 1894, ch. 556, tit. 8, § 13, subds. 1, 2, part.

**§ 89. Call by school commissioner of special district meeting.** When the clerk and all the trustees of a school district shall have removed from the district, or their office shall be vacant, so that a special meeting can not be called, as hereinbefore provided, the school commissioner may in like manner give notice of, and call a special district meeting.

Formerly L. 1894, ch. 556, tit. 7, § 4.

**§ 90. Effect of want of due notice of district meetings.** The proceedings of no district meeting, annual or special,

shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent.

Formerly L. 1894, ch. 556, tit. 7, § 7.

**§ 91. Penalty for failure to serve notice.** Every taxable inhabitant, to whom a notice of any district meeting shall be delivered for service pursuant to any provisions of this article, who shall refuse or neglect to serve the same, as hereinbefore prescribed, shall forfeit five dollars for the benefit of the district.

Formerly L. 1894, ch. 556, tit. 7, § 5.

**§ 92. Duty to attend district meetings.** Whenever any district meeting shall be duly called, it shall be the duty of the inhabitants qualified to vote thereat, to assemble at the time and place fixed for the meeting.

Formerly L. 1894, ch. 556, tit. 7, § 10.

**§ 93. Qualifications of voters at district meetings.**

Any person shall be entitled to vote at any school meeting for the election of school district officers, and upon all other matters which may be brought before such meeting who is:

1. A citizen of the United States,
2. Twenty-one years of age,
3. A resident within the district for a period of thirty days next preceding the meeting at which he offers to vote; and who in addition thereto possesses one of the following four qualifications:

a. Owns or hires, or is in the possession under a contract of purchase of real property in such district liable to taxation for school purposes, or

b. Is the parent of a child of school age, provided such child shall have attended the district school in the district in which the meeting is held for a period of at least eight weeks within the school year preceding such school meeting, or

c. Not being the parent, has permanently residing with him a child of school age who shall have attended the district school for a period of at least eight weeks within the school year preceding such meeting, or

d. Owns any personal property, assessed on the last preceding assessment-roll of the town, exceeding fifty dollars in value, exclusive of such as is exempt from execution.

No person shall be deemed to be ineligible to vote at any such meeting, by reason of sex, who has one or more of the other qualifications required by this section.

Formerly L. 1894, ch. 556, tit. 7, § 11.

**§ 94. Declaration in case of challenge of voter.**

If any person offering to vote at any school district meeting shall be challenged as unqualified, by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am, and have been, for the thirty days last past, an actual resident of this school district and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected.

Formerly L. 1894, ch. 556, tit. 7, § 12.

**§ 95. Penalty for false declaration or unauthorized vote.** Any person who shall wilfully make a false declaration of his right to vote at any such school meeting, after his right to vote thereat has been challenged, shall be deemed guilty of a misdemeanor. And any person not qualified to vote at any such meeting, who shall vote thereat, shall thereby forfeit ten dollars, to be sued for by the supervisor for the benefit of the common schools of the town.

Formerly L. 1894, ch. 556, tit. 7, § 13.

**§ 96. Powers of voters.** The inhabitants entitled to vote, when duly assembled in any district meeting, shall have power, by a majority of the votes of those present:

1. To appoint a chairman.
2. If the district clerk be absent to appoint a clerk for the time.
3. To adjourn from time to time as occasion may require.
4. To elect one or three trustees as hereinafter provided, a district clerk and a district collector, and in any district which shall so determine, as hereinafter provided, to elect a treasurer, at their first meeting, and so often as such offices or any of them become vacated, except as hereinafter provided.
5. At the first meeting, or at any subsequent annual meeting, or at any special meeting duly called for that purpose, the qualified voters of any school district are authorized to adopt by a vote of a majority of such voters present and voting, to be ascertained by taking and recording the ayes and noes, a resolution to elect a treasurer of said district, who shall be the custodian of all moneys belonging to said district, and the disbursing officer of such moneys. If such resolution shall be adopted, such voters shall thereupon elect by ballot a treasurer for said district. Any person elected treasurer at any meeting other than an annual

meeting, shall hold office until the next annual meeting after such election, and until his successor shall be elected or appointed, and thereafter a treasurer shall be elected at each annual meeting for the term of one year.

6. To fix the amount in which the collector and treasurer shall give bonds for the due and faithful performance of the duties of their offices.

7. To designate a site for a school-house, or, with the consent of the school commissioner within whose district the school district lies, to designate sites for two or more school-houses for the district. Such designation of a site for a school-house can be made only at a special meeting of the district, duly called for such purpose by a written resolution in which the proposed site shall be described by metes and bounds, and which resolution must receive the assent of a majority of the qualified voters present and voting, to be ascertained by taking and recording the ayes and noes.

8. To vote a tax upon the taxable property of the district to purchase, lease and improve such sites or an addition to such sites; to hire or purchase rooms or buildings for school-rooms or school-houses, or to build school-houses; and to keep in repair and furnish the same with necessary fuel, furniture and appurtenances.

9. To vote a tax, not exceeding twenty-five dollars in any one year, for the purchase of maps, globes, blackboards and other school apparatus, and for the purchase of text-books and other school necessaries for the use of poor scholars of the district.

10. To vote a tax for the establishment of a school library and the maintenance thereof, or for the support of any school library already owned by said district, and for the purchase of books therefor, and such sum as they may deem necessary for the purchase of a book-case.

11. To vote a tax to supply a deficiency in any former tax arising from such tax being, in whole or in part, uncollectable.

12. To authorize the trustees to cause the school-houses, and their furniture, appurtenances and school apparatus to be insured by any insurance company created by or under the laws of this state, or any other insurance company authorized by law to transact business in this state.

13. To alter, repeal and modify their proceedings, from time to time, as occasion may require.

14. To vote a tax for the purchase of a book for the purpose of recording their proceedings.

15. To vote a tax to replace moneys of the district, lost or embezzled by district officers; and to pay the reasonable expenses



incurred by district officers in defending suits or appeals brought against them for their official acts, or in prosecuting suits or appeals by direction of the district against other parties.

16. To vote a tax to pay whatever deficiency there may be in teachers' wages after the public money apportioned to the district shall have been applied thereto; but if the inhabitants shall neglect or refuse to vote a tax for this purpose, or if they shall vote a tax which shall prove insufficient to cover such deficiency, then the trustees are authorized, and it is hereby made their duty, to raise, by district tax, any reasonable sum that may be necessary to pay the balance of teachers' wages remaining unpaid, the same as if such tax had been authorized by a vote of the inhabitants.

17. To vote a tax to pay and satisfy of record any judgments of a competent court which may have been or shall hereafter be obtained in an action against the trustees of the district for unpaid teachers' wages, where the time to appeal from said judgments shall have lapsed, or there shall be no intent to appeal on the part of such district, or the said judgments are or shall be of the court of last resort; but if the inhabitants shall neglect or refuse to vote a tax for this purpose, or if they vote a tax which shall prove insufficient to fully satisfy said judgments, then the trustees are authorized and it is hereby made their duty to raise by district tax the amount of said judgments, or the deficiency which may exist in any tax voted by said inhabitants to pay said judgments, the same as if such tax had been authorized by a vote of the inhabitants, and the trustees are hereby authorized, and it is hereby made their duty forthwith, after the expiration of thirty days from notice of any judgments having been entered against the district or the trustees thereof for unpaid teachers' wages, to call a meeting of the inhabitants of said district, who shall have power, as aforesaid, to vote a tax to pay said judgments; and in case they refuse or neglect to do so, the trustees are authorized, and it is hereby made their duty, unless said judgments are appealed from, to raise by district tax the amount of said judgments as hereinbefore provided.

18. Whenever any district shall have contracted with the school authorities of any city, village, or other school district for the education therein of the pupils residing in such school district, or whenever in any school district children of school age shall reside so remote from the school-house therein that they are practically deprived of school advantages during any portion of the school year, the inhabitants thereof entitled to vote are authorized to provide, by tax or otherwise, for the conveyance of any or all pupils residing therein to the schools of such city, vil-

lage, or district with which such contract shall have been made, or to the school maintained in said district, and the trustees thereof may contract for such conveyance when so authorized in accordance with such rules and regulations as they may establish, and for the purpose of defraying any expense incurred in carrying out the provisions of this subdivision, they may if necessary use any portion of the public money apportioned to such district as a district quota.

Formerly L. 1894, ch. 556, tit. 7, § 14 part, as am'd by L. 1896, ch. 264, § 5; L. 1903, ch. 175, § 1, and L. 1906, ch. 150, § 1.

**§ 97. Vote to be by ballot on proposition to expend money.** In all propositions arising at said district meetings, involving the expenditure of money, or authorizing the levy of taxes, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

Formerly L. 1894, ch. 556, tit. 7, § 14, subd. 18.

## ARTICLE 5

### School Buildings and Sites

- Section 110. No school-house shall be built on town line.
111. Plans and specifications of new buildings must be approved by commissioner of education.
112. Outside stairways.
113. Use of school buildings for examinations.
114. Use of school-house out of school hours.
115. Condemnation of school-houses and erection of new school-houses in place thereof.
116. Provision for outbuildings.
117. When board of education may designate site without vote of district.
118. Requisites for change of site.
119. Site, how designated.
120. Sale of former school-house or site.
121. Application of proceeds of sale.
122. Condemnation of land for school-house sites authorized.
123. Last section limited.

Section 124. Vesting of title of lands in certain cases.

125. Application to certain districts.

126. School taxes and school bonds.

**§ 110. No school-house shall be built on town line.**

No school-house shall be built so as to stand on the division line of any two towns.

Formerly L. 1894, ch. 556, tit. 7, § 16.

**§ 111. Plans and specifications of new buildings must be approved by commissioner of education.**

1. No school-house shall hereafter be erected in any city of the third class or in any incorporated village or school district, and no addition to a school building in any such place shall hereafter be erected, the cost of which shall exceed five hundred dollars, until the plans and specifications for the same shall have been submitted to the commissioner of education and his approval indorsed thereon. Such plans and specifications shall show in detail the ventilation, heating and lighting of such buildings.

2. Such commissioner of education shall not approve any plans for the erection of any school building or addition thereto unless the same shall provide at least fifteen square feet of floor space and two hundred cubic feet of air space for each pupil to be accommodated in each study or recitation room therein, and no such plans shall be approved by him unless provision is made therein, for assuring at least thirty cubic feet of pure air every minute per pupil, and the facilities for exhausting the foul or vitiated air therein shall be positive and independent of atmospheric changes.

3. No tax voted by a district meeting or other competent authority in any such city, village or school district exceeding the sum of five hundred dollars, shall be levied by the trustees until the commissioner of education shall certify that the plans and specifications for the same comply with the provisions of this section.

4. All school-houses for which plans and detailed statements shall be filed and approved, as required by this section, shall have all halls, doors, stairways, seats, passage-ways and aisles and all lighting and heating appliances and apparatus arranged to facilitate egress in cases of fire or accident and to afford the requisite and proper accommodations for public protection in such cases. All exit doors shall open outwardly, and shall, if double doors be used, be fastened with movable bolts operated simultaneously by one handle from the inner face of the door. No staircase shall be constructed with winder

steps in lieu of a platform but shall be constructed with straight runs, changes in direction being made by platforms. No door shall open immediately upon a flight of stairs, but a landing at least the width of the door shall be provided between such stairs and such doorway.

Formerly L. 1894, ch. 556, tit. 7, § 17, as am'd by L. 1904, ch. 281, § 1.

**§ 112. Outside stairways.** All school buildings in the state, other than in the city of New York, which are more than two stories high, shall have properly constructed stairways on the outside thereof, with suitable doorways leading thereto, from each story above the first, for use in case of fire. Such stairways shall be kept in good order and free from obstruction. It shall be the duty of the trustee or board of education having charge of said school buildings to cause such stairways to be constructed and maintained, and the reasonable and proper cost thereof shall in each case be a legal charge upon the district or city, and shall be raised by tax, as other moneys are raised for school purposes.

Formerly L. 1894, ch. 556, tit. 7, § 49.

**§ 113. Use of school buildings for examinations.** It shall be the duty of all trustees and boards of education for school districts under the supervision of school commissioners, to grant the use of any school building under their charge for all examinations appointed by the commissioner of education upon the written request of the school commissioner having jurisdiction over the same.

Formerly L. 1894, ch. 556, tit. 5, § 16.

**§ 114. Use of school-house out of school hours.** The trustees, or any one of them, if not forbidden by another, may freely permit the school-house, when not in use for the district school, to be used by persons assembling therein for the purpose of giving and receiving instruction in any branch of education or learning, or in the science or practice of music.

Formerly L. 1894, ch. 556, tit. 7, § 52.

**§ 115. Condemnation of school-houses and erection of new school-houses in place thereof.** 1. A school commissioner may by an order under his hand, reciting the reason, condemn a school-house, if he deems it wholly unfit for use and not worth repairing, and deliver the order to the trustees, or to one of them, and transmit a copy to the commissioner of education. Such order, if no time for its taking effect be stated

in it, shall take effect immediately. He shall also state therein what sum will, in his opinion, be necessary to erect a school-house capable of accommodating the children of the district.

2. Immediately upon the receipt of said order, the trustees of such district shall call a special meeting of the inhabitants of said district, for the purpose of considering the question of building a school-house therein. Such meeting shall have power to determine the size of said school-house, the material to be used in its erection, and to vote a tax to build the same. But such meeting shall have no power to reduce the estimate made by the commissioner aforesaid by more than twenty-five per centum of such estimate.

3. And where no tax for building such house shall have been voted by such district within thirty days from the time of holding the first meeting to consider the question, then it shall be the duty of the trustees of such district to contract for the building of a school-house capable of accommodating the children of the district, and to levy a tax to pay for the same, which tax shall not exceed the sum estimated as necessary by the commissioner aforesaid, and which shall not be less than such estimated sum by more than twenty-five per centum thereof. But such estimated sum may be increased by a vote of the inhabitants at any school meeting subsequently called and held according to law.

Formerly L. 1894, ch. 556, tit. 5, § 13, subd. 4, as am'd by L. 1897, ch. 512, § 1.

**§ 116. Provision for outbuildings.** 1. The trustees in the several school districts shall provide suitable and convenient water-closets or privies for each of the schools under their charge, at least two in number, which shall be entirely separated each from the other, and having separate means of access, and the approaches thereto shall be separated by a substantial close fence not less than seven feet in height. It shall be the duty of the trustees aforesaid to keep the same in a clean and wholesome condition, and a failure to comply with the foregoing provisions of this section on the part of such trustees, shall be sufficient ground for their removal from office, and for withholding from the district any share of the public moneys of the state. Any expense incurred by such trustees in carrying out the requirements of this section shall be a charge upon the district, when such expense shall have been approved by the school commissioner of the district within which the school district is located, and a tax may be levied therefor without a vote of the district.

Formerly L. 1894, ch. 556, tit. 7, § 48.

2. The board of education of any union free school district or of a city shall provide and maintain suitable and convenient water-closets or privies for each of the schools under their charge, at least two in number, and in conformity with the provisions and penalties of this section. Any expense incurred by said board in carrying out the foregoing provisions shall be a charge upon the district; and a tax may be levied therefor without a vote of the district.

Formerly L. 1894, ch. 556, tit. 8, § 15, subd. 14.

**§ 117. When board of education may designate site without vote of district.** A board of education in a union free school district containing a population of five thousand or more may, without a vote of the qualified voters of said district, designate sites or additions thereto for school-houses.

Formerly L. 1894, ch. 556, tit. 8, § 15, subd. 16, as added by L. 1903, ch. 112, § 1.

**§ 118. Requisites for change of site.** So long as a district shall remain unaltered, the site of a school-house owned by it, upon which there is a school-house erected or in process of erection, shall not be changed, nor such school-house be removed, unless by the consent, in writing, of the school commissioner having jurisdiction; nor with such consent, unless a majority of all the legal voters of said district present and voting, to be ascertained by taking and recording the ayes and noes, at a special meeting called for that purpose, shall adopt a written resolution designating such new site, and describing such new site by metes and bounds.

Formerly L. 1894, ch. 556, tit. 7, § 19.

**§ 119. Site, how designated.** The designation of a site by any school district meeting shall be by written resolution containing a description thereof by metes and bounds, and such resolution must receive the assent of a majority of the qualified voters present and voting at said meeting, to be ascertained by taking and recording the ayes and noes.

Formerly L. 1894, ch. 556, tit. 8, § 10 part, as am'd by L. 1895, ch. 273, § 1, and L. 1896, ch. 264, § 15.

**§ 120. Sale of former school-house or site.** Whenever the site of a school-house shall have been changed, as herein provided, the inhabitants of a district entitled to vote, lawfully assembled at any district meeting, shall have power, by a majority of the votes of those present, to direct the sale of the former site or lot, and the buildings thereon and appurtenances

or any part thereof, at such price and upon such terms as they shall deem proper; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction, shall be valid and effectual to pass all the estate or interest of such school district in the premises, and when a credit shall be directed to be given upon such sale for the consideration money, or any part thereof, the trustees are hereby authorized to take in their corporate name such security by bond and mortgage, or otherwise, for the payment thereof, as they shall deem best, and shall hold the same as a corporation, and account therefor to their successors in office and to the district, in the manner they are now required by law to account for moneys received by them; and the trustees of any such district for the time being may, in their name of office, sue for and recover the moneys due and unpaid upon any security so taken by them or their predecessors.

Formerly L. 1894, ch. 556, tit. 7, § 20.

**§ 121.-Application of proceeds of sale.** All moneys arising from any sale made in pursuance of the last preceding section, shall be applied to the expenses incurred in procuring a new site, and in removing or erecting thereon a school-house, and improving and furnishing such site and house, and their appurtenances, so far as such application shall be necessary; and the surplus, if any, shall be devoted to the purchase of school apparatus and the support of the school, as the inhabitants at any annual meeting shall direct.

Formerly L. 1894, ch. 556, tit. 7, § 21.

**§ 122. Condemnation of land for school-house sites authorized.** Land for the site of a school-house in any school district or additional land adjoining to and for the enlargement of an established site in any school district, may be acquired in cases where the owners thereof, or some of them, shall not consent to sell the same for such purpose, or the trustees or board of education of the district can not agree with such owners or some of them, upon the price or value thereof, as real property for public use is taken under and pursuant to the laws of the state. The trustees or board of education of any such school district are hereby authorized and empowered to institute, carry on and complete the proceedings necessary for acquiring said land, and the title thereto, for and on behalf of such district. The method of procedure to acquire such land shall be that prescribed for the condemnation of real property for public use in title one of chapter twenty-three of the code of civil pro-

cedure, and any amendments thereof, entitled "proceedings for the condemnation of real property," and known as the "condemnation law."

Formerly L. 1894, ch. 556, tit. 9, § 1, as am'd by L. 1901, ch. 490, § 1.

**§ 123. Last section limited.** The provisions of the foregoing section shall not apply to cities of more than thirty thousand inhabitants nor shall it be lawful under said section to acquire title to less than the whole of any city or village lot, with the erections thereon, if any, without the consent of such owners; nor beyond the corporate limits of cities, to any garden or orchard, or any part thereof, nor to any part of any yard or inclosure necessary to the use and enjoyment of buildings, or any fixtures or erections for the purposes of trade or manufactures, without the consent of the owners thereof.

Formerly L. 1894, ch. 556, tit. 9, § 2, as am'd by L. 1904, ch. 305, § 1.

**§ 124. Vesting of title of lands in certain cases.** Boards of education in cities of not more than thirty thousand inhabitants are hereby clothed with all the powers of trustees, and the title to any and all lands acquired in any city under the provisions of section one hundred and twenty-two of this chapter shall vest in the board of education thereof, or such other corporate body as is by law vested with the title to the school lands in such city. But nothing herein contained shall be construed to limit or circumscribe the powers and duties heretofore lodged in such board of education by law.

Formerly L. 1894, ch. 556, tit. 9, § 3.

**§ 125. Application to certain districts.** The provisions of section one hundred and twenty-two of this article shall apply to union free school districts and to districts organized under special laws; and the trustees of such districts and the boards of education organized under special laws shall be and are hereby clothed with all the powers vested in trustees in the three preceding sections.

Formerly L. 1894, ch. 556, tit. 9, § 5.

**§ 126. School taxes and school bonds.** 1. A majority of the voters of any school district, present at any annual or special district meeting, duly convened, may authorize such acts and vote such taxes as they shall deem expedient for making additions, alterations or improvements to or in the sites or structures belonging to the district, or for the purchase of other sites or structures, or for a change of sites, or for the



erection of new buildings, or for buying apparatus, or fixtures, or for paying the wages of teachers and the necessary expenses of the school, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve.

2. On all propositions arising at said meetings involving the expenditure of money, or authorizing the levy of a tax in one sum or by instalments, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such meetings; and they may direct the moneys so voted to be levied in one sum, or by instalments.

3. No addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any school-house, or for building any new school-house or for the erection of an addition to any school-house already built, shall be voted at any such meeting in a union free school district unless a notice by the board of education stating that such tax will be proposed, and specifying the amount and object thereof, shall have been published once in each week for the four weeks next preceding such district meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least twenty of the most public places in said district twenty days before the time of such meeting. In a common school district the notice of a special meeting to authorize any of the improvements enumerated in this section shall be given as provided in section eighty-eight.

4. And whenever a tax for any of the objects hereinbefore specified shall be legally voted the board of trustees or board of education shall make out their tax list, and attach their warrant thereto, in the manner provided in article fifteen of this chapter, for the collection of school district taxes, and shall cause such taxes or such instalments to be collected at such times as they shall become due.

5. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless it be an adjourned meeting or a meeting called by regular and legal notice, which shall specify the proposed action, and at which the vote upon said proposed reduction or rescinding shall be taken by ballot or by taking and recording the ayes and noes of the qualified voters attending and voting thereat.

Formerly L. 1894, ch. 556, tit. 8, § 10 part, as am'd by L. 1895, ch. 273, § 1, and L. 1896, ch. 264, § 15.

**ARTICLE 6****School District Officers; General Provisions**

- Section 140. Certain persons ineligible to certain offices.
141. Qualifications of officers.
142. Terms of office.
143. Terms of officers of newly created district.
144. Number of trustees; determination of change.
145. Election of officers.
146. Notice and acceptance of election.
147. Refusal of trustee to serve.
148. Penalty for refusal to serve or perform duty.
149. Vacating office.
150. Filling vacancy in office of trustee.
151. Filling vacancy in office of clerk, collector or treasurer.
152. Notice of appointment to fill vacancy and filing thereof.

**§ 140. Certain persons ineligible to certain offices.**

No school commissioner or supervisor is eligible to the office of trustee or member of a board of education, and no trustee can hold the office of district clerk, collector, treasurer or librarian.

Formerly L. 1894, ch. 556, tit. 7, § 22 part, and tit. 8, § 5 part, as am'd by L. 1896, ch. 264, § 12.

Not more than one member of a family shall be a member of the same board of education in any school district.

Formerly L. 1894, ch. 556, tit. 8, § 8 part, as am'd by L. 1895, ch. 337, § 1, and L. 1896, ch. 264, § 14.

**§ 141. Qualifications of officers.** Every district officer must be a resident of his district, and qualified to vote at its meetings. No person shall be eligible to hold any school district office who can not read and write and a treasurer must be a taxable inhabitant of the district.

Formerly L. 1894, ch. 556, tit. 7, § 14, subd. 5 part, and tit. 7, § 23.

**§ 142. Terms of office.** From one annual meeting to the next is a year within the meaning of the following provisions: The term of office of a sole trustee of a district is one year. The full term of a joint trustee is three years, but a joint trustee may be elected for one or two years, as herein provided. The term of office of all other district officers is one year. Every

district officer shall hold his office, unless removed during his term of office, until his successor shall be elected or appointed.

Formerly L. 1894, ch. 556, tit. 7, § 24.

**§ 143. Terms of officers of newly created district.**

The terms of all officers elected at the first meeting of a newly created district shall expire on the first Tuesday of August, next thereafter.

Formerly L. 1894, ch. 556, tit. 7, § 25.

**§ 144. Number of trustees; determination of change.**

1. On the first Tuesday of August next after the erection of a district, at its first annual meeting, the electors shall determine, by resolution, whether the district shall have one or three trustees; and if they resolve to have three trustees, shall elect the three for one, two and three years, respectively, and shall designate by their votes for which term each is elected; thereafter in such district, one trustee shall be elected at each annual meeting to fill the office of the outgoing trustee.

2. The electors of any district having three trustees shall have power to decide by resolution, at any annual meeting, whether the district shall have a sole trustee or three trustees, and if they resolve to have a sole trustee, the trustees in office shall continue in office until their terms of office shall expire, and no election of a trustee shall be had in the district until the offices of such trustees shall become vacant by the expiration of their terms of office or otherwise, and thereafter but one trustee shall be elected for said district.

3. The electors of a district having but one trustee may determine at an annual meeting, by a two-thirds vote of the legal voters present thereat, to have three trustees; and upon the adoption of a resolution to that effect, shall proceed to elect three trustees or such number as may be necessary to form a board of three trustees, in the same manner as provided in this section for the election of three trustees at the first annual meeting after the erection of a district; and thereafter in such district, one trustee shall be elected for three years, at each annual meeting, to fill the office of the outgoing trustee.

Formerly L. 1894, ch. 556, tit. 7, § 26.

**§ 145. Election of officers.** All district officers shall be elected by ballot. At elections of district officers, the trustees shall provide a suitable ballot-box. Two inspectors of election shall be appointed in such manner as the meeting shall determine, who shall receive the votes cast, and canvass the same, and an-

nounce the result of the ballot to the chairman. A poll-list containing the name of every person whose vote shall be received shall be kept by the district clerk, or the clerk for the time of the meeting. The ballots shall be written or printed, or partly written and partly printed, containing the name of the person voted for and designating the office for which each is voted for. The chairman shall declare to the meeting the result of each ballot, as announced to him by the inspectors, and the persons having the majority of votes, respectively, for the several offices, shall be elected.

Formerly L. 1894, ch. 556, tit. 7, § 14, subd. 4 part.

**§ 146. Notice and acceptance of election.** It shall be the duty of the district clerk, or of any person who shall act as clerk at any district meeting, when any officer shall be elected, forthwith to give the person elected notice thereof in writing; and such person shall be deemed to have accepted the office, unless, within five days after the service of such notice, he shall file his written refusal with the clerk. The presence of any such person at the meeting which elects him to office, shall be deemed a sufficient notice to him of his election.

Formerly L. 1894, ch. 556, tit. 7, § 27.

**§ 147. Refusal of trustee to serve.** A trustee who publicly declares that he will not accept or serve in the office of trustee, or who refuses or neglects to attend three successive meetings of the board, of which he is duly notified, without rendering a good and valid excuse therefor to the other trustees, or trustee, where there are but two, vacates his office by refusal to serve.

Formerly L. 1894, ch. 556, tit. 7, § 30.

**§ 148. Penalty for refusal to serve or perform duty.** Every person chosen or appointed to a school district office, who, being duly qualified to fill the same, shall refuse to serve therein, shall forfeit five dollars; and every person so chosen or appointed, who, not having refused to accept the office, shall wilfully neglect or refuse to perform any duty thereof, shall by such neglect or refusal vacate his office and shall forfeit the sum of ten dollars. These penalties are for the benefit of the schools of the district. But the school commissioner of the commissioner district wherein any such person resides may accept his written resignation of the office, and the filing of such resignation and acceptance in the office of the district clerk shall be a bar to the recovery of either penalty in this section mentioned; or

such resignation may be made to and accepted by a district meeting.

Formerly L. 1894, ch. 556, tit. 7, § 33.

**§ 149. Vacating office.** 1. The collector or treasurer vacates his office by not executing a bond to the trustees, as hereinafter required, and the trustees may supply the vacancy.

2. A trustee or a member of a board of education vacates his office by the acceptance of either the office of school commissioner or supervisor.

Formerly L. 1894, ch. 556, tit. 7, §§ 22 part, 28, and tit. 8, § 5 part, as am'd by L. 1896, ch. 264, § 12.

**§ 150. Filling vacancy in office of trustee.** In case the office of a trustee shall be vacated by his death, refusal to serve, incapacity, removal from the district, or by his being removed from the office, or in any other manner, and the vacancy be not supplied by a district meeting within one month thereafter, the school commissioner of the commissioner district, within which the school-house or principal school-house of the district is situated, may, by a writing, under his hand, appoint a competent person to fill it. If such vacancy is supplied by a district meeting, it shall be for the balance of the unexpired term; but when such vacancy is supplied by appointment by a school commissioner it shall be only until the next annual meeting of the district.

Formerly L. 1894, ch. 556, tit. 7, § 29.

**§ 151. Filling vacancy in office of clerk, collector or treasurer.** Any vacancy in the office of clerk, collector or treasurer, may be supplied by appointment under the hands of the trustees of the district, or a majority of them, and the appointees shall hold their respective offices until the next annual meeting of the district, and until others are elected and take their places.

Formerly L. 1894, ch. 556, tit. 7, § 31.

**§ 152. Notice of appointment to fill vacancy and filing thereof.** Every appointment to fill a vacancy shall be forthwith filed, by the school commissioner or trustees making it, in the office of the district clerk, who shall immediately give notice of the appointment to the person appointed.

Formerly L. 1894, ch. 556, tit. 7, § 32.

**ARTICLE 7****District Clerk, Treasurer, Collector**

Section 170. Duties of district clerk.

171. Duties of district treasurer.

172. Collector's bond.

173. Collector to disburse teachers' fund.

174. Clerk, treasurer and collector in union free school district.

175. Payments and reports by collector.

176. Liability of collector for moneys lost.

177. Remedy of trustees against collector in default.

**§ 170. Duties of district clerk.** It shall be the duty of the clerk of each school district:

1. To record the proceedings of all meetings of the voters of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees to the school commissioner.

2. To give notice, in the manner prescribed by section eighty-five, or by the inhabitants, pursuant to such section, of the time and place of holding special district meetings called by the trustees.

3. To affix a notice in writing of the time and place of any adjourned meeting, when the meeting shall have been adjourned for a longer time than one month, in at least five of the most public places of such district, at least five days before the time appointed for such adjourned meeting.

4. To give the required notice of every annual district meeting.

5. To give notice immediately to every person elected or appointed to office of his election or appointment; and also to report to the town clerk of the town in which the school-house of his district is situated, the names and post-office addresses of such officers, under a penalty of five dollars for neglect in each instance.

6. To notify the trustees of every resignation duly accepted by the school commissioner.

7. To keep and preserve all records, books and papers belonging to his office and to deliver the same to his successor. For a refusal or neglect so to do, he shall forfeit fifty dollars for the benefit of the schools of the district, to be recovered by the trustees.

8. To obey the order of the school commissioners as to depositing the books, papers and records of his office in the town clerk's office in case the district shall be dissolved.

9. To attend all meetings of the board of trustees when notified, and keep a record of their proceedings in a book provided for that purpose.

10. To call special meetings of the inhabitants whenever all the trustees of the district shall have vacated their office.

11. The records, books and papers belonging or appertaining to the office of the clerk of any school district, as in this section mentioned, are hereby declared to be the property of said school district, and shall be open for inspection by any qualified voter of the district at all reasonable hours, and any such voter may make copies thereof.

Formerly L. 1894, ch. 556, tit. 7, § 34.

**§ 171. Duties of district treasurer.** 1. The treasurer of a school district shall be the custodian of all moneys belonging to the district from whatever source derived, and it is hereby made the duty of the trustees of such district to pay to such treasurer any and all moneys that may come into their hands belonging to such district derived from sales of personal or real property of the district, from insurance policies, from bonds of the district issued and sold by them, or from any other source whatever.

2. The collector of such district shall pay over to such treasurer all moneys collected by him under and by virtue of any tax list and warrant issued and delivered to him.

3. Such treasurer is hereby authorized and empowered to demand and receive from the supervisor of the town in which such school district is situated all public money apportioned to said district.

4. It shall be the duty of such treasurer within ten days after notice of his election to execute and deliver to the trustees of such district, his bond in such sum as shall have been fixed by a district meeting or as such trustees shall require, with at least two sureties to be approved by such trustees, conditioned to faithfully discharge the duties of his office, and to well and truly account for all moneys received by him, and to pay over any sums of money remaining in his hands to his successor in office. Such bond when so executed and approved in writing by such trustees shall be filed with the district clerk.

5. No moneys shall be paid out or disbursed by such treasurer except upon the written orders of a sole trustee, or a majority of the trustees.

6. Such treasurer shall, whenever required by such trustees, report to them a detailed statement of the moneys received by

him, and his disbursements, and at the annual meeting of such district he shall render a full account of all moneys received by him and from what source, and when received, and all disbursements made by him and to whom and the dates of such disbursements respectively, and the balance of moneys remaining in his hands.

Formerly L. 1894, ch. 556, tit. 7, § 35.

**§ 172. Collector's bond.** 1. Within such time, not less than ten days, as the trustees shall allow him for the purpose, the collector, before receiving the first warrant for the collection of money, shall execute a bond to the trustees, with one or more sureties, to be approved by a majority of the trustees, in such amount as the district meeting shall have fixed, or if such meeting shall not have fixed the amount then in such amount as the trustees shall deem reasonable, conditioned for the due and faithful execution of the duties of his office.

2. The trustees, upon receiving said bond, shall, if they approve thereof, indorse their approval thereon, and forthwith deliver the same to the town clerk of the town in which said collector resides, and said clerk shall file the same in his office, and enter in a book to be kept by him for that purpose, a memorandum, showing the date of said bond, the names of the parties and sureties thereto, the amount of the penalty thereof, and the date and time of filing the same, and said town clerk is authorized to receive as a fee for such filing and memorandum the sum of twenty-five cents, which sum is hereby made a charge against the school district interested in said bond.

Formerly L. 1894, ch. 556, tit. 7, § 80 part.

**§ 173. Collector to disburse teachers' fund.** In case the trustees of any school district, other than one within the limits of any city or incorporated village, or one having elected a treasurer, shall deem it for the best interests of the district or the public to have the collector of such district disburse to teachers the money apportioned by the state for teachers' salary, they shall so direct, by resolution to be entered upon the minutes of their proceedings, and thereupon the said collector, before receiving any such money for such purpose, shall execute a bond to the trustees, with two or more sureties, in double the amount of the last apportionment, with like condition of sureties, approval of trustees, and amount and like directions as to filing as are required above for a bond for the



collection of taxes, and conditioned also for the due and faithful execution of the duties of his office as such disbursing agent.

Formerly L. 1894, ch. 556, tit. 7, § 80 part.

**§ 174. Clerk, treasurer and collector in union free school district.**

1. In every union free school district the board of education shall have power to appoint one of their number, or a qualified voter in said district, and a person other than a trustee or a teacher employed in said district, as clerk of the board of education of such district. Such clerk shall also act as clerk of said district, and shall perform all the clerical and other duties pertaining to his office, and for his services he shall be entitled to receive such compensation as shall be fixed at an annual meeting of the qualified voters of such district. In case no provision is made at an annual meeting of the inhabitants for the compensation of a clerk, then and in that case the board of education shall have power to fix the same and said board of education shall also have power to supply, by appointment, any vacancy in the office of such clerk, occasioned by death, resignation, removal from the district or otherwise.

2. Said board of education in every union free school district whose limits do not correspond with those of an incorporated village or city shall also have power to appoint one of the taxable inhabitants of their district treasurer, and fix his compensation, and another collector of the moneys to be raised within the same for school purposes, who shall severally hold such appointments during the pleasure of the board. Such treasurer and collector shall each, and within ten days after notice in writing of his appointment, duly served upon him, and before entering upon the duties of his office, execute and deliver to the said board of education a bond, with such sufficient penalty and sureties as the board may require, conditioned for the faithful discharge of the duties of his office; and in case such bond shall not be given within the time specified, such office shall thereby become vacant, and said board shall thereupon, by appointment, supply such vacancy.

Formerly L. 1894, ch. 556, tit. 8, § 7 part, as am'd by L. 1896, ch. 264, § 13 and L. 1897, ch. 466, § 1.

3. So much of this section as relates to the election of a clerk shall not apply to the towns of Cortlandt and White Plains in Westchester county.

Formerly L. 1894, ch. 556, tit. 8, § 42 part, as am'd by L. 1904, ch. 427, § 1.

**§ 175. Payments and reports by collector.** The collector shall keep in his possession all moneys received or collected by him by virtue of any warrant, or received by him from the county treasurer or board of supervisors for taxes returned as unpaid, or moneys apportioned by the state or raised by direct taxation for teachers' wages or library, to be by him paid out upon the written order of a majority of the trustees; said collector, when a treasurer shall have been elected in his district, shall pay over the moneys collected by him by virtue of his warrant, to said treasurer as provided in section one hundred and seventy-one; and he shall report in writing, at the annual meeting, all his collections, receipts and disbursements, and shall report to the supervisor on or before the first Tuesday of March in each year the amounts of school moneys in his hands not paid out on trustees' orders, and shall pay over to his successor in office, when such successor has duly qualified and given a bond as required by section one hundred and seventy-two, all moneys in his hands belonging to the district.

Formerly L. 1894, ch. 556, tit. 7, § 86.

**§ 176. Liability of collector for moneys lost.** If by the neglect of any collector any moneys shall be lost to any school district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to such district the amount of the moneys thus lost, and shall account for and pay over the same to the trustees of such district, in the same manner as if they had been collected.

Formerly L. 1894, ch. 556, tit. 7, § 87.

**§ 177. Remedy of trustees against collector in default.** For the recovery of all such forfeitures, and of all balances, in the hands of the collector, which he shall have neglected or refused to pay to his successor, or to the treasurer of such district, the trustees, in their name of office, shall have their remedy upon the official bond of the collector, or any action and any remedy given by law; and they shall apply all such moneys, when recovered, in the same manner as if paid without suit.

Formerly L. 1894, ch. 556, tit. 7, § 88.

## ARTICLE 8

### Trustees

Section 190. Trustees constituted a board and body corporate.

191. Property held by trustees as corporation.

192. Powers and duties of a sole trustee.

193. Mode of exercise of trustees' powers.

- Section 194. Powers of trustees when vacancies on board exist.
195. Powers and duties of trustees.
196. Repairs, appliances, care and additional school accommodations.
197. Trustees' account book.
198. Trustees' annual report.
199. Annual report of trustees of certain joint districts.
200. Trustees' annual report to district.
201. Penalty for failure of trustee to account.
202. Payment by trustee to successor.
203. Trustees' right of action against predecessor.
204. Notice of non-payment of moneys apportioned.
205. Taxation for expenses incurred by trustees.

**§ 190. Trustees constituted a board and body corporate.** The trustees of every school district, whether there is one or more, as hereinbefore provided, shall constitute a board for each of said districts respectively, and said boards are hereby severally created bodies corporate.

Formerly L. 1894, ch. 556, tit. 7, § 42.

**§ 191. Property held by trustees as corporation.** All property which is now vested in, or shall hereafter be transferred to the trustees of a district, for the use of schools in the district, shall be held by them as a corporation.

Formerly L. 1894, ch. 556, tit. 7, § 43.

**§ 192. Powers and duties of a sole trustee.** A board consisting of a sole trustee of the district shall have all the powers, and be subject to all the duties, liabilities and penalties conferred and imposed by law upon or against a board of three trustees or any trustees, or the majority of the trustees of said board having three trustees of a district.

Formerly L. 1894, ch. 557, tit. 7, § 44.

**§ 193. Mode of exercise of trustees' powers.** The trustees of a district compose a board, and every power committed to said trustees by this chapter must be exercised by the board. The board must meet for the transaction of business in accordance with notice of time and place. In a board composed of three trustees, when two only meet to deliberate upon any matter, and the third, if notified, does not attend, or the three meet and deliberate thereon, the conclusion of two upon the matter, and their order, act or proceeding in relation thereto, shall be as valid as though it were the conclusion, order, act or proceed-

ing of the three; and a recital of the two in their minute of the conclusion, act or proceeding, or in their order, act or proceeding of the fact of such notice, or of such meeting and deliberation, shall be conclusive evidence thereof. A meeting of the board may be ordered by any member thereof, by giving not less than twenty-four hours' notice of the same.

Formerly L. 1894, ch. 556, tit. 7, § 45.

**§ 194. Powers of trustees when vacancies on board exist.** While there is one vacancy in the office of trustee, the two trustees have all the powers and are subject to all the duties and liabilities of the three. And while there are two such vacancies, the trustee in office shall have all the powers and be subject to all the duties and liabilities of the three, as though he were a sole trustee. When a vacancy shall occur in the office of trustee, the first act of the board shall be to call a special meeting of the district to supply such vacancy.

Formerly L. 1894, ch. 556, tit. 7, § 46.

**§ 195. Powers and duties of trustees.** It shall be the duty of the trustees of every school district, and they shall have power:

1. To call special meetings of the inhabitants of such districts whenever they shall deem it necessary and proper.

2. To give notice of special, annual and adjourned meetings in the manner prescribed in section eighty-five of this chapter, if there be no clerk of the district, or he be absent or incapable of acting, or shall refuse to act.

3. To make out a tax-list of every district tax voted by any such meeting, or authorized by law, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name, as directed in article fifteen of this chapter.

4. To annex to such tax-list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned.

5. To purchase or lease sites for the district school-houses, as designated by a meeting of the district; and to build, or purchase such school-houses as may be so designated; and to hire rooms or buildings for such school purposes, and to keep in repair and furnish such school-houses, rooms or buildings with necessary fuel, furniture, school apparatus, heating apparatus and appurtenances, and to raise the necessary sum to pay the expense

thereof by tax, but such expense shall not exceed fifty dollars in any one year, unless authorized by the district or by law.

6. To have the custody and safe-keeping of the district school-houses, their sites and appurtenances.

7. When thereto authorized by a meeting of the district to insure the school-houses, and their furniture, and the school apparatus in some company created by or under the laws of this state, or in an insurance company authorized by law to transact business in this state, and to comply with the conditions of the policy, and raise the premiums by a district tax. If the district meeting shall neglect to make such authorization, it shall be the duty of the trustees to insure such school-houses, and their furniture and school apparatus, and the premiums paid shall be raised by district tax.

8. To insure the school library in such a company in a sum fixed by a district meeting, and to raise the premium by a district tax, and comply with the conditions of the policy.

9. To contract with and employ all teachers in the district schools as are qualified under the provisions of this chapter, and to designate the number of teachers to be employed; to determine the rate of compensation to be paid to each teacher and the term of the employment of each teacher, respectively, and to districts during each school year.

10. To establish rules for the government and discipline of the schools in their respective districts; and to prescribe the course of studies to be pursued in such schools. Provision shall be made for instructing pupils in all schools supported by public money, or under state control, in physiology and hygiene, with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system.

11. To pay, towards the wages of such teachers as are qualified, the public moneys apportioned to the district legally applicable thereto, by giving them orders therefor on the supervisor, or on the collector or treasurer of such district when duly qualified to receive and disburse the same, and to collect, as herein provided, the residue of such wages by direct tax. But no trustee shall issue any order or draw a draft upon a supervisor, collector or treasurer for any money unless there shall be at the time a sufficient amount of money in the hands of such supervisor, collector or treasurer belonging to the district, to meet such order or draft, and a violation of this provision by any trustee shall be a misdemeanor and punishable as such. If, at the time of the employment of a qualified teacher for a term of school, there shall be no public moneys in the hands of the supervisor, collector or treasurer ap-

**ARTICLE 7****District Clerk, Treasurer, Collector**

- Section 170. Duties of district clerk.  
171. Duties of district treasurer.  
172. Collector's bond.  
173. Collector to disburse teachers' fund.  
174. Clerk, treasurer and collector in union free school district.  
175. Payments and reports by collector.  
176. Liability of collector for moneys lost.  
177. Remedy of trustees against collector in default.

**§ 170. Duties of district clerk.** It shall be the duty of the clerk of each school district:

1. To record the proceedings of all meetings of the voters of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees to the school commissioner.
2. To give notice, in the manner prescribed by section eighty-five, or by the inhabitants, pursuant to such section, of the time and place of holding special district meetings called by the trustees.
3. To affix a notice in writing of the time and place of any adjourned meeting, when the meeting shall have been adjourned for a longer time than one month, in at least five of the most public places of such district, at least five days before the time appointed for such adjourned meeting.
4. To give the required notice of every annual district meeting.
5. To give notice immediately to every person elected or appointed to office of his election or appointment; and also to report to the town clerk of the town in which the school-house of his district is situated, the names and post-office addresses of such officers, under a penalty of five dollars for neglect in each instance.
6. To notify the trustees of every resignation duly accepted by the school commissioner.
7. To keep and preserve all records, books and papers belonging to his office and to deliver the same to his successor. For a refusal or neglect so to do, he shall forfeit fifty dollars for the benefit of the schools of the district, to be recovered by the trustees.
8. To obey the order of the school commissioners as to depositing the books, papers and records of his office in the town clerk's office in case the district shall be dissolved.

9. To attend all meetings of the board of trustees when notified, and keep a record of their proceedings in a book provided for that purpose.

10. To call special meetings of the inhabitants whenever all the trustees of the district shall have vacated their office.

11. The records, books and papers belonging or appertaining to the office of the clerk of any school district, as in this section mentioned, are hereby declared to be the property of said school district, and shall be open for inspection by any qualified voter of the district at all reasonable hours, and any such voter may make copies thereof.

Formerly L. 1894, ch. 556, tit. 7, § 34.

**§ 171. Duties of district treasurer.** 1. The treasurer of a school district shall be the custodian of all moneys belonging to the district from whatever source derived, and it is hereby made the duty of the trustees of such district to pay to such treasurer any and all moneys that may come into their hands belonging to such district derived from sales of personal or real property of the district, from insurance policies, from bonds of the district issued and sold by them, or from any other source whatever.

2. The collector of such district shall pay over to such treasurer all moneys collected by him under and by virtue of any tax list and warrant issued and delivered to him.

3. Such treasurer is hereby authorized and empowered to demand and receive from the supervisor of the town in which such school district is situated all public money apportioned to said district.

4. It shall be the duty of such treasurer within ten days after notice of his election to execute and deliver to the trustees of such district, his bond in such sum as shall have been fixed by a district meeting or as such trustees shall require, with at least two sureties to be approved by such trustees, conditioned to faithfully discharge the duties of his office, and to well and truly account for all moneys received by him, and to pay over any sums of money remaining in his hands to his successor in office. Such bond when so executed and approved in writing by such trustees shall be filed with the district clerk.

5. No moneys shall be paid out or disbursed by such treasurer except upon the written orders of a sole trustee, or a majority of the trustees.

6. Such treasurer shall, whenever required by such trustees, report to them a detailed statement of the moneys received by

him, and his disbursements, and at the annual meeting of such district he shall render a full account of all moneys received by him and from what source, and when received, and all disbursements made by him and to whom and the dates of such disbursements respectively, and the balance of moneys remaining in his hands.

Formerly L. 1894, ch. 556, tit. 7, § 35.

**§ 172. Collector's bond.** 1. Within such time, not less than ten days, as the trustees shall allow him for the purpose, the collector, before receiving the first warrant for the collection of money, shall execute a bond to the trustees, with one or more sureties, to be approved by a majority of the trustees, in such amount as the district meeting shall have fixed, or if such meeting shall not have fixed the amount then in such amount as the trustees shall deem reasonable, conditioned for the due and faithful execution of the duties of his office.

2. The trustees, upon receiving said bond, shall, if they approve thereof, indorse their approval thereon, and forthwith deliver the same to the town clerk of the town in which said collector resides, and said clerk shall file the same in his office, and enter in a book to be kept by him for that purpose, a memorandum, showing the date of said bond, the names of the parties and sureties thereto, the amount of the penalty thereof, and the date and time of filing the same, and said town clerk is authorized to receive as a fee for such filing and memorandum the sum of twenty-five cents, which sum is hereby made a charge against the school district interested in said bond.

Formerly L. 1894, ch. 556, tit. 7, § 80 part.

**§ 173. Collector to disburse teachers' fund.** In case the trustees of any school district, other than one within the limits of any city or incorporated village, or one having elected a treasurer, shall deem it for the best interests of the district or the public to have the collector of such district disburse to teachers the money apportioned by the state for teachers' salary, they shall so direct, by resolution to be entered upon the minutes of their proceedings, and thereupon the said collector, before receiving any such money for such purpose, shall execute a bond to the trustees, with two or more sureties, in double the amount of the last apportionment, with like condition of sureties, approval of trustees, and amount and like directions as to filing as are required above for a bond for the



collection of taxes, and conditioned also for the due and faithful execution of the duties of his office as such disbursing agent.

Formerly L. 1894, ch. 556, tit. 7, § 80 part.

**§ 174. Clerk, treasurer and collector in union free school district.** 1. In every union free school district the board of education shall have power to appoint one of their number, or a qualified voter in said district, and a person other than a trustee or a teacher employed in said district, as clerk of the board of education of such district. Such clerk shall also act as clerk of said district, and shall perform all the clerical and other duties pertaining to his office, and for his services he shall be entitled to receive such compensation as shall be fixed at an annual meeting of the qualified voters of such district. In case no provision is made at an annual meeting of the inhabitants for the compensation of a clerk, then and in that case the board of education shall have power to fix the same and said board of education shall also have power to supply, by appointment, any vacancy in the office of such clerk, occasioned by death, resignation, removal from the district or otherwise.

2. Said board of education in every union free school district whose limits do not correspond with those of an incorporated village or city shall also have power to appoint one of the taxable inhabitants of their district treasurer, and fix his compensation, and another collector of the moneys to be raised within the same for school purposes, who shall severally hold such appointments during the pleasure of the board. Such treasurer and collector shall each, and within ten days after notice in writing of his appointment, duly served upon him, and before entering upon the duties of his office, execute and deliver to the said board of education a bond, with such sufficient penalty and sureties as the board may require, conditioned for the faithful discharge of the duties of his office; and in case such bond shall not be given within the time specified, such office shall thereby become vacant, and said board shall thereupon, by appointment, supply such vacancy.

Formerly L. 1894, ch. 556, tit. 8, § 7 part, as am'd by L. 1896, ch. 264, § 13 and L. 1897, ch. 466, § 1.

3. So much of this section as relates to the election of a clerk shall not apply to the towns of Cortlandt and White Plains in Westchester county.

Formerly L. 1894, ch. 556, tit. 8, § 42 part, as am'd by L. 1904, ch. 427, § 1.

**§ 175. Payments and reports by collector.** The collector shall keep in his possession all moneys received or collected by him by virtue of any warrant, or received by him from the county treasurer or board of supervisors for taxes returned as unpaid, or moneys apportioned by the state or raised by direct taxation for teachers' wages or library, to be by him paid out upon the written order of a majority of the trustees; said collector, when a treasurer shall have been elected in his district, shall pay over the moneys collected by him by virtue of his warrant, to said treasurer as provided in section one hundred and seventy-one; and he shall report in writing, at the annual meeting, all his collections, receipts and disbursements, and shall report to the supervisor on or before the first Tuesday of March in each year the amounts of school moneys in his hands not paid out on trustees' orders, and shall pay over to his successor in office, when such successor has duly qualified and given a bond as required by section one hundred and seventy-two, all moneys in his hands belonging to the district.

Formerly L. 1894, ch. 556, tit. 7, § 86.

**§ 176. Liability of collector for moneys lost.** If by the neglect of any collector any moneys shall be lost to any school district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to such district the amount of the moneys thus lost, and shall account for and pay over the same to the trustees of such district, in the same manner as if they had been collected.

Formerly L. 1894, ch. 556, tit. 7, § 87.

**§ 177. Remedy of trustees against collector in default.** For the recovery of all such forfeitures, and of all balances, in the hands of the collector, which he shall have neglected or refused to pay to his successor, or to the treasurer of such district, the trustees, in their name of office, shall have their remedy upon the official bond of the collector, or any action and any remedy given by law; and they shall apply all such moneys, when recovered, in the same manner as if paid without suit.

Formerly L. 1894, ch. 556, tit. 7, § 88.

## ARTICLE 8

### Trustees

Section 190. Trustees constituted a board and body corporate.

191. Property held by trustees as corporation.

192. Powers and duties of a sole trustee.

193. Mode of exercise of trustees' powers.

- Section 194. Powers of trustees when vacancies on board exist.
195. Powers and duties of trustees.
196. Repairs, appliances, care and additional school accommodations.
197. Trustees' account book.
198. Trustees' annual report.
199. Annual report of trustees of certain joint districts.
200. Trustees' annual report to district.
201. Penalty for failure of trustee to account.
202. Payment by trustee to successor.
203. Trustees' right of action against predecessor.
204. Notice of non-payment of moneys apportioned.
205. Taxation for expenses incurred by trustees.

**§ 190. Trustees constituted a board and body corporate.** The trustees of every school district, whether there is one or more, as hereinbefore provided, shall constitute a board for each of said districts respectively, and said boards are hereby severally created bodies corporate.

Formerly L. 1894, ch. 556, tit. 7, § 42.

**§ 191. Property held by trustees as corporation.** All property which is now vested in, or shall hereafter be transferred to the trustees of a district, for the use of schools in the district, shall be held by them as a corporation.

Formerly L. 1894, ch. 556, tit. 7, § 43.

**§ 192. Powers and duties of a sole trustee.** A board consisting of a sole trustee of the district shall have all the powers, and be subject to all the duties, liabilities and penalties conferred and imposed by law upon or against a board of three trustees or any trustees, or the majority of the trustees of said board having three trustees of a district.

Formerly L. 1894, ch. 557, tit. 7, § 44.

**§ 193. Mode of exercise of trustees' powers.** The trustees of a district compose a board, and every power committed to said trustees by this chapter must be exercised by the board. The board must meet for the transaction of business in accordance with notice of time and place. In a board composed of three trustees, when two only meet to deliberate upon any matter, and the third, if notified, does not attend, or the three meet and deliberate thereon, the conclusion of two upon the matter, and their order, act or proceeding in relation thereto, shall be as valid as though it were the conclusion, order, act or proceed-

ing of the three; and a recital of the two in their minute of the conclusion, act or proceeding, or in their order, act or proceeding of the fact of such notice, or of such meeting and deliberation, shall be conclusive evidence thereof. A meeting of the board may be ordered by any member thereof, by giving not less than twenty-four hours' notice of the same.

Formerly L. 1894, ch. 556, tit. 7, § 45.

**§ 194. Powers of trustees when vacancies on board exist.** While there is one vacancy in the office of trustee, the two trustees have all the powers and are subject to all the duties and liabilities of the three. And while there are two such vacancies, the trustee in office shall have all the powers and be subject to all the duties and liabilities of the three, as though he were a sole trustee. When a vacancy shall occur in the office of trustee, the first act of the board shall be to call a special meeting of the district to supply such vacancy.

Formerly L. 1894, ch. 556, tit. 7, § 46.

**§ 195. Powers and duties of trustees.** It shall be the duty of the trustees of every school district, and they shall have power:

1. To call special meetings of the inhabitants of such districts whenever they shall deem it necessary and proper.
2. To give notice of special, annual and adjourned meetings in the manner prescribed in section eighty-five of this chapter, if there be no clerk of the district, or he be absent or incapable of acting, or shall refuse to act.
3. To make out a tax-list of every district tax voted by any such meeting, or authorized by law, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite to his name, as directed in article fifteen of this chapter.
4. To annex to such tax-list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned.
5. To purchase or lease sites for the district school-houses, as designated by a meeting of the district; and to build, or purchase such school-houses as may be so designated; and to hire rooms or buildings for such school purposes, and to keep in repair and furnish such school-houses, rooms or buildings with necessary fuel, furniture, school apparatus, heating apparatus and appurtenances, and to raise the necessary sum to pay the expense

thereof by tax, but such expense shall not exceed fifty dollars in any one year, unless authorized by the district or by law.

6. To have the custody and safe-keeping of the district school-houses, their sites and appurtenances.

7. When thereto authorized by a meeting of the district to insure the school-houses, and their furniture, and the school apparatus in some company created by or under the laws of this state, or in an insurance company authorized by law to transact business in this state, and to comply with the conditions of the policy, and raise the premiums by a district tax. If the district meeting shall neglect to make such authorization, it shall be the duty of the trustees to insure such school-houses, and their furniture and school apparatus, and the premiums paid shall be raised by district tax.

8. To insure the school library in such a company in a sum fixed by a district meeting, and to raise the premium by a district tax, and comply with the conditions of the policy.

9. To contract with and employ all teachers in the district schools as are qualified under the provisions of this chapter, and to designate the number of teachers to be employed; to determine the rate of compensation to be paid to each teacher and the term of the employment of each teacher, respectively, and to districts during each school year.

10. To establish rules for the government and discipline of the schools in their respective districts; and to prescribe the course of studies to be pursued in such schools. Provision shall be made for instructing pupils in all schools supported by public money, or under state control, in physiology and hygiene, with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system.

11. To pay, towards the wages of such teachers as are qualified, the public moneys apportioned to the district legally applicable thereto, by giving them orders therefor on the supervisor, or on the collector or treasurer of such district when duly qualified to receive and disburse the same, and to collect, as herein provided, the residue of such wages by direct tax. But no trustee shall issue any order or draw a draft upon a supervisor, collector or treasurer for any money unless there shall be at the time a sufficient amount of money in the hands of such supervisor, collector or treasurer belonging to the district, to meet such order or draft, and a violation of this provision by any trustee shall be a misdemeanor and punishable as such. If, at the time of the employment of a qualified teacher for a term of school, there shall be no public moneys in the hands of the supervisor, collector or treasurer ap-

plicable to the payment of teachers' wages, or if there shall not be a sufficient amount in the hands of either or all such officers to enable the trustees to pay the teachers' wages as they fall due, and the district meeting has failed or neglected to authorize a tax to pay the same, the trustees of such school district are hereby authorized and empowered, and it shall be their duty, to collect by district tax an amount sufficient to pay the wages of such teacher for such term, but not to exceed four months in advance.

12. To divide such public moneys apportioned to the district, whenever authorized by a vote of their district into two or more portions for each year; to assign and apply one of such portions to each term during which a school shall be kept in such district, for the payment of teachers' wages during such term; and to collect the residue of such wages not paid by the proportion of public money allotted for that purpose, by district tax as herein provided.

13. To draw upon the supervisor, the collector or treasurer, when duly qualified to receive and disburse the same, for the school moneys, by written orders signed by the sole trustee, or where there are three trustees, signed by a majority of said trustees as prescribed by subdivisions one and two of section two hundred and eighty of this chapter.

14. After having paid toward the wages of such teachers as are qualified, the public moneys of the district legally applicable thereto, by giving them orders on the supervisor, collector or treasurer therefor, to collect the residue of such wages by a district tax, or, if the same shall have been already collected, to give such teacher an order on the collector or treasurer for the balance of his wages still remaining unpaid. But it shall be a misdemeanor, and punishable as such, for trustees to give an order upon the collector or treasurer unless there shall be in the hands of said collector or treasurer, at the time, sufficient money belonging to the district to meet the same.

Formerly L. 1894, ch. 556, tit. 7, § 47 part, as am'd by L. 1896, ch. 264, § 7, and L. 1906, ch. 150, § 2.

**§ 196. Repairs, appliances, care and additional school accommodations.** 1. The trustees of each school district shall keep each of the school-houses under their charge, and its furniture, school apparatus and appurtenances, in necessary and proper repair, and make the same reasonably comfortable for use, but not at an expense of exceeding fifty dollars in any one year, except by a vote of the district.

2. Said trustees shall also make any repairs and abate any nuisances, pursuant to the direction of the school commissioner as hereinbefore provided, and shall provide fuel, stoves or other heating apparatus, pails, brooms and other implements necessary to keep the school-houses and the school-rooms clean, and make them reasonably comfortable for use, when no provision has been made therefor by a vote of the district, or the sum voted by the district for said purposes shall have proved insufficient.

3. Said trustees shall also provide for building fires and cleaning the school-rooms, and for janitor work generally in and about the school-houses, and pay for such service such reasonable sum as may be agreed upon therefor.

4. They shall provide the bound blank-books for the entering of their accounts and the keeping of the school-lists, the records of the district and the proceedings of district and trustee meetings, and they may expend in the purchase of dictionary, books, maps, globes or other school apparatus, a sum not exceeding twenty-five dollars in any one year.

5. Whenever it shall be necessary for the due accommodation of the children of the district, by reason of any considerable number of said children residing in portions of said district remote from the school-house in said district, thereby rendering it difficult for them in inclement weather and in winter to attend school at such school-house, or by reason of the room or rooms in said school-house being overcrowded, or for any other sufficient reason the due accommodation of said children can not be made in said school-house, they shall establish temporary or branch schools in such places in said district as shall best accommodate such children, and hire any rooms for the keeping of said temporary or branch schools, and fit up and furnish said rooms in a suitable manner for conducting such schools therein. Any expenditure made or liability incurred in pursuance of this section shall be a charge upon the district.

Formerly L. 1894, ch. 556, tit. 7, § 50 part.

**§ 197. Trustees' account book.** They shall procure a bound blank book for the district and, when necessary, another in its place. In it, at or before each annual district meeting, they shall enter at large and sign a statement of all movable property belonging to the district, and their accounts of all moneys received or drawn for or paid by them, and they shall deliver this book to their successors.

Formerly L. 1894, ch. 556, tit. 7, § 53 part.

**§ 198. Trustees' annual report.** The trustees of each school district shall, on the first day of August in each year, make to the school commissioner a report in writing for the year ending on July thirty-first preceding. In every case the trustees shall sign and certify to said report and deliver it to the clerk of the town, in which the school-house of the district is situated; and every such report shall certify:

1. The whole time any school has been kept in their district during the year ending on the day previous to the date of such report, and distinguishing what portion of the time such school has been kept by qualified teachers, and the whole number of days, including holidays, in which the school was taught by qualified teachers.

2. The amount of their drafts upon the supervisor, collector or treasurer for the payment of teachers' wages during such year, and the amount of their drafts upon him for the purchase of books and school apparatus during such year, and the manner in which such moneys have been expended.

3. The number of children taught in the district school during such year by qualified teachers, and the sum of the days' attendance of all such children upon the school.

4. The number of children residing in their district, over five and under eighteen years of age, who shall have been, on the thirtieth day of June last preceding the date of such report, actually in the district, comprising a part of the family of their parents or guardians or employers, if such parents, guardians or employers resided at the time in such district, although such residence was temporary; but such report shall not include children belonging to the family of any person who shall be an inhabitant of any other district in this state, in which such children may by law be included in the report of its trustees; nor any children who are supported at a county poor-house or an orphan asylum; nor any Indian children residing on reservations where schools provided by law for their education are taught.

5. The number of vaccinated and unvaccinated children of school age in their respective districts.

6. The amount of money paid for teachers' wages, in addition to the public money paid therefor, the amount of taxes levied in said district for purchasing school-house sites, for building, hiring, purchasing, repairing and insuring school-houses, for fuel, for school libraries, or for any other purpose allowed by law, and such other information in relation to the schools and the district as the commissioner of education may, from time to time, require.

Formerly L. 1894, ch. 556, tit. 7, §§ 59, 60.



**§ 199. Annual report of trustees of certain joint districts.** Where a school district lies in two or more counties, its trustees shall make such an annual report for each part of it lying in a different county, and file each in the office of the clerk of the town in which the part of the district to which it especially relates lies; and such report shall be in the form and contain all such special matters as the commissioner of education shall from time to time prescribe.

Formerly L. 1894, ch. 556, tit. 7, § 61.

**§ 200. Trustees' annual report to district.** The trustees shall, once in each year, render to the district, at its annual district meeting, a just, full and true account in writing, under their hands, of all moneys received by them respectively for the use of the district, or raised or collected by taxes, the preceding year, and of the manner in which the same shall have been expended, and showing to which of them an unexpended balance, or any part thereof, is chargeable; and of all drafts or orders made by them upon the supervisor, collector, treasurer or other custodian of moneys of the district; and a full statement of all appeals, actions or suits and proceedings brought by or against them, and of every special matter touching the condition of the district.

Formerly L. 1894, ch. 556, tit. 7, § 55.

**§ 201. Penalty for failure of trustee to account.** By a wilful neglect or refusal to render such account, a trustee forfeits any unexpired term of his office, and becomes liable to the trustees for any district moneys in his hands.

Formerly L. 1894, ch. 556, tit. 7, § 57.

**§ 202. Payment by trustee to successor.** An outgoing trustee shall forthwith pay, to his successor or any other trustees of the district in office, all unexpended moneys in his hands belonging to the district.

Formerly L. 1894, ch. 556, tit. 7, § 56.

**§ 203. Trustees' right of action against predecessor.** The trustees in office shall sue for and recover any district moneys in the hands of any former trustee, or of his personal representatives, and apply them to the use of the district.

Formerly L. 1894, ch. 556, tit. 7, § 58.

**§ 204. Notice of non-payment of moneys apportioned.** If any portion of the moneys apportioned to the district shall not be paid by the supervisor, the collector or treasurer, upon the due requirement of the trustees, they shall forthwith notify the treasurer of the county and the commissioner of education of the fact.

Formerly L. 1894, ch. 556, tit. 7, § 54.

**§ 205. Taxation for expenses incurred by trustees.**

When trustees are required or authorized by law, or by a vote of their district, to incur any expenses for such district, and when any expenses incurred by them are made, by express provision of law, a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting.

Formerly L. 1894, ch. 556, tit. 7, § 51.

**ARTICLE 9****Boards of Education**

- Section 220. Boards of education corporate bodies.
221. Board of education in district whose boundaries are not coterminous with those of an incorporated village or city.
222. Board of education in district whose boundaries are coterminous with those of an incorporated village or city.
223. Provisions for separate elections in certain districts.
224. Election and organization of board of education in new district where union free school district containing two incorporated villages is divided.
225. Annual meetings of boards of education.
226. Change in number of members of board of education in union free school district whose boundaries are coterminous with those of an incorporated village or city.
227. Change in number of members of board of education in union free school district whose boundaries are not coterminous with those of an incorporated village or city.
228. Power of removal of member of board of education.
229. Powers and duties of boards of education.
230. Appointment of superintendent of schools.
231. Regular meetings; visitation of schools.
232. Limitation upon expenditures and application of moneys.
233. Deposit, custody and payment of moneys in cities and villages.
234. Moneys and accounts in union free school districts whose boundaries are not the same as the boundaries of incorporated cities and villages.

- Section 235.** Boards of education have powers of trustees of common schools and trustees of academies.
- 236. Academy may be adopted as academic department.
  - 237. Contracts with academies.
  - 238. Retransfer of academy to its former trustees.
  - 239. Academic departments subject to regents.
  - 240. Money for teachers' wages may be raised by tax.
  - 241. Records, reports, contracts.
  - 242. Estimated expenses for ensuing year.
  - 243. Vote upon school taxes.
  - 244. Levy of tax for certain purposes without vote.
  - 245. Reference to commissioner of education.
  - 246. Appeal to commissioner of education.
  - 247. Corporate authorities must raise tax certified by board of education.
  - 248. Application of this article.

**§ 220. Boards of education corporate bodies.**

The board of education of each union free school district or city is hereby created a body corporate and it shall, at its first meeting and at each annual meeting thereafter, elect one of its members president.

Formerly L. 1894, ch. 556, tit. 8, § 7 part, as am'd by L. 1896, ch. 264, § 13, and L. 1897, ch. 466, § 1.

**§ 221. Board of education in district whose boundaries are not coterminous with those of an incorporated village or city.** Whenever a union free school district shall be established pursuant to the provisions of sections forty and forty-one of this chapter and the boundaries of such district shall not be coterminous with the boundaries of an incorporated city or village, it shall be the duty of the meeting at which such union free school district is established to elect by ballot not less than three nor more than nine trustees, who shall, by the order of such meeting, be divided into three classes, the first to hold until one, the second until two, and the third until three years from the first Tuesday of August next following, except as in the next section provided. Thereafter there shall be elected in such districts, at the annual meeting, trustees to supply the places of those whose terms of office, by the classification aforesaid, expire. The trustees thus elected, shall enter at once upon their offices, and the office of any existing trustees in such districts, before the establishment of a union free school therein, shall cease, except for the purposes stated in section thirty-two of this chapter. The said trustees and their successors in

office shall constitute the board of education of and for the union free school district thus established and for which they are elected.

Formerly L. 1894, ch. 556, tit. 8, § 5 part, as am'd by L. 1896, ch. 264, § 12.

**§ 222. Board of education in district whose boundaries are coterminous with those of an incorporated village or city.** Whenever said board of education shall be constituted for any district whose limits correspond with those of any incorporated village or city, the trustees so elected shall, by the order of such meeting, be divided into three classes: The first class to serve until one; the second, until two; and the third, until three years after the date of the next charter election in such village or city, and their regular term of service shall be computed from the several dates of such charter elections. Thereafter, there shall be annually elected in such villages and cities, at the charter elections, by separate ballot, to be indorsed "school trustee," in the same manner as the charter officers thereof, trustees of the said union free schools, to supply the places of those whose terms by the classification aforesaid expire.

Formerly L. 1894, ch. 556, tit. 8, § 6 part.

**§ 223. Provisions for separate elections in certain districts.** 1. In union free school districts whose limits do not correspond with those of an incorporated village or city, and in which the number of children of school age exceeds three hundred, as shown by the last annual report of the board of education to the school commissioner, the qualified voters of any such district may by a vote of a majority of those present and voting, at any annual meeting, or at any duly called special meeting, to be ascertained by taking and recording the ayes and noes, determine that the election of the members of the board of education shall be held on the Wednesday next following the day designated by law for holding the annual meeting of said district. Until such determination shall be changed, such election shall be held on the Wednesday next following the day on which such annual meeting of such district shall be held, in each year, between the hours of twelve o'clock noon and four o'clock in the afternoon at the principal school-house in the district, or at such other suitable place as the trustees may designate. When the place of holding such election is other than at the principal school-house, the trustees shall give notice thereof by the publication of such notice, at least one week before the time of holding such election, in some newspaper published in the district, or by posting the same in three conspicuous places in the district. The trustees

may, by resolution, extend the time of holding the election from four o'clock until sunset.

2. The board of education, or such of them as may be present, shall act as inspectors of election. If a majority of such board shall not be present at the time of opening the polls, those members of the board in attendance may appoint any of the legal voters of the district present, to act as inspectors in place of the absent trustees; and if none of the board of education shall be present at the time of opening the polls, the legal voters present may choose three of their number to act as inspectors. The clerk of the board of education shall attend at the election and record in a book, to be provided for that purpose, the name of each elector as he deposits his ballot. If the clerk of the board of education shall be absent, or shall be unable or refuse to act, the board of education or inspectors of election shall appoint some person who is a legal voter in the district to act in his place. Any clerk or acting clerk who shall neglect or refuse to record the name of a person whose ballot is received by the inspectors, shall be liable to a fine of twenty-five dollars, to be sued for by the supervisor of the town.

3. The board of education shall, at the expense of the district, provide a suitable box in which the ballots shall be deposited as they are received. Such ballots shall contain the names of the persons voted for, and shall designate the office for which each of said names is voted. The ballots may be either written or printed, or partly written and partly printed. The inspectors immediately after the close of the polls shall proceed to canvass the votes. They shall first count the ballots to determine if they tally with the number of names recorded by the clerk, and if they exceed that number, enough ballots shall be withdrawn to make them correspond. Such inspectors shall count the votes and announce the result. The persons having a majority of the votes respectively for the several offices shall be elected, and the clerk shall record the result of such ballot and election as announced by the inspectors.

4. Whenever the time for holding such election, as aforesaid, shall pass without such election being held in any such district, a special election shall be called by the board of education, but if no such election be called by said board within twenty days after such time shall have passed, the school commissioner or the commissioner of education may order any inhabitant of said district to give notice of such election in the manner prescribed by section one hundred and twenty-six; and the officers elected at such special election shall hold their respective offices

only until the next annual election, and until their successors are elected and shall have qualified, as in this chapter provided.

5. All disputes concerning the validity of any such election or of any votes cast thereat, or of any of the acts of the inspectors or clerks, shall be referred to the commissioner of education, whose decision in the matters shall be final. Such commissioner may, in his discretion, order a new election in any district.

6. The foregoing provisions shall not apply to union free school districts in cities, nor to union free school districts whose boundaries correspond with those of an incorporated village, nor to any school district organized under a special act of the legislature, in which the time, manner and form of the election of district officers shall be different from that prescribed for the election of officers in union free school districts, organized under the general law, nor to any of the union free school districts in the counties of Suffolk, Chenango, Warren, Erie and Saint Lawrence.

Formerly L. 1894, ch. 556, tit. 8, § 14 part, as am'd by L. 1895, ch. 853, § 1; L. 1896, ch. 196, § 1, and L. 1897, ch. 466, § 2.

**§ 224. Election and organization of board of education in new district where union free school district containing two incorporated villages is divided.** Within ten days after the school commissioner shall have designated any separate school district organized under the provisions of sections twenty-eight and twenty-nine of this chapter, he shall call a special meeting of the qualified voters of such school district at a time and place to be named by him to elect a board of education to consist of six members, two of whom shall be elected for one year, two for two years and two for three years from the date of the annual school meeting next succeeding such special meeting. The call for such special meeting so to be made by the school commissioner shall be published as provided in section twenty-eight for the special meeting to determine as to whether the school district shall be divided. The school commissioner shall call such special meeting to order and the voters present shall elect a chairman and secretary for such meeting and appoint three tellers to canvass the votes cast. After the votes shall have been canvassed the chairman and secretary shall forthwith certify the result of such canvass to the said school commissioner, who shall within five days thereafter call the members of the board of education, shown by said certificate to have been elected, together for the purpose of organization, and said certificate of the result of such canvass shall thereupon become a part of the record of said school district.

Formerly L. 1903. ch. 125, § 3.

**§ 225. Annual meetings of boards of education.**

1. The annual meeting of a board of education of every union free school district whose limits do not correspond with those of an incorporated village or city shall be held on Tuesday next after the annual school district meeting therein.

2. The annual meeting of the board of education of every union free school district whose limits correspond with those of an incorporated village or city shall be held on the Tuesday next after the election of the members of such board at the annual charter election of the village or city.

Formerly L. 1894, ch. 556, tit. 8, § 13, subs. 1, 2, part.

**§ 226. Change in number of members of board of education in union free school district whose boundaries are coterminous with those of an incorporated village or city.**

The number of members of the board of education of a union free school district whose limits correspond with those of an incorporated village or city, may be increased to not more than nine or decreased to not less than three in the following manner: The board of education of such union free school district, shall, upon the application of at least fifteen resident taxpayers of such district, submit to a special meeting, held at least thirty days prior to the annual charter election, in such village or city, a proposition for the increase or decrease of the number of members of the board of education to a number specified in the proposition. Such special meeting shall be called and held in the manner prescribed by article two of this chapter. If such proposition is adopted and it is determined thereby to increase the number of members of the board of education of such district, there shall be elected at the next ensuing annual village or city election, a sufficient number of members of the board of education so that the total number of members of the board will be the number specified in such proposition. Such additional members shall be elected for such terms so that as nearly as possible the terms of one-third of the members of such board will expire annually. Successors to such additional members shall be elected in like manner. If such proposition is adopted and it is determined thereby to decrease the number of the board of education in such district, no members of the board of education of such district shall thereafter be elected until by expiration of term the number of members of the board of education will be less than the number specified in such proposition; and thereafter the number of members of the board of education of such district shall be the number specified in such proposition.

Not more than one proposition under this section shall be submitted in any calendar year.

Formerly L. 1894, ch. 566, tit. 8, § 6, subd. 1, as added by L. 1903, ch. 489, § 1.

**§ 227. Change in number of members of board of education in union free school district whose boundaries are not coterminous with those of an incorporated village or city.** At any annual meeting held in any union free school district whose limits do not correspond with those of any incorporated village or city, the qualified voters may determine by a majority vote of such voters present and voting, to be ascertained by taking and recording the ayes and noes, to increase or diminish the number of members of the board of education of such district. If such board shall consist of less than nine members, and such meeting shall determine to increase the number, such meeting shall elect such additional number so determined upon, and shall divide such number into three classes, the first to hold office one year, the second two years and the third three years. If such meeting shall determine to diminish the number of such members composing said board, no election shall be held in such district to fill the vacancies of the outgoing members thereof until the number of members shall correspond to the number which such meeting shall determine to compose such board. No board of education of such district shall consist of less than three nor more than nine members. No change shall be made in the number of trustees of any such school district unless notice is given by the board of education at the time and in the same manner that notice is given of the annual school meeting that a vote will be taken upon the question of changing the number of trustees at such annual meeting.

Formerly L. 1894, ch. 556, tit. 8, § 31, as am'd by L. 1903, ch. 463, § 1.

**§ 228. Power of removal of member of board of education.** For cause shown, and after giving notice of the charge and opportunity of defense, the commissioner of education may remove any member of a board of education. Wilful disobedience of any lawful requirement of the commissioner of education, or a want of due diligence in obeying such requirement or wilful violation or neglect of duty is cause for removal.

Formerly L. 1894, ch. 556, tit. 8, § 29.

**§ 229. Powers and duties of boards of education.** The said board of education of every union free school district shall severally have power, and it shall be their duty:



1. To adopt such by-laws and rules for its government as shall seem proper in the discharge of the duties required under the provisions of this chapter.

2. To establish such rules and regulations concerning the order and discipline of the schools, in the several departments thereof, as they may deem necessary to secure the best educational results.

3. To prescribe the course of study by which the pupils of the schools shall be graded and classified, and to regulate the admission of pupils and their transfer from one class or department to another, as their scholarship shall warrant.

4. To prescribe the text-books to be used in the schools, and to compel a uniformity in the use of the same, pursuant to the provisions of this chapter, and to furnish the same to pupils out of any moneys provided for that purpose.

5. To make provision for the instruction of pupils in physiology and hygiene with special reference to the effect of alcoholic drinks, stimulants and narcotics upon the human system.

6. To purchase sites, or additions thereto, for school-houses for the district, as designated by a meeting of the district; and to construct such school-houses, and additions thereto as may be so designated; to purchase furniture and apparatus for such school-houses; to keep such school-houses and the furniture and apparatus therein in repair; to hire rooms in which to maintain and conduct schools when the rooms in the school-houses are overcrowded, or when such school-houses are destroyed, injured or damaged by the elements, and to fit up and furnish such rooms in a suitable manner for conducting schools therein; to insure the school-houses and their furniture, apparatus and appurtenances, and the school library, in some company created by or under the laws of this state, or in some insurance company authorized by law to transact business in this state, and to comply with the conditions of the policy, and raise the sums paid for premiums by district tax.

7. To take charge and possession of the school-houses, sites, lots, furniture, books, apparatus, and all school property within their respective districts; and the title of the same shall be vested respectively in said board of education, and the same shall not be subject to taxation for any purpose.

8. To sell, when thereto authorized by a vote of the qualified voters of the school district, any former school site or lot, or any real estate the title to which is vested in the board, and the buildings thereon, and appurtenances or any part thereof, at such price and upon such terms as said voters shall prescribe, and to convey the same by deed to be executed by the board or a majority

of the members thereof. All moneys arising from any such sale shall be used and applied for the benefit of the school district, as the voters thereof shall by resolution direct. Also to exchange real estate belonging to the district for the purpose of improving or changing school-house sites.

9. To take and hold for the use of the said schools or of any department of the same, any real estate transferred to it by gift, grant, bequest or devise, or any gift, legacy or annuity, of whatever kind, given or bequeathed to the said board, and apply the same, or the interest or proceeds thereof, according to the instructions of the donor or testator.

10. To have in all respects, the superintendence, management and control of said union free schools, and to establish in the same an academic department, whenever in their judgment the same is warranted by the demand for such instruction; to receive into said union free schools any pupils residing out of said district, and to regulate and establish the tuition fees of such nonresident pupils in the several departments of said schools; provided, that if such nonresident pupils, their parents or guardians, shall be liable to be taxed for the support of said schools in the districts, or either of them, on account of owning property therein, the amount of any such tax paid by a nonresident pupil, his parent or guardian, shall be deducted from the charge for tuition; to provide fuel, furniture, apparatus and other necessaries for the use of said schools, and to appoint such librarians as they may from time to time deem necessary.

11. To contract with and employ such persons as by the provisions of this chapter are qualified teachers, to determine the number of teachers to be employed in the several departments of instruction in said school, and at the time of such employment to make and deliver to each teacher a written contract as required by section five hundred and sixty-two of this chapter.

12. To fill any vacancy which may occur in said board by reason of the death, resignation, removal from office or from the school district, or refusal to serve, of any member or officer of said board; and the person so appointed in the place of any such member of the board shall hold his office until the next election of trustees, as by this chapter provided. In case of the failure of such board to fill such vacancy, and in case no special election is ordered for filling the same for a period of thirty days, the same may be filled by the school commissioner having jurisdiction. The commissioner of education may order a special election to be held in any district for the purpose of filling such vacancy, and when such special election is ordered the vacancy shall not be filled otherwise.

13. To remove any member of their board for official misconduct. But a written copy of all charges made of such misconduct shall be served upon him at least ten days before the time appointed for a hearing of the same; and he shall be allowed a full and fair opportunity to refute such charges before removal.

14. To provide and maintain suitable and convenient water-closets as provided in section one hundred and sixteen of this chapter.

15. To borrow money in anticipation of taxes remaining uncollected which have been levied by such district for the current fiscal year, and not in excess thereof, whenever in the discretion of the board of education it shall be necessary to do so for the purpose of paying the current expenses of the district for such current fiscal year, by issuing certificates of indebtedness, in the name of the board of education, signed by the president and clerk thereof, which certificates must be payable within such current fiscal year or within nine months thereafter, and shall bear interest at a rate not exceeding six per centum per annum.

Formerly L. 1894, ch. 556, tit. 8, § 15 part, as am'd by L. 1896, ch. 264, § 16; L. 1903, ch. 233, § 1, and L. 1906, ch. 150, § 3.

### § 230. Appointment of superintendent of schools.

In any incorporated village having a population of five thousand and upwards, or in any union free school district having a like population, which fact shall in either case be determined by the commissioner of education, as provided in section four hundred and fifty-two of this chapter, the board of education in any such village or union free school district may appoint a superintendent of schools. Such superintendent shall be under the direction of the board of education, which shall prescribe his powers and duties. He shall be paid a salary from the teachers' fund, to be fixed by the board of education, and he may be removed from office by a vote of the majority of all the members of such board. Whenever such superintendent shall be appointed, the said union free school district shall be entitled to the benefits of the provisions of section four hundred and fifty-two of this chapter.

Formerly L. 1894, ch. 556, tit. 8, § 17.

**§ 231. Regular meetings; visitation of schools.** It shall be the duty of each of the said boards of education elected pursuant to the provisions of this article, to have a regular meeting at least once in each quarter, and at such meetings to appoint one or more committees, to visit every school or department under the supervision of said board, and such committees

shall visit all said schools at least twice in each quarter, and report at the next regular meeting of the board on the condition thereof. The meetings of all such boards shall be open to the public, but said boards may hold executive sessions, at which sessions only the members of such boards or the persons invited shall be present.

Formerly L. 1894, ch. 556, tit. 8, § 22.

**§ 232. Limitation upon expenditures and application of moneys.** It shall also be the duty of said boards, respectively, to have reference in all their expenditures and contracts to the amount of moneys which shall be appropriated, or subject to their order or drafts, during the current year, and not to exceed that amount. And said boards shall severally apply all the moneys apportioned to the common school districts under their charge, to the departments below the academic; and all moneys from the literature fund or otherwise, appropriated for the support of the academic department, to said academic department.

Formerly L. 1894, ch. 556, tit. 8, § 23.

**§ 233. Deposit, custody and payment of moneys in cities and villages.** All moneys raised for the use of the union free schools in any city or incorporated village, or apportioned to the same from the income of the literature, common school or United States deposit funds, or otherwise, shall be paid into the treasury of such city or village to the credit of the board of education therein; and the funds so received into such treasury shall be kept separate and distinct from any other funds received into the said treasury. And the officer having the charge thereof shall give such additional security for the safe custody thereof as the corporate authorities of such city or village shall require. No money shall be drawn from such funds, credited to the several boards of education, unless in pursuance of a resolution of said board, and on drafts drawn by the president and countersigned by the secretary or clerk, payable to the order of the persons entitled to receive such money, and stating on their face the purpose or service for which such moneys have been authorized to be paid by the said board of education.

Formerly L. 1894, ch. 556, tit. 8, § 24.

**§ 234. Moneys and accounts in union free school districts whose boundaries are not the same as the boundaries of incorporated cities and villages.** All moneys raised for the use of union free schools, whose limits do not correspond with those of a city or an incorporated village, or

apportioned from the income of the literature or common school or United States deposit funds, or otherwise, shall be paid to the respective treasurers of the said several boards of education entitled to receive the same, and be by them applied to the uses of said several boards, who shall annually render their accounts of all moneys received and expended by them for the use of said schools, with every voucher for the same, and certified copies of all orders of the said boards touching the same, to the school commissioner of the district in which the principal school-house of the district is located. No money shall be drawn from such funds in possession of such treasurer, unless in pursuance of a resolution of said board, and on drafts drawn by the president and countersigned by the clerk, or secretary, payable to the order of the persons entitled to receive such money, and stating on their face the purpose or service for which said moneys have been authorized to be paid by the said board of education.

Formerly L. 1894, ch. 556, tit. 8, § 25.

**§ 235. Boards of education have powers of trustees of common schools and trustees of academies.** The board of education shall possess all the powers and privileges, and be subject to all the duties in respect to the common schools, or the common school departments in any union free school in said districts, which the trustees of common schools possess or are subject to under this chapter, not specially provided for in this article, and not inconsistent with the provisions of this article; and to enjoy, whenever an academic department shall be by them established, all the immunities and privileges now enjoyed by the trustees of academies in this state.

Formerly L. 1894, ch. 556, tit. 8, § 16.

**§ 236. Academy may be adopted as academic department.** Whenever a union free school shall be established under the provisions of article two, and there shall exist within its district an academy, the board of education, if thereto authorized by a vote of the voters of the district, may adopt such academy as the academic department of the district, with the consent of the trustees of the academy, and thereupon the trustees, by a resolution to be attested by the signatures of the officers of the board and filed in the office of the clerk of the county, shall declare their offices vacant, and thereafter the said academy shall be the academic department of such union free school. The board of education when thereto authorized by a vote of the qualified voters of the district may lease said academy and site, and maintain the academic department of such union free school therein and thereon.

Formerly L. 1894, ch. 556, tit. 8, § 27.

**§ 237. Contracts with academies.** The board of education of a union free school district, with the approval of the commissioner of education, and the regents of the university, may adopt an academy as the academic department thereof, and contract for the instruction therein of pupils of academic grade, residing in the district. The academy thereupon becomes the academic department of such union free school, and the district is entitled to the same rights and privileges, is subject to the same duties, and the apportionment and distribution of state school money shall be made to it, as if an academic department had been established in such school.

Formerly L. 1894, ch. 556, tit. 8, § 27-a, as added by L. 1902, ch. 325, § 1.

**§ 238. Retransfer of academy to its former trustees.** If there shall be, in a dissolved union free school district, an academy which shall have been adopted as the academic department of the union free school, under the provisions of title nine, chapter five hundred and fifty-five of the laws of eighteen hundred and sixty-four, and any amendment thereof, or title eight of chapter five hundred and fifty-six of the laws of eighteen hundred and ninety-four, and any amendment thereof, or under this chapter, it shall, upon the application of a majority of the surviving resident former trustees or stockholders, be transferred by the board of education to said former trustees or stockholders.

Formerly L. 1894, ch. 556, tit. 8, § 35.

**§ 239. Academic departments subject to regents.** Every academic department, established or adopted as provided by this article, shall be under the visitation of the regents of the university, and shall be subject, in its course of education and matters pertaining thereto, but not in reference to the buildings in which the same is conducted, to all the regulations made in regard to academies by the said regents. In such departments the qualifications for the entrance of any pupil shall be as high as those established by the said regents for participation in the literature fund of any academy of the state under their supervision.

Formerly L. 1894, ch. 556, tit. 8, § 26.

**§ 240. Money for teachers' wages may be raised by tax.** Any moneys required to pay teachers' wages in a union free school or in the academic department thereof, after the due application of the school moneys thereto, shall be raised by the board of education by tax.

Formerly L. 1894, ch. 556, tit. 8, § 11.

**§ 241. Records, reports, contracts.** It shall be the duty of said board to keep an accurate record of all its proceedings in books provided for that purpose, which books shall be open for public inspection at all reasonable hours. It shall be the duty of said board to cause to be published once in each year, and twenty days next before the annual meeting of the district, in at least one public newspaper, printed in such district, a full and detailed account of all moneys received by the board or the treasurer of said district, for its account and use, and of all the money expended therefor, giving the items of expenditure in full; should there be no paper published in said district said board shall publish such account by notice to the taxpayers, by posting copies thereof in five public places in said district. No member of said board shall be personally interested in any contract made by said board.

Formerly L. 1894, ch. 556, tit. 8, § 18 part.

**§ 242. Estimated expenses for ensuing year.** It shall be the duty of the board, at the annual meeting of the district, besides any other report or statement required by law, to present a detailed statement in writing of the amount of money which will be required for the ensuing year for school purposes, exclusive of the public moneys, specifying the several purposes for which it will be required, and the amount for each, but nothing in this section contained shall be construed to prevent the board from presenting such statement at any special meeting called for the purpose, nor from presenting a supplementary and amended statement or estimate at any time.

Formerly L. 1894, ch. 556, tit. 8, § 18 part.

**§ 243. Vote upon school taxes.** After the presentation of such statement or estimate, the question shall be taken upon voting the necessary taxes to meet the estimated expenditures, and when demanded by any voter present, the question shall be taken upon each item separately, and the inhabitants may increase the amount of any estimated expenditures or reduce the same, except for teachers' wages, and the ordinary contingent expenses of the schools.

Formerly L. 1894, ch. 556, tit. 8, § 19.

**§ 244. Levy of tax for certain purposes without vote.** If the inhabitants shall neglect or refuse to vote the sum estimated necessary for teachers' wages, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, or if they shall neglect or refuse to

vote the sum estimated necessary for ordinary contingent expenses, the board of education may levy a tax for the same, in like manner as if the same had been voted by the inhabitants.

Formerly L. 1894, ch. 556, tit. 8, § 20.

**§ 245. Reference to commissioner of education.** If any question shall arise as to what are ordinary contingent expenses the same may be referred to the commissioner of education, by a statement in writing, signed by one or more of each of the opposing parties upon the question, and the decision of the commissioner shall be conclusive.

Formerly L. 1894, ch. 556, tit. 8, § 21.

**§ 246. Appeal to commissioner of education.** Any person conceiving himself aggrieved by the action, proceedings or decision of any special meeting held under the provisions of this article, or by the order, decision, action or proceedings of any school commissioner under or pursuant to the provisions of this article or of article two, may appeal therefrom to the commissioner of education, who is hereby authorized and required to examine and decide the same; and his decision shall be final and conclusive.

Formerly L. 1894, ch. 556, tit. 8, § 41.

**§ 247. Corporate authorities must raise tax certified by board of education.** The corporate authorities of any incorporated village or city in which any such union free school shall be established, shall have power, and it shall be their duty, to raise, from time to time, by tax, to be levied upon all the real and personal property in said city or village, as by law provided for the defraying of the expenses of its municipal government, such sum as the board of education established therein shall declare necessary for teachers' wages and the ordinary contingent expenses of supporting the schools of said district. The sums so declared necessary shall be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of anticipated expenditure, and the amount necessary for each; and the said corporate authorities shall have no power to withhold the sums so declared to be necessary; and such corporate authorities as aforesaid shall have power, and it shall be their duty to raise, from time to time, by tax as aforesaid, any such further sum to be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of the proposed expenditure, and the amount



necessary for each which may have been or which may hereafter be authorized by a majority of the voters of such union free school district present and voting at any special district meeting duly convened for any of the purposes stated in section one hundred and twenty-six of this chapter.

Formerly L. 1894, ch. 556, tit. 8, § 9 part.

**§ 248. Application of this article.** The provisions of this article shall apply to all union free schools heretofore organized pursuant to the provisions of chapter four hundred and thirty-three of the laws of eighteen hundred and fifty-three, and the amendments thereof, chapter five hundred and fifty-five of the laws of eighteen hundred and sixty-four, and the amendments thereof, and of chapter five hundred and fifty-six of the laws of eighteen hundred and ninety-four and the amendments thereof; and sections one hundred and nineteen, one hundred and twenty-six, two hundred and forty-seven and four hundred and thirty of this chapter are made applicable to all school districts established by and organized under special statutes, except those of cities; and section one hundred and seventeen, section two hundred and twenty-nine, subdivision fifteen, and section two hundred and thirty of this chapter are made applicable to all school districts having a population of five thousand and upwards established by and organized under special statutes.

Formerly L. 1894, ch. 556, tit. 8, § 42 part, as am'd by L. 1904, ch. 427, § 1.

## ARTICLE 10

### Town Clerks

Section 260. Duties of town clerks.

261. Expenses of town clerks.

**§ 260. Duties of town clerks.** It shall be the duty of the town clerk of each town:

1. To keep all books, maps, papers and records of his office touching common schools, and forthwith to report to the supervisor any loss or injury to the same.

2. To receive from the supervisors the certificates of apportionment of school moneys to the town, and to record them in a book to be kept for that purpose.

3. To notify forthwith the trustees of the several school districts of the filing of each such certificate.

4. To see that the trustees of the school districts make and deposit with him their annual reports within the time prescribed

by law, and to deliver them to the school commissioner on demand; and to furnish the school commissioner of the school commissioner district in which his town is situated the names and post-office addresses of the school district officers reported to him by the district clerks.

5. To distribute to the trustees of the school districts all books, blanks and circulars which shall be delivered or forwarded to him by the commissioner of education or school commissioner for that purpose.

6. To receive from the supervisor, and record in a book kept for that purpose, the annual account of the receipts and disbursements of school moneys required to be submitted to the town auditors, together with the action of the town auditors thereon, and to send a copy of the account and of the action thereon, by mail, to the commissioner of education whenever required by him, and to file and preserve the vouchers accompanying the account.

7. To receive and to record, in the same book, the supervisor's final account of the school moneys received and disbursed by him, and deliver a copy thereof to such supervisor's successor in office.

8. To receive from the outgoing supervisor, and file and record in the same book, the county treasurer's certificate, that his successor's bond has been given and approved.

9. To receive, file and record the descriptions of the school districts, and all papers and proceedings delivered to him by the school commissioner pursuant to the provisions of this chapter.

10. To act, when thereto legally required, in the erection or alteration of a school district, as in article two of this chapter provided.

11. To receive and preserve the books, papers and records of any dissolved school district, which shall be ordered, as hereinafter provided, to be deposited in his office.

12. To perform any other duty which may be devolved upon him by this chapter, or by any other act touching common schools.

Formerly L. 1894, ch. 556, tit. 4, § 1.

**§ 261. Expenses of town clerks.** The necessary expenses and disbursements of the town clerk in the performance of his said duties, are a town charge, and shall be audited and paid as such.

Formerly L. 1894, ch. 556, tit. 4, § 2.

**ARTICLE 11****Supervisors**

Section 280. Duties of supervisors.

- 281. Sale of gospel or school lots on division of town.
- 282. Payment of proceeds of sale of gospel or school lots.
- 283. Supervisor's bond for school moneys.
- 284. Consequences of refusal of supervisor to give bond.
- 285. Report by supervisors to school commissioner.

**§ 280. Duties of supervisors.** It is the duty of every supervisor:

1. To disburse the school moneys in his hands applicable to the payment of teachers' wages, upon and only upon the written orders of a sole trustee or a majority of the trustees, in favor of qualified teachers. But whenever the collector in any school district shall have given bonds for the due and faithful performance of the duties of his office as disbursing agent, as required by section one hundred and seventy-three, or whenever any school district shall elect a treasurer as hereinafter provided, the said supervisor shall, upon the receipt by him of a copy of the bond executed by said collector or treasurer as hereinafter required, certified by the trustees, pay over to such collector or treasurer, all moneys in his hands applicable to the payment of teachers' wages in such district, and the said collector or treasurer shall disburse such moneys so received by him upon such orders as are specified herein to the teachers entitled to the same.

2. In the case of a union free school district, to pay over all the school money apportioned thereto, to the treasurer of such district, upon the order of its board of education.

3. To keep a just and true account of all the school moneys received and disbursed by him during each year, and to lay the same, with proper vouchers, before the board of town auditors at each annual meeting thereof.

4. To have a bound blank book, the cost of which shall be a town charge, and to enter therein all his receipts and disbursements of school moneys, specifying from whom and for what purposes they were received, and to whom and for what purposes they were paid out; and to deliver the book to his successor in office.

5. Within fifteen days after the termination of his office, to make out a just and true account of all school moneys theretofore received by him and of all disbursements thereof, and to deliver

the same to the town clerk, to be filed and recorded, and to notify his successor in office of such rendition and filing.

6. So soon as the bond to the county treasurer, required by section two hundred and eighty-three of this chapter, shall have been given by him and approved by the treasurer, to deliver to his predecessor the treasurer's certificate of these facts, to procure from the town clerk a copy of his predecessor's account, and to demand and receive from him all school moneys remaining in his hands.

7. Upon receiving such a certificate from his successor, and not before, to pay to him all school moneys remaining in his hands, and to forthwith file the certificate in the town clerk's office.

8. By his name of office, when the duty is not elsewhere imposed by law, to sue for and recover penalties and forfeitures imposed for violations of this chapter, and for any default or omission of any town officer or school district board or officer under this chapter; and after deducting his costs and expenses to report the balances to the school commissioner.

9. To act, when thereto legally required, in the erection or alteration of a school district, as in article two of this chapter provided, and to perform any other duty which may be devolved upon him by this chapter, or any other act relating to common schools.

10. To take and hold possession of the gospel and school lots of their respective towns.

11. To lease the same for such time not exceeding twenty-one years, and upon such conditions as they shall deem expedient.

12. To sell the same with the advice and consent of the inhabitants of the town, in town-meeting assembled, for such price and upon such terms of credit as shall appear to them most advantageous.

13. To invest the proceeds of such sales in loans, secured by bond and mortgage upon unincumbered real property of the value of double the amount loaned.

14. To purchase the property so mortgaged upon a foreclosure, and to hold and convey the property so purchased whenever it shall become necessary.

15. To re-loan the amount of such loans repaid to them, upon the like security.

16. To apply the rents and profits of such lots, and the interest of the money arising from the sale thereof, to the support of schools, as may be provided by law, in such manner as shall be thus provided.

17. To render a just and true account of the proceeds of the sales and the interest on the loans thereof, and of the rents and profits of such gospel and school lots, and of the expenditure and appropriation thereof, on the last Tuesday next preceding the annual town-meeting in each year, to the town board.

18. To deliver over to his successor in office, all books, papers and securities relating to the same, at the expiration of their respective offices.

19. To take therefor a receipt, which shall be filed in the clerk's office of the town; and,

20. To commence and prosecute in and by the name and style of the supervisor of the town any suits against any of his predecessors in office or against any other person to recover any debt, dues or demands in any wise arising from such public lot; and no such suit shall abate by the death, resignation or removal from office of the said supervisor but the same shall and may be prosecuted to judgment and execution by his successor in office.

Formerly L. 1894, ch. 556, tit. 3, § 4, as am'd by L. 1896, ch. 177, § 1. R. S., pt. 1, ch. 15, tit. 4, § 3, and L. 1819, ch. 239, § 1, incorporated.

**§ 281. Sale of gospel or school lots on division of town.** Whenever a town having lands assigned to it for the support of the gospel or of schools, shall be divided into two or more towns, or shall be altered in its limits by the annexing of a part of its territory to other towns, such lands shall be sold by the supervisor of the town, in which such lands were included immediately before such division or alteration; and the proceeds thereof shall be apportioned between the towns interested therein, in the same manner as the other public moneys of towns, so divided or altered, are apportioned.

Formerly R. S., pt. 1, ch. 15, tit. 4, § 5. 3.

**§ 282. Payment of proceeds of sale of gospel or school lots.** The shares of such moneys, to which the towns shall be respectively entitled, shall be paid to the supervisors of the respective towns, and shall thereafter be subject to the provisions of this article.

Formerly R. S., pt. 1, ch. 15, tit. 4, § 6.

**§ 283. Supervisor's bond for school moneys.** Immediately on receiving the school commissioners' certificates of apportionment, the county treasurer shall require of each supervisor, and each supervisor shall give to the treasurer, in behalf of the town, his bond, with two or more sufficient sureties, approved by the treasurer, in the penalty of at least double the amount of

the school moneys set apart or apportioned to the town, and of any such moneys unaccounted for by his predecessors, conditioned for the faithful disbursement, safe-keeping and accounting for such moneys, and of all other school moneys that may come into his hands from any other source. If the condition shall be broken the county treasurer shall sue the bond in his own name, in behalf of the town, and the money recovered shall be paid over to the successor of the supervisor in default, such successor having first given security as aforesaid. Whenever the office of a supervisor shall become vacant, the county treasurer shall require the person elected or appointed to fill such vacancy to execute a bond, with two or more sureties, to be approved by the treasurer, in the penalty of at least double the sum of the school moneys remaining in the hands of the old supervisor, when the office became vacant, conditioned for the faithful disbursement and safe-keeping of and accounting for such moneys. But the execution of this bond shall not relieve the supervisor from the duty of executing the bond first above mentioned.

Formerly L. 1894, ch. 556, tit. 2, § 17.

**§ 284. Consequences of refusal of supervisor to give bond.** The refusal of a supervisor to give such security shall be a misdemeanor, and any fine imposed on his conviction thereof shall be for the benefit of the common schools of the town. Upon such refusal, the moneys so set apart and apportioned to the town shall be paid to and disbursed by some other officer or person to be designated by the county judge, under such regulations and with such safeguards as he may prescribe, and the reasonable compensation of such officer or person, to be adjusted by the board of supervisors, shall be a town charge.

Formerly L. 1894, ch. 556, tit. 2, § 18.

**§ 285. Report by supervisors to school commissioner.** On the first Tuesday of March in each year, each supervisor shall make a return in writing to the county treasurer for the use of the school commissioners, showing the amounts of school moneys in his hands not paid on the orders of trustees for teachers' salaries, and the districts to which they stand accredited, and if no such moneys remain in his hands, he shall report that fact; and thereafter he shall not pay out any of said moneys until he shall have received the certificate of the next apportionment; and the moneys so returned by him shall be reapportioned as directed in article seventeen of this chapter.

Formerly L. 1894, ch. 556, tit. 3, § 3.

**ARTICLE 12****School Commissioners**

- Section 300. Office of school commissioner continued.
- 301. School commissioner districts.
  - 302. Election and qualifications of school commissioners.
  - 303. Term and oath of office.
  - 304. Vacating office.
  - 305. Filling vacancy in office.
  - 306. Salary.
  - 307. Increase of salary.
  - 308. Allowance for expenses.
  - 309. Forfeiture of salary for neglect.
  - 310. May act for school commissioner of adjoining district.
  - 311. Powers of school commissioners in districts organized under special acts.
  - 312. School commissioner may take affidavits and take and report testimony.
  - 313. Powers and duties.
  - 314. Subjection to and reports to commissioner of education.
  - 315. Conflicting business forbidden.

**§ 300. Office of school commissioner continued.**

The office of school commissioner is continued, and the present incumbents shall continue in office in their respective districts, for the residue of the terms for which they were elected or appointed.

Formerly L. 1894, ch. 556, tit. 5, § 1.

**§ 301. School commissioner districts.** The school commissioner districts duly and legally organized, as the same exist on the taking effect of this chapter, shall continue to be held and recognized as the school commissioner districts of the state until the same shall be altered or modified by the legislature. No city shall be included in, or form a part of any school commissioner district. In any school commissioner district that contains more than one hundred school districts, the board of supervisors may divide such commissioner district, within the county, and erect therefrom an additional school commissioner district; and when such district shall have been formed a school commissioner for such district shall be elected in the manner provided by law for the election of school commissioners.

Formerly L. 1894, ch. 556, tit. 5, § 2.

**§ 302. Election and qualifications of school commissioners.** A school commissioner for each school commissioner district shall be elected by the electors thereof, at the general election held each third year dating from the one held in the year eighteen hundred and ninety-six. Any person of full age, a citizen of the United States, a resident of the state, and of the county in which a school commissioner district is situated, shall be eligible to the office of school commissioner. No person shall be deemed ineligible to such office by reason of sex who has the other qualifications as herein provided. It shall be the duty of county clerks, and they are hereby required, as soon as they shall have official notice of the election or appointment of a school commissioner, for any district in their county, to forward to the commissioner of education a duplicate certificate of such election or appointment, attested by their signature and the seal of the county.

Formerly L. 1894, ch. 556, tit. 5, § 3.

**§ 303. Term and oath of office.** The term of office of such school commissioner shall commence on the first day of January next after his election, and shall be for three years, and until his successor qualifies. Every person elected to the office, or appointed to fill a vacancy, must take the oath of office prescribed by the constitution, before the county clerk or before any officer authorized to take, within this state, the acknowledgment of the execution of a deed of real property, and file it with the county clerk; and if he omits so to do, the office shall be deemed vacant.

Formerly L. 1894, ch. 556, tit. 5, § 4.

**§ 304. Vacating office.** A school commissioner may, at any time, vacate his office by filing his resignation with the county clerk. His removal from the county, or the acceptance of the office of supervisor, town clerk or trustee of a school district, shall vacate his office.

Formerly L. 1894, ch. 556, tit. 5, § 5.

**§ 305. Filling vacancy in office.** The county clerk, so soon as he has notice of the existence of a vacancy in the office of school commissioner, shall give notice thereof to the county judge, or, if that office be vacant, to the commissioner of education. In case of a vacancy the county judge, or, if there be no county judge, then the commissioner of education shall appoint a school commissioner, who shall hold his office until the first of January succeeding the next general election, and until his successor, who shall be chosen at such general election,



shall have qualified. A person elected to fill a vacancy shall hold the office only for the unexpired term.

Formerly L. 1894, ch. 556, tit. 5, § 6.

**§ 306. Salary.** Every school commissioner shall receive an annual salary of one thousand dollars, payable quarterly out of the free school fund appropriated for this purpose.

Formerly L. 1894, ch. 556, tit. 5, § 7.

**§ 307. Increase of salary.** Whenever a majority of the supervisors from all the towns composing a school commissioner district shall adopt a resolution to increase the salary of their school commissioner beyond the one thousand dollars payable to him from the free school fund, it shall be the duty of the board of supervisors of the county to give effect to such resolution, and they shall assess the increase stated therein upon the towns composing such commissioner district, ratably, according to the corrected valuations of the real and personal estate of such towns.

Formerly L. 1894, ch. 556, tit. 5, § 8.

**§ 308. Allowance for expenses.** The board of supervisors shall annually audit and allow to each school commissioner within the county a fixed sum of at least two hundred dollars for his expenses, and shall assess and levy that amount annually, by tax upon the towns composing his district.

Formerly L. 1894, ch. 556, tit. 5, § 9.

**§ 309. Forfeiture of salary for neglect.** Whenever the commissioner of education is satisfied that a school commissioner has persistently neglected to perform his duties, he may withhold his order for the payment of the whole or any part of such commissioner's salary as it shall become due, and the salary so withheld shall be forfeited; but the commissioner of education may remit the forfeiture, in whole or in part, upon the school commissioner disproving or excusing such neglect.

Formerly L. 1894, ch. 556, tit. 5, § 10.

**§ 310. May act for school commissioner of adjoining district.** A school commissioner, upon the written request of the school commissioner of an adjoining district, may perform any of his duties for him, and upon requirement of the commissioner of education must perform the same.

Formerly L. 1894, ch. 556, tit. 5, § 11.

**§ 311. Powers of school commissioners in districts organized under special acts.** All the rights, powers and duties conferred upon school commissioners by articles two and

twelve of this chapter, including the sole authority to examine and license, under the rules prescribed by the commissioner of education, all persons proposing to teach common schools, not possessing the qualifications mentioned in section five hundred and fifty-three, shall extend to all districts organized under special acts.

Formerly L. 1894, ch. 556, tit. 6, § 14, as added by L. 1897, ch. 512, § 3.

**§ 312. School commissioner may take affidavits and take and report testimony.** Every school commissioner shall have power to take affidavits and administer oaths in all matters pertaining to common schools, but without charge or fee; and under the direction of the commissioner of education to take and report to him the testimony in any case of appeal. When so directed by the commissioner of education said school commissioner shall have power to issue subpoenas to compel the attendance of witnesses. Service of said subpoenas shall be made a reasonable time before the time therein named for the hearing, by exhibiting the same to the person so served, with the signature of the school commissioner attached, and by leaving with such person a copy thereof. The person so served shall be entitled to receive from the person or officer at whose instance he is subpoenaed, at the time of service, the same fees as are provided by law for witnesses in courts of record. Disobedience of such subpoena shall subject the delinquent to a penalty of twenty-five dollars, which shall, unless sufficient excuse is shown, upon the certificate of the school commissioner showing such facts, be imposed by the county judge of the county in which such school commissioner resides, and shall be paid forthwith to the county treasurer for the benefit of the poor of the county, or, in case such penalty shall not be paid, such delinquent shall stand committed to the county jail of the county for the period of twenty-five days, unless sooner paid.

Formerly L. 1894, ch. 556, tit. 5, § 14.

**§ 313. Powers and duties.** Every school commissioner shall have power, and it shall be his duty:

1. From time to time to inquire into and ascertain whether the boundaries of the school districts within his district are definitely and plainly described in the records of the proper town clerks; and in case the record of the boundaries of any school district shall be found defective or indefinite, or if the same shall be in dispute, then to cause the same to be amended, or an amended record of the boundaries to be made. All necessary expenses incurred in establishing such amended records shall be a charge upon the districts affected, to be audited and allowed by the trustees thereof, upon the certificate of the school commissioner.

2. To visit and examine all the schools and school districts within his district as often in each year as shall be practicable; to inquire into all matters relating to the management, the course of study and mode of instruction, and the text-books and discipline of such schools, and the condition of the school-houses, sites, out-buildings and appurtenances, and of the district generally; to examine the school libraries; to advise with and counsel the trustees and other officers of the district in relation to their duties, and particularly in respect to the construction, heating, ventilating and lighting of school-houses, and the improving and adorning of the school grounds connected therewith; and to recommend to the trustees and teachers the proper studies, discipline and management of the schools, and the course of instruction to be pursued.

3. Upon such examination, to direct the trustees to make any alterations or repairs on the school-house or out-buildings which shall, in his opinion, be necessary for the health or comfort of the pupils, but the expense of making such alterations or repairs shall, in no case, exceed the sum of two hundred dollars, unless an additional sum shall be voted by the district.

4. To direct the trustees to make any alterations or repairs to school furniture, or when in his opinion any furniture is unfit for use and not worth repairing, or when sufficient furniture is not provided, he may direct that new furniture shall be provided as he may deem necessary, provided that the expense of such alterations, repairs or additions to furniture shall not in any one year exceed the sum of one hundred dollars.

5. To direct the trustees to abate any nuisance in or upon the premises, provided the same can be done at an expense not exceeding twenty-five dollars.

6. To examine and license teachers pursuant to the provisions of section five hundred and fifty-three of this chapter.

7. To revoke a teacher's certificate pursuant to the provisions of section five hundred and fifty-four of this chapter.

8. To condemn a school-house as provided by section one hundred and fifteen of this chapter.

9. And, generally, to use his utmost influence and most strenuous exertions to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction and advance the interests of the schools under his supervision.

Formerly L. 1894, ch. 556, tit. 5, § 13 part.

**§ 314. Subjection to and reports to commissioner of education.** The school commissioners shall be subject to such rules and regulations as the commissioner of educa-

tion shall, from time to time, prescribe, and appeals from their acts and decisions may be made to him, as herein provided. They shall, whenever required by the commissioner of education, report to him as to any particular matter or act, and shall severally make to him annually, to the first day of August in each year, a report in such form and containing all such particulars as he shall prescribe and call for; and, for that purpose, they shall procure the reports of the trustees of the school districts from the town clerk's offices, and, after abstracting the necessary contents thereof, shall arrange and indorse them properly and deposit them, with a copy of their own abstract thereof, in the office of the county clerk, and the clerk shall safely keep them.

Formerly L. 1894, ch. 556, tit. 5, § 15.

**§ 315. Conflicting business forbidden.** No school commissioner shall be directly or indirectly engaged in the business of a publisher of school books, maps or charts, or of a bookseller, or in the manufacture or sale of school apparatus or furniture; nor shall he act as agent for an author, publisher, or bookseller, or dealer in school books, maps or charts, or manufacturer of or dealer in any school furniture or apparatus; nor directly or indirectly receive any gift, emolument, reward or promise of reward, for his influence in recommending or procuring the use of any book, map or chart, or school apparatus, or furniture of any kind whatever, in any common or union free school, or the purchase of any books for a school district library. Any violation of this provision, or of any part thereof, shall be a misdemeanor; and any such violation shall subject such commissioner to removal from his office by the commissioner of education.

Formerly L. 1894, ch. 556, tit. 5, § 12.

## ARTICLE 13

### Commissioner of Education

Section 330. Commissioner of education.

331. Powers and duties of the commissioner.

332. Seal of commissioner.

333. Commissioner may appoint local visitors of schools.

334. Visitation by commissioner.

335. Report to legislature.

336. Power to annul teachers' certificates.

337. Register of qualified teachers.

338. Removal of school officers; withholding public money.

**Section 339. Preparation of forms.****340. Power to administer oaths.****341. Supervision and reports.**

**§ 330. Commissioner of education.** The office of commissioner of education is continued. The commissioner shall receive an annual salary of seven thousand five hundred dollars payable monthly, and shall also be paid one thousand five hundred dollars in lieu and in full for his traveling and other expenses, also payable monthly. The commissioner of education now in office shall serve until the first day of April, nineteen hundred and ten, unless sooner removed for cause by the board of regents, and the legislature shall fill any vacancy that may occur prior to the first day of April, nineteen hundred and ten, for the balance of the term of the present commissioner of education by election in the same manner as members of the board of regents are elected. All successors in office of the commissioner of education after April first, nineteen hundred and ten, shall serve during the pleasure of the board of regents and all vacancies in the office of commissioner of education after said date shall be filled by appointment of the board of regents. The commissioner of education may be elected or appointed without regard to the place of his residence, whether it be within or without the state of New York.

The office of the commissioner of education shall be in the capitol and shall be maintained at the expense of the state.

Formerly L. 1894, ch. 556, tit. 1, § 2, and L. 1904, ch. 40, § 3.

**§ 331. Powers and duties of the commissioner.** All the powers and duties of the board of regents in relation to the supervision of elementary and secondary schools, including all schools, except colleges, technical and professional schools, are hereby devolved upon the commissioner of education. He shall act as the secretary and as the executive officer of the board of regents. He shall have power to create such departments as in his judgment shall be necessary; he shall also have power to appoint deputies and heads of such departments, subject to the approval of the state board of regents. Such heads of departments shall appoint, subject to approval by the commissioner of education, such subordinates in their respective departments as in their judgment shall be necessary.

He shall be responsible for the safe keeping and proper use of the university seal and of the books, records and other property in charge of the regents, and for the proper administration and discipline of the various offices and departments of the university.

He shall be ex officio a trustee of Cornell university and of the New York state asylum for idiots. He shall also have general supervision over the state normal schools which have been, or which may hereafter be, established, and he shall provide for the education of the Indian children of the state as required by the provisions of this chapter.

He shall have general supervision of industrial and trade schools established pursuant to article thirty-three of this chapter; he shall prescribe regulations governing the licensing of the teachers employed therein; and he is hereby authorized, empowered and directed to provide for the inspection of such schools, to take necessary action to make effectual the provisions of said article, and to advise and assist boards of education in the several cities and schools districts in the establishment, organization and management of such schools.

He shall enforce the provisions of article forty-one of this chapter.

Formerly L. 1892, ch. 378, § 5 part; L. 1894, ch. 556, tit. 1, § 6; L. 1904, ch. 40, § 4; L. 1908, ch. 263, § 6 part, and L. 1908, ch. 249, § 6.

**§ 332. Seal of commissioner.** The seal of the commissioner, of which a description and impression are now on file in the office of the secretary of state, shall continue to be his official seal, and when necessary may be renewed from time to time. Copies of all papers deposited or filed in the commissioner's office, and of all acts, orders and decisions made by him, and of the drafts or machine copies of his official letters, may be authenticated under the said seal, and when so authenticated shall be evidence equally with and in like manner as the originals.

Formerly L. 1894, ch. 556, tit. 1, § 5.

**§ 333. Commissioner may appoint local visitors of schools.** The commissioner may, in his discretion, appoint persons to visit and examine all or any of the common schools in the county where such persons reside, and to report to him all such matters respecting their condition and management, and the means of improving them, as he shall prescribe; but no allowance or compensation shall be made to such visitors for their services or expenses.

Formerly L. 1894, ch. 556, tit. 1, § 7.

**§ 334. Visitation by commissioner.** So often as the commissioner can, consistently with his other duties, he shall visit such of the common schools of the state as he shall see fit, and inquire into their course of instruction, management and

discipline, and advise and encourage the pupils, teachers and officers thereof.

Formerly L. 1894, ch. 556, tit. 1, § 8.

**§ 335. Report to legislature.** The commissioner shall submit to the legislature an annual report containing:

1. A statement of the condition of the common schools of the state, and of all other schools and institutions under his supervision, and subject to his visitation as commissioner.

2. Estimates and accounts of expenditures of the school moneys, and a statement of the apportionment of school moneys made by him.

3. All such matters relating to his office, and all such plans and suggestions for the improvement of the schools and the advancement of public instruction in the state, as he shall deem expedient.

Formerly L. 1894, ch. 556, tit. 1, § 9.

**§ 336. Power to annul teachers' certificates.** Upon cause shown to his satisfaction, the commissioner may annul any certificate of qualification granted to a teacher by a school commissioner, or declare any diploma issued by a state normal school ineffective and null as a qualification to teach a common school within this state, and he may reconsider and reverse his action in any such matter.

Formerly L. 1894, ch. 556, tit. 1, § 11.

**§ 337. Register of qualified teachers.** The commissioner shall prepare and keep in his office alphabetical lists of all persons who have received, or shall receive, certificates of qualification from himself, or diplomas of the state normal schools, with the dates thereof, and shall note thereon all annulments and reversals of such certificates and diplomas, with the dates and causes thereof, together with such other particulars as he may deem expedient.

Formerly L. 1894, ch. 556, tit. 1, § 12.

**§ 338. Removal of school officers; withholding public money.** Whenever it shall be proved to his satisfaction that any school commissioner or other school officer has been guilty of any wilful violation or neglect of duty under this chapter, or any other act pertaining to common schools, or wilfully disobeying any decision, order or regulation of the commissioner of education, said commissioner may, by an order under his hand and seal, which order shall be recorded in his office, remove such school commissioner or other school officer from his office. Said commissioner of education may also withhold any share of the public

---

**§§ 339-341 Appeals or Petitions to Commissioner of Education. Arts. 13, 14**


---

money of the state from any district for wilfully disobeying any decision, order or regulation as aforesaid, or when authorized by any provision of this chapter.

Formerly L. 1894, ch. 556, tit. 1, § 13.

**§ 339. Preparation of forms.** The commissioner shall prepare suitable registers, blanks, forms and regulations for making all reports and conducting all necessary business under this chapter, and shall cause the same, with such information and instructions as he shall deem conducive to the proper organization and government of the common schools and the due execution of their duties by school officers, to be transmitted to the officers and persons intrusted with the execution of the same.

Formerly L. 1894, ch. 556, tit. 1, § 14.

**§ 340. Power to administer oaths.** The commissioner may administer oaths and take affidavits concerning any matter relating to the schools.

Formerly L. 1894, ch. 556, tit. 1, § 15.

**§ 341. Supervision and reports.** Every union free school district, in all its departments, shall be subject to the visitation of the commissioner of education. He is charged with the general supervision of its board of education and their management and conduct of all its departments of instruction. And every board of education shall annually, on the first day of August, make to the school commissioner having jurisdiction, and deposit in the town clerk's office, a report for the school year ending July thirty-first preceding, of all matters concerning which trustees of a school district are required to report, under this chapter, and concerning all such other matters as the commissioner of education shall, from time to time, require; and shall also whenever thereto required by the commissioner of education, report fully to him upon any particular matter; and such report shall be in such form, and so authenticated, as such commissioner shall, from time to time, require.

Formerly L. 1894, ch. 556, tit. 8, § 28.

## **ARTICLE 14**

### **Appeals or Petitions to Commissioner of Education**

Section 360. Who may appeal to commissioner of education.

361. Powers of commissioner upon appeals.

362. Filed papers and copies thereof.



Art. 14 Appeals or Petitions to Commissioner of Education. §§ 360-362

**§ 360. Who may appeal or petition to commissioner of education.** Any person conceiving himself aggrieved may appeal or petition to the commissioner of education who is hereby authorized and required to examine and decide the same; and his decision therein shall be final and conclusive, and not subject to question or review in any place or court whatever. Such appeal or petition may be made in consequence of any decision made:

1. By any school district meeting;
2. By any school commissioner and other officers, in forming or altering, or refusing to form or alter, any school district, or in refusing to apportion any school moneys to any such district or part of a district;
3. By a supervisor in refusing to pay any such moneys to any such district;
4. By the trustees of any district in paying or refusing to pay any teacher, or in refusing to admit any scholar gratuitously into any school;
5. By any trustees of any school library concerning such library, or the books therein, or the use of such books;
6. By any district meeting in relation to the library;
7. By any other official act or decision concerning any other matter under this chapter, or any other act pertaining to common schools.

Formerly L. 1894, ch. 556, tit. 14, § 1.

**§ 361. Powers of commissioner upon appeals.** The commissioner, in reference to such appeals, shall have power:

1. To regulate the practice therein.
2. To determine whether an appeal shall stay proceedings, and prescribe conditions upon which it shall or shall not so operate.
3. To decline to entertain or to dismiss an appeal, when it shall appear that the appellant has no interest in the matter appealed from, and that the matter is not a matter of public concern, and that the person injuriously affected by the act or decision appealed from is incompetent to appeal.
4. To make all orders, by directing the levying of taxes or otherwise, which may, in his judgment, be proper or necessary to give effect to his decision.

Formerly L. 1894, ch. 556, tit. 14, § 2.

**§ 362. Filed papers and copies thereof.** The commissioner shall file, arrange in the order of time, and keep in his office, so that they may be at all times accessible, all the proceedings on every appeal to him under this article, including his

decision and orders founded thereon; and copies of all such papers and proceedings, authenticated by him under his seal of office, shall be evidence equally with the originals.

Formerly L. 1894, ch. 556, tit. 14, § 3.

## ARTICLE 15

### Assessment and Collection of Taxes

- Section 380. Assessment of taxes.
381. Property to be assessed.
  382. Ascertainment of valuations.
  383. Power of trustees to determine values.
  384. Equalization within joint districts.
  385. Assessment of vacant land.
  386. Assessment for school purposes of certain state lands in town of Dannemora.
  387. Assessment for school purposes of certain state lands in town of Wawarsing.
  388. Persons working land on shares and vendees in possession liable to taxation.
  389. Liability of property of certain absentee owners.
  390. Certain exemptions from tax for building school-house.
  391. Right of certain tenants to charge tax to landlord.
  392. Requisites and authority of collector's warrant.
  393. Time for delivery of warrant to collector.
  394. Jurisdiction of collector.
  395. Renewals of warrants.
  396. Amendment of tax-lists.
  397. Collector's notice.
  398. Collector's fees.
  399. Notice to railroad companies of assessment and tax.
  400. Payment of tax by railroad company to county treasurer.
  401. Duty of collector after failure of railroad company to pay within thirty days.
  402. Payment of tax by county treasurer to collector.
  403. Railroad company may pay collector.
  404. Trustees' right of action to recover tax.
  405. Collector's return of unpaid taxes.
  406. Certification by trustees of collector's return.
  407. Payment of unpaid taxes from county treasury.
  408. Levy by supervisors of unpaid taxes.

**Section 409. Payment before levy.**

410. Proceedings for collection same as of county taxes.

411. Filing tax-list and warrant with town clerk.

**§ 380. Assessment of taxes.** Within thirty days after a tax shall have been voted by a district meeting, the trustees shall assess it, and make out the tax-list therefor, and annex thereto their warrant for its collection. But they may at the same time assess two or more taxes so voted, and any taxes they are authorized to raise without such vote, and make out one tax-list and one warrant for the collection of the whole. They shall also prefix to their tax-list a heading showing for what purpose the different items of the tax are levied.

Formerly L. 1894, ch. 556, tit. 7, § 62.

**§ 381. Property to be assessed.** School district taxes shall be apportioned by the trustees upon all real estate within the boundaries of the district which shall not be by law exempt from taxation, except as hereinafter provided, and such property shall be assessed to the person or corporation owning or possessing the same at the time such tax-list shall be made out, but land lying in one body and occupied by the same person, either as owner or agent for the same principal, or as tenant under the same landlord, if assessed as one lot on the last assessment-roll of the town after revision by the assessors, shall, though situated partly in two or more school districts, be taxable in that one of them in which such occupant resides. This rule shall not apply to land owned by nonresidents of the district, and which shall not be occupied by an agent, servant or tenant residing in the district. Such unoccupied real estate shall be assessed as nonresident, and a description thereof shall be entered in the tax-list. The trustees shall also apportion the district taxes upon all persons residing in the district, and upon all corporations liable to taxation therein, for the personal estate owned by them and liable to taxation.

Formerly L. 1894, ch. 556, tit. 7, § 63.

**§ 382. Ascertainment of valuations.** The valuations of taxable property shall be ascertained, so far as possible, from the last assessment-roll of the town, after revision by the assessors; and no person shall be entitled to any reduction in the valuation of such property, as so ascertained, unless he shall give notice of his claim to such reduction in writing to the trustees of the district before the tax-list shall be made out.

Formerly L. 1894, ch. 556, tit. 7, § 64.

**§ 383. Power of trustees to determine values.** Where such reduction shall be duly claimed and where the valuation of taxable property can not be ascertained from the last assessment-roll of the town, or where the valuation of such property shall have increased or diminished, since the last assessment-roll of the town, or an error, mistake or omission on the part of the town assessors shall have been made in the description or valuation of taxable property, the trustees shall ascertain the true value of the property to be taxed from the best evidence in their power, giving notice to the persons interested, and proceeding in the same manner as the town assessors are required by law to proceed in the valuation of taxable property, the hearing of grievances, and the revision of the town assessment-roll.

Formerly L. 1894, ch. 556, tit. 7, § 65.

**§ 384. Equalization within joint districts.** When a district embraces parts of more than one town, it shall be the duty of the supervisors of such towns so in part embraced and they are hereby directed, upon receiving a written notice from the trustees of such district, or from three or more persons liable to pay taxes upon real estate therein, to meet at a time and place to be named in such notice, which time shall not be less than five or more than ten days from the service thereof, and a place within the bounds of the towns so in part embraced, and proceed to inquire and determine whether the valuation of real property upon the several assessment-rolls of said towns is substantially just, as compared with each other, so far as said districts are concerned, and if ascertained not to be so, they shall determine the relative proportion of taxes that ought to be assessed upon the real property of the parts of such district lying in different towns, and the trustees of such district shall thereupon assess the proportion of any tax thereafter to be raised, according to the determination of such supervisors, until new assessment-rolls of the town shall be perfected and filed, using the assessment-rolls of the several towns to distribute the said proportion among the persons liable to be assessed for the same. In cases when such supervisors shall be unable to agree, they shall summon a supervisor from some adjoining town, who shall unite in such inquiry, and the finding of a majority shall be the determination of such meeting. Such supervisors shall receive for their services three dollars per day for each day actually employed which shall be a town charge upon their respective towns.

Formerly L. 1894, ch. 556, tit. 7, § 66.

**§ 385. Assessment of vacant land.** When any real estate within a district so liable to taxation shall not be

occupied and improved by the owner, his servant or agent, and shall not be possessed by any tenant, the trustees of any district, at the time of making out any tax-list by which any tax shall be imposed thereon, shall make and insert in such tax-list a statement and description of every such lot, piece or parcel of land so owned by nonresidents therein, in the same manner as required by law from town assessors in making out the assessment-roll of their towns; and if any such lot is known to belong to an incorporated company liable to taxation in such district, the name of such company shall be specified, and the value of such lot or piece of land shall be set down opposite to such description, which value shall be the same that was affixed to such lot or piece of land in the last assessment-roll of the town; and if the same was not separately valued in such roll, then it shall be valued in proportion to the valuation which was affixed in the said assessment-roll to the whole tract of which such lot or piece shall be part.

Formerly L. 1894, ch. 556, tit. 7, § 71.

**§ 386. Assessment for school purposes of certain state lands in town of Dannemora.** The board of education of union free school district number one, town of Dannemora, in the county of Clinton, shall hereafter assess the property owned by the state and situate within the boundaries of said district, exclusive of the improvements erected thereon by the state at the same valuation as other lands in said district are assessed, and the comptroller shall hereafter pay to the school authorities of such district the amount of taxes levied upon the land of the state for school purposes in such district by virtue of this section, out of any moneys hereafter appropriated by the legislature for the payment of assessments for local improvements on property owned by the state.

Formerly L. 1905, ch. 563, § 1.

**§ 387. Assessment for school purposes of certain state lands in town of Wawarsing.** The local school authorities of union free school district number two of the town of Wawarsing, Ulster county, shall hereafter assess the lands owned by the state of New York and situate within the boundaries of said district, exclusive of the improvements, if any, erected thereon by the state, at the same valuation as similar lands of individuals in said district are assessed and the comptroller shall hereafter credit to the treasurer of Ulster county the amount of taxes levied upon the lands of the state therein for school purposes from taxes payable by said county treasurer each

the trustees issuing the said warrant may reside, and for the benefit of which said tax is intended to be collected; and the bond or sureties of any collector, given for the faithful performance of his official duties, are hereby declared and made liable for any moneys received or collected on any such tax-list and warrant.

Formerly L. 1894, ch. 556, tit. 7, § 82.

**§ 395. Renewals of warrants.** If the sum of money, payable by any person named in such tax-list, shall not be paid by him or collected by such warrant within the time therein limited, it shall and may be lawful for the trustees to renew such warrant in respect to such delinquent person; and whenever more than one renewal of a warrant for the collection of any tax-list may become necessary in any district, the trustees may make such further renewal, with the written approval of the supervisor of any town in which a school-house of said district shall be located, to be indorsed upon such warrant.

Formerly L. 1894, ch. 556, tit. 7, § 83.

**§ 396. Amendment of tax-lists.** Whenever the trustees of any school district shall discover any error in a tax-list made out by them, they may, with the approval and consent of the commissioner of education, after refunding any amount that may have been improperly collected on such tax-list, if the same shall be required by him, amend and correct such tax-list, as directed by the commissioner, in conformity to law.

Formerly L. 1894, ch. 556, tit. 7, § 84.

**§ 397. Collector's notice.** The collector, on the receipt of a warrant for the collection of taxes, shall give notice to the taxpayers of the district by publicly posting written or printed, or partly written and partly printed notices in at least three public places in such district, one of which shall be on the outside of the front door of the school-house, stating that he has received such warrant and will receive all such taxes as may be voluntarily paid to him within thirty days from the time of posting said notice. Such collector shall also give a like notice, either personally or by mail, at least twenty days previous to the expiration of the thirty days aforesaid, to the ticket agent at the nearest station of any railroad corporation, or the president, secretary, general or division superintendent, or manager of any canal or pipe line, assessed for taxes upon the tax-list delivered to him with the aforesaid warrant, and where the amount of the tax is one dollar or more the collector shall also give a like notice to all nonresident taxpayers on said list whose residence or post-office address may

be known to such collector, or may be ascertained by him upon inquiry of the trustees and clerk of his district, and no school collector shall be entitled to recover from any railroad corporation, canal company or pipe line, or nonresident taxpayer more than one per centum fees on the taxes assessed against such corporation or nonresident, unless such notice shall have been given as aforesaid; and in case the whole amount of taxes shall not be so paid in, the collector shall forthwith proceed to collect the same.

Formerly L. 1894, ch. 556, tit. 7, § 81 part, as am'd by L. 1896, ch. 575, § 1, and L. 1899, ch. 440, §1.

**§ 398. Collector's fees.** The collector shall receive for his services on all sums paid in as aforesaid, one per centum, and upon all sums collected by him, after the expiration of the time mentioned, five per centum, except as hereinbefore provided; and in case a levy and sale shall be necessarily made by such collector, he shall be entitled to traveling fees, at the rate of ten cents per mile, to be computed from the school-house in such district.

Formerly L. 1894, ch. 556, tit. 7, § 81 part, as am'd by L. 1896, ch. 575, § 1, and L. 1899, ch. 440, §1.

**§ 399. Notice to railroad companies of assessment and tax.** It shall be the duty of the school collector in each school district in this state, except in the counties of New York, Kings and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company.

Formerly L. 1881, ch. 675, § 1, as am'd by L. 1882, ch. 319, § 1, and L. 1885, ch. 533, § 1.

**§ 400. Payment of tax by railroad company to county treasurer.** Any railroad company heretofore organ-

ized, or which may hereafter be organized, under the laws of this state, may within thirty days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor.

Formerly L. 1881, ch. 675, § 2.

**§ 401. Duty of collector after failure of railroad company to pay within thirty days.** In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any railroad company until the receipt by him of such notice from the county treasurer.

Formerly L. 1881, ch. 675, § 3.

**§ 402. Payment of tax by county treasurer to collector.** The several amounts of tax received by any county treasurer in this state, under the provisions of the last three sections, of and from railroad companies, shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

Formerly L. 1881, ch. 675, § 4.

**§ 403. Railroad company may pay collector.** Nothing in the last four sections contained shall be construed to hinder, prevent or prohibit any railroad company from paying its school tax to the school collector direct, as provided by law.

Formerly L. 1881, ch. 675, § 5.

**§ 404. Trustees' right of action to recover tax.** Whenever any sum of money payable by any person named in such tax-list, shall not be paid by such person, or collected by such warrant within the time therein limited, or the time limited by any renewal of such warrant; or in case the property assessed



be real estate belonging to an incorporated company, and no goods or chattels can be found whereon to levy the tax, the trustees may sue for and recover the same in their name of office.

Formerly L. 1894, ch. 556, tit. 7, § 85.

**§ 405. Collector's return of unpaid taxes.** If any tax on real estate placed upon the tax-list and duly delivered to the collector, or the taxes upon nonresident stockholders in banking associations organized under the laws of congress, shall be unpaid at the time the collector is required by law to return his warrant, he shall deliver to the trustees of the district an account of the taxes remaining due, containing a description of the lands upon which such taxes were unpaid as the same were placed upon the tax-list, together with the amount of the tax so assessed, and upon making oath before any justice of the peace or judge of a court of record, notary public or any other officer authorized to administer oaths, that the taxes mentioned in any such account remain unpaid, and that, after diligent efforts, he has been unable to collect the same, he shall be credited by said trustees with the amount thereof.

Formerly L. 1894, ch. 556, tit. 7, § 72.

**§ 406. Certification by trustees of collector's return.** Upon receiving any such account from the collector, the trustees shall compare it with the original tax-list, and if they find it to be a true transcript they shall add to such account their certificate to the effect that they have compared it with the original tax-list and found it to be correct, and shall immediately transmit the account, affidavit and certificate to the treasurer of the county.

Formerly L. 1894, ch. 556, tit. 7, § 73.

**§ 407. Payment of unpaid taxes from county treasury.** Out of any moneys in the county treasury, raised for contingent expenses, or for the purpose of paying the amount of the taxes so returned unpaid, the treasurer shall pay to the collector the amount of the taxes so returned as unpaid, with one per centum of the amount in addition thereto, for the compensation of such collector, and if there are no moneys in the treasury applicable to such purpose, the board of supervisors, at the time of levying said unpaid taxes, as provided in the next section, shall pay to the collector of the school district the amount thereof, with said addition thereto, by voucher or draft on the county treasurer, in the same manner as other county charges are paid, and the collector shall be again charged therewith by the trustees.

Formerly L. 1894, ch. 556, tit 7, § 74, as am'd by L. 1895, ch. 769, § 1, and L. 1897, ch. 512, § 4.

**§ 408. Levy by supervisors of unpaid taxes.** Such account, affidavit and certificate shall be laid by the county treasurer before the board of supervisors of the county, who shall cause the amount of such unpaid taxes, with seven per centum of the amount in addition thereto, to be levied upon the lands upon which the same were imposed; and if imposed upon the lands of any incorporated company, then upon such company; and when collected the same shall be returned to the county treasurer to reimburse the amount so advanced, with the expenses of collection.

Formerly L. 1894, ch. 556, tit. 7, § 75.

**§ 409. Payment before levy.** Any person whose lands are included in any such account may pay the tax assessed thereon, with five per centum added thereto, to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied.

Formerly L. 1894, ch. 556, tit. 7, § 76, as am'd by L. 1895, ch. 769, § 2.

**§ 410. Proceedings for collection same as of county taxes.** The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the board of supervisors as are provided by law in relation to the county taxes; and, upon a similar account, as in the case of county taxes of the arrears thereof uncollected, being transmitted by the county treasurer to the comptroller, the same shall be paid on his warrant to the treasurer of the county advancing the same; and the amount so assumed by the state shall be collected for its benefit, in the manner prescribed by law in respect to the arrears of county taxes upon land of nonresidents; or if any part of the amount so assumed consisted of a tax upon any incorporated company, the same proceedings may also be had for the collection thereof as provided by law in respect to the county taxes assessed upon such company.

Formerly L. 1894, ch. 556, tit. 7, § 77.

**§ 411. Filing tax-list and warrant with town clerk.** Within fifteen days after any tax-list and warrant shall have been returned by a collector to the trustees of any school district, the trustees shall deliver the same to the town clerk of the town in which the collector resides, and said town clerk shall file the same in his office.

Formerly L. 1894, ch. 556, tit. 7, § 89.

## ARTICLE 16

### School District Bonds

Section 430. Issuance of school district bonds.

**§ 430. Issuance of school district bonds.** 1. For the purpose of giving effect to the provisions of section one hundred and twenty-six of this chapter, trustees or boards of education are hereby authorized, whenever a tax shall have been voted to be collected in instalments for the purpose of building a new school-house or building an addition to a school-house, or making additions, alterations or improvements to buildings or structures belonging to the district, or for the purchase of a new site or for an addition to a site, to borrow so much of the sum voted as may be necessary at a rate of interest not exceeding six per centum, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par.

2. Notice of the time and place of the sale of such bonds shall be given by the trustees or board of education at least ten days prior thereto by publication twice in two newspapers, if there be two, or in one newspaper if there be but one published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least ten of the most public places in said district ten days before the sale.

3. It shall be the duty of the trustees or the persons having charge of the issue or payment of such indebtedness, to transmit a statement thereof to the clerk of the board of supervisors of the county in which such indebtedness is created, annually, on or before the first day of November.

Formerly L. 1894, ch. 556, tit. 8, § 10 part, as am'd by L. 1895, ch. 273, § 1, and L. 1896, ch. 264, § 15.

4. When such bonds are sold by a union free school district whose boundaries are the same as the boundaries of an incorporated village or city, such bonds shall be signed by the president and clerk of the board of education and delivered to the treasurer of such village or city who shall countersign them and give notice of the sale thereof in like manner as is provided for the notice of sale of bonds in subdivision two of this section. The proceeds of the sale of such bonds shall be paid into the treasury of said incorporated village or city, to the credit of the board of education.

Formerly L. 1894, ch. 556, tit. 8, § 9 part.

5. When such bonds are sold by a common school district the payment or collection of the last instalment shall not be extended beyond twenty years from the time such vote was taken.

Formerly L. 1894, ch. 556, tit. 7, § 18 part, as am'd by L. 1895, ch. 274, § 1.

## ARTICLE 17

### School Moneys

Section 450. State school moneys and apportionment thereof.

451. Apportionment of moneys appropriated for the support of common schools.

452. Conditions under which cities and districts are entitled to an apportionment from the appropriation for the support of common schools.

453. Apportionment of moneys appropriated to cities, academies, academic departments and libraries.

454. Manner of certifying and paying apportionment provided for in preceding section.

455. County treasurers to render annual report.

456. Certification of apportionment by commissioner of education.

457. Moneys apportioned, when payable.

458. Apportionment of school moneys by school commissioners.

459. Duty of and payment to supervisor.

460. Power of comptroller to withhold payment of school moneys.

461. The union free school district and city school district.

**§ 450. State school moneys and apportionment thereof.** The amount annually appropriated by the legislature for the support of common schools, constitutes the state school moneys, and shall be divided and apportioned by the commissioner of education on or before the twentieth day of January in each year as hereinafter provided; and all moneys so apportioned shall be applied exclusively to the payment of teachers' wages.

Formerly L. 1894, ch. 556, tit. 2, § 4.

**§ 451. Apportionment of moneys appropriated for the support of common schools.** The commissioner of education shall apportion the money appropriated for the support of common schools as follows:

1. He shall set apart for a contingent fund not more than ten thousand dollars.

2. He shall apportion to each city and to each union school district which has a population of five thousand and which employs a superintendent of schools eight hundred dollars. This shall be known as a supervision quota.

3. He shall apportion to each district having an assessed valuation of twenty thousand dollars or less, two hundred dollars.

4. He shall apportion to each district having an assessed valuation of forty thousand dollars or less, but exceeding twenty thousand dollars, one hundred and seventy-five dollars.

5. He shall apportion to each district having an assessed valuation of sixty thousand dollars or less, but exceeding forty thousand dollars, one hundred fifty dollars.

6. He shall apportion to each Indian reservation for each teacher employed therein for a period of thirty-two weeks or more, one hundred fifty dollars.

7. He shall apportion to each of the remaining districts and to each of the cities in the state one hundred twenty-five dollars. The apportionment provided for by subdivisions three, four, five, six and seven shall be known as district quotas.

8. He shall apportion to each such district or city for each additional qualified teacher and his successors by whom the common schools have been taught during the period of time required by the school law, one hundred dollars. The apportionment provided for by this subdivision shall be known as the teacher's quota.

9. He shall apportion to a school district which has failed to maintain school for the legal term or which has employed an extra teacher for a shorter period than the law requires to entitle the district to a full quota such a part of a district or teacher's quota as seems to him equitable when the reason for such failure is in his judgment sufficient to warrant such action, and shall pay the same from the contingent fund.

10. All errors in the apportionment whether made by the commissioner of education or by the school commissioner shall be corrected by the commissioner of education. Whenever a school district has been apportioned less money than that to which it is entitled the commissioner of education may allot to such district the balance to which it is in his judgment entitled and the same shall be paid from the contingent fund. Whenever a school district has been apportioned more money than that to which it is entitled the commissioner of education may, by an order under his hand, direct such moneys to be paid back into the hands of the county treasurer by him to be credited to the school fund, or he

may deduct such amount from the next apportionment to be made to said district.

11. He shall apportion to each separate neighborhood which shall have duly reported such fixed sum as will in his opinion be equitably equivalent to its portion of all the state school moneys upon the basis of distribution established by this article; such sum to be payable out of the contingent fund hereinbefore established.

Written from L. 1905, ch. 699, L. 1906, ch. 683, and L. 1907, ch. 577.

**§ 452. Conditions under which cities and districts are entitled to an apportionment from the appropriation for the support of common schools.**

1. Supervision quota. Said commissioner of education shall make no allotment of a supervision quota to any city or district unless satisfied that such city or district employs a competent person as superintendent whose time is exclusively devoted to the general supervision of the public schools of such city or district; nor shall he make any allotment to any district in the first instance without first causing an enumeration of the inhabitants thereof to be made which shall show the population thereof to be at least five thousand, the expense of which enumeration, as certified by said commissioner, shall be paid by the district in whose interest it is made. The population shown by the last state or federal census or village enumeration may be accepted by said commissioner whenever the village and school district boundaries coincide.

2. No district or part of a district shall be entitled to any portion of such school moneys on such apportionment unless the report of the trustee for the preceding school year shall show that a common school is supported in the district and taught by a qualified teacher for such a term of time as would under the next subdivision of this section entitle it to a distributive share under the apportionment of the commissioner.

3. To entitle a district to a district or teacher's quota a qualified teacher or successive qualified teachers must have actually taught the common schools of the district for at least one hundred and sixty days of school, inclusive of legal holidays that may occur during the term of said school and exclusive of Saturdays. No Saturday shall be counted as part of said one hundred sixty days of school and no school shall be in session on a legal holiday, except Washington's birthday and Lincoln's birthday. A deficiency not exceeding three weeks during any school year caused by a teacher's attendance upon a teacher's institute within a county, shall be excused by the commissioner of education.

Written from L. 1905, ch. 699, L. 1906, ch. 683, and L. 1907, ch. 577.

**§ 453. Apportionment of moneys appropriated to cities, academies, academic departments and libraries.** The commissioner of education shall apportion the money annually appropriated for the support of cities, academies, academic departments and libraries in accordance with regulations established or to be established by him as follows:

1. To each city, union school district and nonsectarian academy maintaining an academic department, a quota of one hundred dollars for each such academic department maintained therein. This apportionment shall be known as the academic quota.

2. To each nonsectarian private academy an allowance equal to the amount raised from local sources but not to exceed two hundred fifty dollars annually for approved books, standard pictures and apparatus.

3. To each city an allowance equal to the amount raised from local sources but not to exceed eighteen dollars and two dollars additional for each duly licensed teacher employed therein for the legal term, and two hundred fifty dollars for each academic department maintained by it for approved standard pictures, books and apparatus.

4. To each union school district maintaining an academic department an allowance equal to the amount raised from local sources, but not to exceed two hundred sixty-eight dollars annually and two dollars additional for each teacher employed in said district for the legal term for approved books, standard pictures and apparatus.

5. To all other school districts an allowance equal to the amount raised from local sources but not to exceed eighteen dollars annually and two dollars additional for each duly licensed teacher employed in said district for the legal term for approved books, geographical maps and a globe.

6. To each city and union school district maintaining an academic department, twenty dollars per year for at least thirty-two weeks' instruction or a proportionate amount if for eight weeks or more for each nonresident pupil attending the academic department of such school from districts not maintaining such academic departments and who shall be admitted to such academic department without other expense for tuition than that provided herein.

7. After the payment of the allowances herein provided for the balance shall be divided among the several cities, school districts and academies maintaining academic departments on the basis of aggregate days' attendance of academic pupils therein.

8. The commissioner shall set aside at the beginning of the fiscal year a sum which in his opinion will be sufficient to pay the allowances for books and apparatus herein provided before making the other apportionments as directed by this article. The allowance for books and apparatus shall be apportioned and paid as often during each year as the commissioner may determine. All other apportionments above provided for shall be made so far as possible during the month of October each year on the basis of the reports of the previous year.

9. To entitle a city, academy, academic department or library to an apportionment from this fund the school authorities having control must render a satisfactory report for the preceding year to the commissioner of education before the twentieth day of September in each year unless such neglect is excused by the commissioner for sufficient reason. They must also have complied with all Regents' laws and ordinances during the preceding academic year.

Written from L. 1905, ch. 699, L. 1906, ch. 683, and L. 1907, ch. 577.

**§ 454. Manner of certifying and paying apportionment provided for in preceding section.** Payment from this fund shall be made to the county treasurer of each county for all schools located in such county, by the state treasurer on the warrant of the comptroller on the certificate of the commissioner of education.

The commissioner of education immediately after making an apportionment shall certify to the county treasurer of every county included in such apportionment excepting those counties included within the territory of the city of New York, with respect to his county, the name of each academy, the number of each school district and the town in which it is situated and the name of each city to which money has been allotted and the amount allotted to each. The county treasurer shall, upon the receipt of such certificate and payment from the state treasurer, pay to the treasurer, if there be one, otherwise to the disbursing officer or collector of each school district, academy and city named in the certificate of the commissioner of education the amount to which said district, academy or city is entitled as shown by such certificate.

Any apportionment which shall be made to the city of New York shall be certified and paid to the chamberlain of the city of New York, and any apportionment which shall be made to any private academy situated within the territory of the city of New York shall be certified and paid directly to the disbursing officer of the academy to which the apportionment is made.

Written from L. 1905, ch. 699, L. 1906, ch. 683, and L. 1907, ch. 577.



**§ 455. County treasurers to render annual report.**

The county treasurers of the state shall, upon the first day of October of each year and at such other times as the commissioner of education may require, make a report for the preceding year to the commissioner of education, showing the amount of money received by them from this fund and the school districts, cities or academies to which such money has been paid and the amount paid to each, and the amount, if any, remaining in their hands unclaimed by any school district, city or academy together with any other fact relative to the disbursement of this fund which said commissioner may require.

Written from L. 1905, ch. 699, L. 1906, ch. 683, and L. 1907, ch. 577.

**§ 456. Certificate of apportionment by commissioner of education.** As soon as possible after the making of any annual or general apportionment, the commissioner of education shall certify it to the county clerk, county treasurer, school commissioners and city treasurer or chamberlain, in every county in the state; and if it be a supplemental apportionment, then to the county clerk, county treasurer and school commissioners of the county in which the school-house of the district concerned is situate.

Formerly L. 1894, ch. 556, tit. 2, § 11.

**§ 457. Moneys apportioned, when payable.** At least one-half of the moneys so annually apportioned by the commissioner of education shall be payable on or before the first day of March and the remaining part of such moneys on or before the fifteenth day of May, in each year, next after such apportionment, to the treasurers of the several counties and the chamberlain of the city of New York, respectively; and the said treasurers and the chamberlain shall apply for and receive the same as soon as payable.

Formerly L. 1894, ch. 556, tit. 2, § 12, as am'd by L. 1904, ch. 166, § 1, and L. 1908, ch. 365, § 1.

**§ 458. Apportionment of school moneys by school commissioners.** The school commissioner, or commissioners of each county, shall proceed, at the county seat, on the third Tuesday of March, in each year, and apportion the supervision, district and teachers' quotas to the several districts entitled thereto as shown by the certificate of the commissioner of education to the school commissioner.

They shall procure from the treasurer of the county a transcript of the returns of the supervisors hereinafter required, showing the unexpended moneys in their hands applicable to the pay-

ment of teachers' wages. The amounts in each supervisor's hands shall be charged as a partial payment of the sums apportioned to the town teachers' wages.

They shall procure from the county treasurer a full list and statements of all payments to him of moneys for or on account of fines and penalties, or accruing from any other source, for the benefit of schools and of the towns or districts for whose benefit the same were received. Such of said moneys as belong to a particular district, they shall set apart and credit to it; and such as belong to the schools of a town, they shall set apart and credit to the schools in that town, and shall apportion them together with such as belong to the schools of the county as hereinafter provided for the payment of teachers' wages.

They shall sign, in duplicate, a certificate, showing the amounts apportioned and set apart to each school district and part of a district, and the towns in which they were situated, and shall forthwith deliver one of said duplicates to the treasurer of the county and transmit the other to the commissioner of education.

They shall certify to the supervisor of each town the amount of school moneys so apportioned to his town for teachers' wages, to each such distinct district and part of a district.

Formerly L. 1894, ch. 556, tit. 2, § 13, as am'd by L. 1896, ch. 264, § 2, and L. 1908, ch. 365, § 2.

**§ 459. Duty of and payment to supervisor.** On receiving the certificate of the school commissioners, each supervisor shall forthwith make a copy thereof for his own use, and deposit the original in the office of the clerk of his town; and the moneys so apportioned to his town shall be paid to him immediately on his compliance with the requirements of section two hundred and eighty-three of this chapter.

Formerly L. 1894, ch. 556, tit. 2, § 16.

**§ 460. Power of comptroller to withhold payment of school moneys.** The comptroller may withhold the payment of any moneys to which any county may be entitled from the appropriation of the incomes of the school fund and the United States deposit fund for the support of common schools, until satisfactory evidence shall be furnished to him that all moneys required by law to be raised by taxation upon such county, for the support of schools throughout the state, have been collected and paid or accounted for to the state treasurer.

Formerly J. 1894, ch. 556, tit. 2, § 3, as am'd by L. 1902, ch. 393, § 1.

**§ 461. Union free school district and city, a school district.** Every union free school district and every city hav-

---

Arts. 17, 18      Trusts for Schools; Gospel and School Lots.      §§ 480, 481

---

ing an organized city system of schools shall, for all the purposes of the apportionment, distribution, payment and withholding of school moneys, be regarded and recognized as a school district.

Formerly L. 1894, ch. 556, tit. 8, § 12.

## ARTICLE 18

### Trusts for Schools; Gospel and School Lots

Section 480. Transfer of property in trust for common schools.

481. Control and supervision of trusts for common schools.

482. Report of trusts to commissioner of education.

483. Report of supervisor regarding gospel or school lots.

484. Apportionment of gospel funds.

485. Manner of apportionment of gospel funds.

486. Payment of apportionment of gospel funds.

487. Bond required of trustees.

488. Application of moneys by trustees.

**§ 480. Transfer of property in trust for common schools.** Real and personal estate may be granted, conveyed, devised, bequeathed and given in trust and in perpetuity or otherwise, to the state, or to the commissioner of education for the support or benefit of the common schools, within the state, or within any part or portion of it, or of any particular common schools within it; and to any county, or the school commissioners of any county, or to any city or any board of officers thereof, or to any school commissioner district or its commissioner, or to any town, or supervisor of a town, or to any school district or its trustees, for the support and benefit of common schools within such county, city, school commissioner district, town or school district, or within any part or portion thereof respectively, or for the support and benefit of any particular common schools therein. No such grant, conveyance, devise or bequest shall be held void for the want of a named or competent trustee or donee, but where no trustee or donee, or an incompetent one is named, the title and trust shall vest in the people of the state, subject to its acceptance by the legislature, but such acceptance shall be presumed.

Formerly L. 1894, ch. 556, tit. 2, § 19.

**§ 481. Control and supervision of trusts for common schools.** The legislature may control and regulate the execution of all such trusts; and the commissioner of education shall supervise and advise the trustees, and hold them to a regular

accounting for the trust property and its income and interest at such times, in such forms, and with such authentications, as he shall, from time to time, prescribe.

Formerly L. 1894, ch. 556, tit. 2, § 20.

**§ 482. Report of trusts to commissioner of education.** The common council of every city, the board of supervisors of every county, the trustees of every village, the supervisor of every town, the trustees of every school district, and every other officer or person who shall be thereto required by the commissioner of education shall report to him whether any, and if any, what trusts are held by them respectively, or by any other body, officer or person to their information or belief for school purposes, and shall transmit, therewith, an authenticated copy of every will, conveyance, instrument or paper embodying or creating the trust; and shall, in like manner, forthwith report to him the creation and terms of every such trust subsequently created.

Formerly L. 1894, ch. 556, tit. 2, § 21.

**§ 483. Report of supervisor regarding gospel or school lots.** Every supervisor of a town shall report to the commissioner of education whether there be, within the town, any gospel or school lot, and, if any, shall describe the same, and state to what use, if any, it is put by the town; and whether it be leased, and, if so, to whom, for what term and upon what rents; and whether the town holds or is entitled to any land, moneys or securities arising from any sale of such gospel or school lot, and the investment of the proceeds thereof, or of the rents and income of such lots and investments, and shall report a full statement and account of such lands, moneys and securities.

Formerly L. 1894, ch. 556, tit. 2, § 22.

**§ 484. Apportionment of gospel funds.** It shall be lawful for the supervisor of any town having money arising from the sale of gospel lands, and known as gospel funds, to apportion such among the several school districts of his respective town as hereinafter provided.

Formerly L. 1895, ch. 232, § 1.

**§ 485. Manner of apportionment of gospel funds.** Any town having a gospel fund of five hundred dollars or less may apportion such fund with the consent and approval of a majority of the town board of such town. Any town having a gospel fund of more than five hundred dollars may apportion such fund in like manner by a vote at any annual or special town meeting.

Formerly L. 1895, ch. 232, §§ 2, 3.

---

Arts. 18, 19      Fines, Penalties, Forfeitures and Costs.    §§ 486-488, 500

---

**§ 486. Payment of apportionment of gospel funds.**

Where such apportionment is made, the supervisor shall pay to the trustees of the several school districts of his town its pro rata share according to the aggregate school attendance of each school district in the preceding year.

Formerly L. 1895, ch. 232, § 4.

**§ 487. Bond required of trustees.** The trustees of such school districts shall execute and file with the supervisor of such town a bond of twice the amount of such apportionment, with sufficient sureties, to be approved by such supervisor.

Formerly L. 1895, ch. 232, § 5.

**§ 488. Application of moneys by trustees.** Such trustees, upon the receipt of such money, shall apply the same for such purpose as the school district in annual or special meeting shall decide.

Formerly L. 1895, ch. 232, § 6.

## ARTICLE 19

### Fines, Penalties, Forfeitures and Costs

Section 500. Disposition of fines for benefit of common schools.

501. Report and payment of fines.

502. Disposition of fines for benefit of schools of town, district or city.

503. Disposition of fine in case of joint district.

504. Penalty for falsely claiming to represent commissioner of education, regents or other school officer.

505. Forfeiture of amount of moneys lost by neglect.

506. Forfeiture of amount of penalty where suit is neglected.

507. No costs to plaintiffs in certain cases.

508. Costs, expenses and damages a district charge in certain cases.

509. Payment of costs, charges and expenses by vote of district meeting.

510. Appeal to county judge.

511. Hearing before county judge.

512. Duty of trustees to carry out order.

**§ 500. Disposition of fines for benefit of common schools.** Whenever, by any statute, a penalty or fine is imposed for the benefit of common schools, and not expressly of the common schools of a town or school district, it shall be taken

to be for the benefit of the common schools of the county within which the conviction is had; and the fine or penalty, when paid or collected, shall be paid forthwith into the county treasury, and the treasurer shall credit the same as school moneys of the county, unless the county comprise a city having a special school act, in which case he shall report it to the commissioner of education, who shall apportion it upon the basis of population by the last census, between the city and the residue of the county, and the portion belonging to the city shall be paid into its treasury.

Formerly L. 1894, ch. 556, tit. 2, § 25.

**§ 501. Report and payment of fines.** Every district attorney shall report, annually, to the board of supervisors, all such fines and penalties imposed in any prosecution conducted by him during the previous year; and all moneys collected or received by him or by the sheriff, or any other officer, for or on account of such fines or penalties, shall be immediately paid into the county treasury, and the receipt of the county treasurer shall be a sufficient and the only voucher for such money.

Formerly L. 1894, ch. 556, tit. 2, § 26.

**§ 502. Disposition of fines for benefit of schools of town, district or city.** Whenever a fine or penalty is inflicted or imposed for the benefit of the common schools of a town or school district, the magistrate, constable or other officer collecting or receiving the same shall forthwith pay the same to the county treasurer of the county in which the school-house is located, who shall credit the same to the town or district for whose benefit it is collected. If the fine or penalty be inflicted or imposed for the benefit of the common schools of a city having a special school act, or of any part or district of a city, it shall be paid into the city treasury.

Formerly L. 1894, ch. 556, tit. 2, § 27.

**§ 503. Disposition of fine in case of joint district.** Whenever a penalty or fine is imposed upon any school district officer for a violation or omission of official duty, or upon any person for any act or omission within a school district, or touching property or the peace and good order of the district, and such penalty or fine is declared to be for the use or benefit of the common schools of the town or of the county, and such school district lies in two or more towns or counties, the town or county intended by the act shall be taken to be the one in which the school-house, or the school-house longest owned or held by the district, is at the time of such violation, act or omission.

Formerly L. 1894, ch. 556, tit. 2, § 28.

**§ 504. Penalty for falsely claiming to represent commissioner of education, regents or other school officer.** It shall be a misdemeanor for any employee, agent or representative of a firm, company or corporation engaged in selling, publishing or manufacturing papers, periodicals, books, maps, charts, school supplies, apparatus or furniture, or any other person engaged or employed in such business to falsely represent to a board of trustees or board of education of a school district or to a teacher employed in a public school in this state or to a superintendent of schools or other school officer that he is an agent, employee, or representative of the commissioner of education, the state education department, the regents of the university of the state of New York, or of any other school officer.

Formerly L. 1934, ch. 556, tit. 1, § 16, as added by L. 1906, ch. 58, § 1.

**§ 505. Forfeiture of amount of moneys lost by neglect.** Whenever the share of school moneys or any portion thereof, apportioned to any town or school district, or any money to which a town or school district would have been entitled, shall be lost, in consequence of any wilful neglect of official duty by any school commissioner, town clerk, trustees or clerks of school districts, the officer guilty of such neglect shall forfeit to the town, or school district so losing the same, the full amount of such loss with interest thereon.

Formerly L. 1894, ch. 556, tit. 15, § 1.

**§ 506. Forfeiture of amount of penalty where suit is neglected.** Where any penalty for the benefit of a school district, or of the schools of any school district, town, school commissioner district or county, shall be incurred, and the officer, whose duty it is by law to sue for the same, shall wilfully and unreasonably refuse or neglect to sue for the same, such officer shall forfeit the amount of such penalty to the same use, and it shall be the duty of his successor in office to sue for the same.

Formerly L. 1894, ch. 556, tit. 15, § 2.

**§ 507. No costs to plaintiffs in certain cases.** In any action against school officers, including supervisors of towns, in respect to their duties and powers under this chapter, for any act performed by virtue of or under the color of their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the commissioner of education, no costs shall be allowed to the plaintiff, in cases where the court shall certify that it appeared on the trial that the defendants acted in good faith. But this provision shall

not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the commissioner.

Formerly L. 1894, ch. 556, tit. 15, § 3.

**§ 508. Costs, expenses and damages a district charge in certain cases.** Whenever the trustees of any school district, or any school district officers, have been or shall be instructed by a resolution of the district, at a meeting called for that purpose, to defend any action brought against them, or to bring or defend an action or proceeding touching any district property or claim of the district, or involving its rights or interests, or to continue any such action or defense, all their costs and reasonable expenses, as well as all costs and damages adjudged against them, shall be a district charge and shall be levied by tax. If the amount claimed by them be disputed by a district meeting, it shall be adjusted by the county judge of any county in which the district or any part of it is situated.

Formerly L. 1894, ch. 556, tit. 15, § 4.

**§ 509. Payment of costs, charges and expenses by vote of district meeting.** Whenever such trustees or any school district officer shall have brought or defended any such action or proceeding, without any such resolution of the district meeting, and after the final determination of such suit or proceeding, shall present to any regular meeting of the inhabitants of the district, an account, in writing, of all costs, charges and expenses paid by him or them, with the items thereof, and verified by his or their oath or affirmation, and a majority of the voters at such meeting shall so direct, it shall be the duty of the trustees to cause the same to be assessed upon and collected of the taxable property of said district, in the same manner as other taxes are by law assessed and collected; and, when so collected, the same shall be paid over, by an order upon the collector or treasurer to the officers entitled to receive the same; but this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the commissioner of education.

Formerly L. 1894, ch. 556, tit. 15, § 5.

**§ 510. Appeal to county judge.** Whenever an officer mentioned in the last preceding section shall have complied with the provisions of said section, and the inhabitants shall have refused to direct the trustees to levy a tax for the payment of the costs, charges and expenses therein mentioned, it shall be lawful for him, then and there, to give notice orally and publicly, that he will appeal to the county judge



of the county; and in case of his disability to act in the matter by reason of being disqualified, or otherwise, then to the district attorney of the county in which the school-house of said district is located, from the refusal of said meeting to vote a tax for the payment of said claim, and the inhabitants may, then and there, or at any subsequent district meeting, appoint one or more of the inhabitants of the district to protect the rights and interests of the district upon said appeal. And the officer before mentioned shall thereupon, within ten days, serve upon the clerk of said district, or if there be no such clerk, upon the town clerk of the town, a copy of the aforesaid account, so sworn to, together with a notice, in writing, that on a certain day therein specified he intends to present such account to the county judge or to the district attorney, as the case may be, for settlement. And the clerk shall record such notice, together with the copy of the account, and the same shall be subject to the inspection of the inhabitants of the district. And it shall be the duty of the person appointed by any district meeting for that purpose, to appear before the county judge or the district attorney, as the case may be, on the day mentioned in the notice aforesaid, and to protect the rights of the district upon such settlement; and the expenses incurred in the performance of this duty shall be a charge upon said district, and the trustees, upon presentation of the account of such expenses, with the proper voucher therefor, may levy a tax therefor, or add the same to any other tax to be levied by them; and their refusal to levy said tax for the payment of said expenses, shall be subject to an appeal to the commissioner of education.

Formerly L. 1894, ch. 556, tit. 15, § 6.

**§ 511. Hearing before county judge.** Upon the appearance of the parties, or upon due proof of service of the notice and copy of the account, the county judge shall examine into the matter and hear the proofs and allegations presented by the parties, and decide by order whether or not the account, or any and what portion thereof, ought justly to be charged upon the district, with costs and disbursements to such officer, in his discretion, which costs and disbursements shall not exceed the sum of thirty dollars, and the decision of the county judge shall be final; but no portion of such account shall be so ordered to be paid which shall appear to such judge to have arisen from the wilful neglect or misconduct of the claimant. The account with the oath of the party claiming the same shall be *prima facie* evi-

dence of the correctness thereof. The county judge may adjourn the hearing from time to time, as justice shall seem to require.

Formerly L. 1894, ch. 556, tit. 15, § 7.

**§ 512. Duty of trustees to carry out order.** It shall be the duty of the trustees of any school district, within thirty days after service of a copy of such order upon them, or upon the district clerk, and notice thereof to them, or any two of them, to cause the same to be entered at length in the book of record of said district, and to raise the amount thereby directed to be paid, by a tax upon the district, to be by them assessed and levied in the same manner as a tax voted by the district.

Formerly L. 1894, ch. 556, tit. 15, § 8.

## ARTICLE 20

### Compulsory Education

Section 530. What children required to attend school.

531. Required attendance upon instruction.

532. Duties of persons in parental relation to children.

533. Persons employing children unlawfully to be fined.

534. School record and furnishing of the same on application.

535. Attendance officers.

536. Arrest of truants.

537. Truant schools.

538. Withholding the state moneys by commissioner of education.

**§ 530. What children required to attend school.**

A child under sixteen years of age, required by the persons in parental relation to such a child to attend upon lawful instruction at a school or elsewhere, upon which such child is entitled to attend, is lawfully required to attend such school. A child between eight and sixteen years of age, who is required by law to attend upon instruction, and is required by the persons in parental relation to such child, to attend upon lawful instruction either at a public school or elsewhere, and if such child is not required by the persons in parental relation to attend upon any instruction elsewhere, such child is lawfully required to attend a public school.

Formerly L. 1894, ch. 556, tit. 16, § 2 part, as added by L. 1894, ch. 671, § 13, and am'd by L. 1903, ch. 459, § 1.

**§ 531. Required attendance upon instruction.** Every child between eight and sixteen years of age, in proper physical

and mental condition to attend school, shall regularly attend upon instruction at a school in which at least six common school branches of reading, spelling, writing, arithmetic, English grammar and geography are taught, or upon equivalent instruction by a competent teacher elsewhere than at school, as follows: Every such child between fourteen and sixteen years of age, not regularly and lawfully engaged in any useful employment or service, and in cities of the first and second class such child to whom an employment certificate has not been duly issued under the provisions of the labor law, and every such child between eight and fourteen years of age, shall so attend upon instruction as many days annually, during the period between the first days of October and the following June, as the public school of the district or city in which such child resides shall be in session during the same period. Every boy between fourteen and sixteen years of age, in possession of the school record provided for in section five hundred and thirty-four of this chapter and who is engaged in any useful employment or service in a city of the first class or a city of the second class and who has not completed such course of study as is required for graduation from the elementary public schools of such city, and who does not hold either a certificate of graduation from the public elementary school or the preacademic certificate issued by the regents of the university of the state of New York or the certificate of the completion of an elementary school issued by the education department, shall attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction, for not less than six hours each week for a period of not less than sixteen weeks in each school year or calendar year. If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given to children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours of each day thereof as are required of children of like age at public schools; and no greater total amount of holidays and vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

Formerly L. 1894, ch. 556, tit. 16, § 3, as added by L. 1894, ch. 671, § 13, and am'd by L. 1896, ch. 606, § 1; L. 1903, ch. 459, § 2; L. 1907, ch. 103, § 1, and L. 1907, ch. 585, § 1.

**§ 532. Duties of persons in parental relation to children.** Every person in parental relation to a child between eight and sixteen years of age, in proper physical and mental condition to attend school, shall cause such child to so attend upon instruction, or shall present to the school authorities of his city or district proof by affidavit that he is unable to compel such child to so attend, except such child to whom an employment certificate shall have been duly issued under the provisions of the labor law, and who is regularly employed. A violation of this section shall be a misdemeanor, punishable for the first offense by a fine not exceeding five dollars, and for each subsequent offense by a fine not exceeding fifty dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special sessions and police magistrates shall, subject to removal as provided in sections fifty-seven and fifty-eight of the code of criminal procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions.

Formerly L. 1894, ch. 556, tit. 16, § 4, as added by L. 1894, ch. 671, § 13, and am'd by L. 1896, ch. 606, § 2; L. 1903, ch. 459, § 3, and L. 1907, ch. 585, § 2.

**§ 533. Persons employing children unlawfully to be fined.** It shall be unlawful for any person, firm or corporation to employ any child under fourteen years of age, in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session; or to employ any child between fourteen and sixteen years of age who does not, at the time of such employment, present in a city of the first class or a city of the second class, an employment certificate duly issued under the provisions of the labor law, or elsewhere the school record provided for in section five hundred and thirty-four of this article; or to employ, in a city of the first class or a city of the second class, any child between fourteen and sixteen years of age who is not in possession of the employment certificate hereinbefore mentioned and who has not completed such course of study as the public elementary schools of such city require for graduation from such schools and who does not hold either a certificate of graduation from the public elementary school or the preacademic certificate issued by the regents of the university of the state of New York or the certificate of the completion of an elementary school issued by the education department, unless the employer of such child, if a boy, shall keep and shall display in the place where such child is employed and shall show whenever so re-

quested by any attendance officer, factory inspector, or representative of the police department, a certificate signed by the school authorities or such school officers in said city as said school authorities shall designate, which school authorities, or officers designated by them, are hereby required to issue such certificates to those entitled to them not less frequently than once in each month during which said evening school is in session and at the close of the session of said evening school, stating that said child has been in attendance upon said evening school for not less than six hours each week for such number of weeks as will, when taken in connection with the number of weeks such evening school will be in session during the remainder of the current or calendar year, make up a total attendance on the part of said child in said evening school of not less than six hours per week for a period of not less than sixteen weeks, and any person who shall employ any child contrary to the provisions of this section or who shall fail to keep and display certificates as to the attendance of employees in evening schools when such attendance is required by law shall, for each offense, forfeit and pay to the treasurer of the city or village, or to the supervisor of the town in which such child resides, a penalty of fifty dollars, the same, when paid, to be added to the public school moneys of the city, village or district in which such child resides.

Formerly L. 1894, ch. 556, tit. 16, § 5, as added by L. 1894, ch. 671, § 13, and am'd by L. 1903, ch. 459, § 4; L. 1905, ch. 280, § 1; L. 1907, ch. 103, § 2, and L. 1907, ch. 585, § 4.

**§ 534. School record and furnishing of the same on application.** An accurate record of the attendance of all children between eight and sixteen years of age shall be kept by the teacher of every school, showing each day by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such records shall, at all times, be open to the attendance officers or other persons duly authorized by the school authorities of the city or district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor. Any principal or chief executive officer of a school to whom application shall have been made for a school record required under the provisions of the labor law shall issue such school

record to said child as follows: Such school record shall be issued and signed by the principal or chief executive officer of the school which such child has attended and shall be furnished, on demand, to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, writing, spelling, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parents or guardian or custodian.

Formerly L. 1894, ch. 556, tit. 16, § 6, as added by L. 1894, ch. 671, § 13, and am'd by L. 1903, ch. 459, § 5. Tit. 16, § 4-a, as added by L. 1907, ch. 585, § 3, incorporated.

**§ 535. Attendance officers.** The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the superintendent of schools shall supervise the enforcement of this article within such city or school district; and the town board of each town shall appoint, subject to the written approval of the school commissioner of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for, and shall fix their compensation, which shall be a town charge; and such attendance officers, appointed by said board, shall be removable at the pleasure of the school commissioner in whose commissioner's district such town is situated.

Formerly L. 1894, ch. 556, tit. 16, § 7, as added by L. 1894, ch. 671, § 13, and am'd by L. 1896, ch. 606, § 3; L. 1903, ch. 459, § 6, and L. 1905, ch. 280, § 2.

**§ 536. Arrest of truants.** The attendance officer may arrest without warrant any child between eight and sixteen years of age found from his home, and who then is a truant from instruction upon which he is lawfully required to attend within the

city or district of such attendance officer. He shall forthwith deliver the child so arrested either to the custody of a person in parental relation to the child, or of a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment by him to a truant school as provided for in the next section. The attendance officer shall promptly report such arrest, and the disposition made by him of such child to the school authorities of the said city, village or district where such child is lawfully required to attend upon instruction or to such person as they may direct. A truant officer in the performance of his duties may enter during business hours any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand. Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of children employed or the employment certificate of such children shall be guilty of a misdemeanor.

Formerly L. 1894, ch. 556, tit. 16, § 8, as added by L. 1894, ch. 671, § 13, and am'd by L. 1896, ch. 606, § 4; L. 1903, ch. 459, § 7, and L. 1905, ch. 311, § 1.

**§ 537. Truant schools.** The school authorities of any city or school district may establish schools, or set apart separate rooms in public school buildings, for children between eight and sixteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors, other than truancy, shall be committed thereto. Such authorities may provide for the confinement, maintenance and instruction of such children in such schools; and they, or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is

sixteen years of age. Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution. If the persons in parental relation to such child shall not consent to either such order, such conduct of the child shall be deemed disorderly conduct, and the child may be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institution, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend. The authorities committing any such child, and in cities and villages the superintendent of schools therein, shall have authority, in their discretion, to parole at any time any truant so committed by them. Every child suspended from attendance upon instruction by the authorities in charge of furnishing such instruction, for more than one week, shall be required to attend such truant school during the period of such suspension. The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to attend a truant school, if there were one in their own city or district. Industrial training shall be furnished in every such truant school. The expense attending the commitment and cost of maintenance of any truant residing in any city, village or district, employing a superintendent of schools shall be a charge against such city, village or district, and in all other cases shall be a county charge.

Formerly L. 1894, ch. 556, tit. 16, § 9, as added by L. 1894, ch. 671, § 13, and am'd by L. 1896, ch. 606, § 5; L. 1903, ch. 459, § 8, and L. 1905, ch. 280, § 3.



**§ 538. Withholding the state moneys by commissioner of education.** The commissioner of education may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue. If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said commissioner of education to such district or city, otherwise forfeited to the state. The said commissioner of education is hereby authorized and empowered to employ such assistants as he may deem necessary to properly carry this article into effect. He may remove such assistants from time to time and appoint their successors. He shall fix their salaries and under his direction such assistants shall investigate the extent to which this article is complied with in the cities and school districts of the state, and make such reports, and perform such other duties as the said commissioner shall determine. Such assistants shall be paid, in addition to their salaries, their necessary traveling and other expenses incurred in the discharge of their official duties, to be audited by the commissioner of education.

Formerly L. 1894, ch. 556, tit. 16, § 10, as added by L. 1894, ch. 671, § 13, and am'd by L. 1895, ch. 988, § 1, and L. 1905, ch. 280, § 4.

## ARTICLE 21

### Teachers and Pupils

- Section 550. Qualification of teachers.
551. Minimum qualifications of teachers in primary and grammar schools.
552. Teachers' certificates.
553. Certification of teachers by a school commissioner.
554. Revocation of certificate by school commissioner.
555. Unqualified teachers shall not be paid from school moneys.
556. Penalty for payment of unqualified teacher.
557. Teachers responsible for record books.
558. Verification of school register.
559. Petition for teachers' pensions.
560. Vote upon and provision for payment of teachers' pensions.
561. No resubmission within three years after negative vote.

- Section 562.** Contract with teacher.
563. Penalty for teacher's failure to complete contract.
564. Contract when teacher is related to trustee or member of board.
565. Individual liability of trustee.
566. Dismissal of teacher.
567. Teachers payable as often as monthly.
568. Common schools free to resident pupils; tuition from nonresident pupils.

**§ 550. Qualification of teachers.** No teacher is qualified, within the meaning of this chapter, who does not possess an unannulled diploma granted by a state normal school, or an unrevoked and unannulled certificate of qualification given by the superintendent of public instruction, or commissioner of education, or an unexpired certificate of qualification given by the school commissioner, city superintendent, or board of education, within whose district or city such teacher is employed. No person shall be deemed to be qualified who is under the age of eighteen years.

Formerly L. 1894, ch. 556, tit. 7, § 38, as am'd by L. 1896, ch. 264, § 6.

**§ 551. Minimum qualifications of teachers in primary and grammar schools.** 1. Hereafter no person shall be employed or licensed to teach in the primary or grammar schools of any city authorized by law to employ a superintendent of schools, who has not had successful experience in teaching for at least three years, or, in lieu thereof, has not completed a three years' course in, and graduated from a high school or academy having a course of study of not less than three years, approved by the commissioner of education, or from some institution of learning of equal or higher rank, approved by the same authority, and who, subsequently to such graduation, has not graduated from a school or class for the professional training of teachers, having a course of study of not less than thirty-eight weeks, approved by the commissioner of education.

2. Nothing in this section shall be construed to restrict any board of education of any city from requiring such additional qualifications of teachers as said board may determine; nor shall the provisions of this section preclude the board of education of any city or village from accepting the diploma of any state normal and training school of the state of New York, or a state certificate obtained on examination, as an equivalent for the preparation in scholarship and professional training herein required.

Formerly L. 1895, ch. 1031, § 4.

**§ 552. Teachers' certificates.** 1. The commissioner of education may grant under his hand and seal of office a certificate of qualification to teach, and may revoke the same. While unrevoked, such certificate shall be conclusive evidence that the person to whom it was granted is qualified by moral character, learning and ability, to teach any common school in the state. Such certificate may be granted by him only upon examination. He shall determine the manner in which such examination shall be conducted, and may designate proper persons to conduct the same, and report the result to him. He may also appoint times and places for holding such examinations, at least once in each year, and cause due notice thereof to be given. Every such certificate so granted shall be deemed and considered a legal license and authority to teach in any of the public schools of this state, without further examination of the person to whom the same was granted, any provision of law in conflict with this provision to the contrary notwithstanding.

2. He may also, in his discretion, issue a certificate without examination, to any graduate of a college or university who has had three years' experience as a teacher. Such last-mentioned certificate shall be known as the "college graduate's certificate," and may be revoked at any time for cause.

3. He may also, in his discretion, indorse a diploma issued by a state normal school or a certificate issued by a state superintendent or state board of education in any other state, which indorsement shall confer upon the holder thereof the same privileges conferred by law upon the holders of diplomas or certificates issued by state normal schools or by the commissioner of education in this state.

4. He may also issue temporary licenses to teach, limited to any school commissioner district or school district, and for a period not exceeding six months whenever, in his judgment, it may be necessary or expedient for him to do so.

Formerly L. 1894, ch. 556, tit. 1, § 10.

**§ 553. Certification of teachers by a school commissioner.** A school commissioner shall examine, under such rules and regulations as have been or may be prescribed by the commissioner of education, persons proposing to teach common schools within his district, and not possessing the certificate of qualification of the commissioner of education or an unannulled certificate of a former superintendent of public instruction or a diploma of a state normal school, and inquire into their moral fitness and capacity, and, if he find them qualified, grant them certifi-

cates of qualification, in forms which are or may be prescribed by the commissioner of education. No certificate shall be granted to any person to teach in the public schools of this state, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system. No certificate shall be granted to any person under the age of sixteen years.

Formerly L. 1894, ch. 556, tit. 5, § 13, subd. 5.

**§ 554. Revocation of certificate by school commissioner.** A school commissioner shall examine any charge affecting the moral character of any teacher within his district, first giving such teacher reasonable notice of the charge, and an opportunity to defend himself therefrom; and if he find the charge sustained, he shall annul the teacher's certificate, by whomsoever granted, and declare him unfit to teach; and if the teacher holds a certificate of the commissioner of education or of a former superintendent of public instruction or a diploma of a state normal school, he shall notify the commissioner of education forthwith of such annulment and declaration.

Formerly L. 1894, ch. 556, tit. 5, § 13, subd. 6.

**§ 555. Unqualified teachers shall not be paid from school moneys.** No part of the school moneys apportioned to a district can be applied or permitted to be applied to the payment of the salary of an unqualified teacher, nor can his salary, or any part thereof, be collected by a district tax except as provided in section four hundred and sixty-one of this chapter.

Formerly L. 1894, ch. 556, tit. 7, § 39.

**§ 556. Penalty for payment of unqualified teacher.** Any trustee who applies, or directs, or consents to the application of any district money to the payment of an unqualified teacher's salary, thereby commits a misdemeanor; and any fine imposed upon him therefor shall be for the benefit of the common schools of the district.

Formerly L. 1894, ch. 556, tit. 7, § 40.

**§ 557. Teachers responsible for record books.** Teachers shall keep, prepare and enter in the books provided for that purpose, the school lists and accounts of attendance hereinbefore mentioned, and shall be responsible for their safekeeping and delivery to the clerk of the district at the close of their engagements or terms.

Formerly L. 1894, ch. 556, tit. 7, § 41.

**§ 558. Verification of school register.** Each teacher shall, by his oath or affirmation, verify his entries in the school register provided by the education department, and the entries shall constitute the school lists from which the average daily attendance shall be determined. Such oath or affirmation may be taken by the district clerk or trustee, but without charge. A teacher shall not be entitled to his salary for the last month of a term until he shall have so made and verified such entries and the trustees shall not draw on the supervisor, collector or treasurer for any portion of his salary for such month until such oath or affirmation shall have been made.

Formerly L. 1894, ch. 556, tit. 7, § 53 part.

**§ 559. Petition for teachers' pensions.** Upon the petition of twenty-five or more taxpayers of any town in any county of the state requesting the submission at the next ensuing annual town meeting of such town, made not less than ten days before the accruing thereof, of the question of making provision by taxation upon the taxable property in such town for a sum of money sufficient to pay such teachers resident of such town, who have been employed in the common schools thereof for not less than twenty-five years, and have rendered continuous service in teaching for such period, with such intermission only as may have occurred in the allotment of school terms or from sickness, the town board of such town shall cause to be submitted to the taxpayers of such town, at the next ensuing town meeting, upon due notice thereof published in a newspaper printed in such town, if any paper be published therein, or printed or written notices posted in not less than ten public places in such town, the question whether a sufficient sum of money be raised from the taxable property within such town to pay said teachers as compensation for long and meritorious service, so long as said teachers reside in such town, upon the conditions, at the times and in the manner hereinafter provided.

Formerly L. 1895, ch. 767, § 1.

**§ 560. Vote upon and provision for payment of teachers' pensions.** In the event of such petition being so made and presented to the supervisor of any town, and notice being given as provided in section five hundred and fifty-nine of this chapter, the town board shall furnish the necessary ballots in number and forms for the use of the voters of such town at the next ensuing annual town meeting, and shall provide separate ballot boxes for the reception of ballots cast

thereat on the question submitted. One-half of the number of said ballots shall have printed thereon, respectively, "for teachers' pension fund," and the other half shall have printed thereon, respectively, "against teachers' pension fund," and such votes as may be cast shall be counted and returned by the officers presiding at said town meeting the same as other votes are counted and returned. If a majority of the votes so cast be found to be in favor of raising a sum of money sufficient to provide for such fund, and not otherwise, the town board of such town shall immediately thereafter proceed to ascertain what teachers of such class are entitled to the benefits conferred by this and the last section and to receive their proportionate share of the money so voted to be paid, and said board shall require of every person applying therefor, who has taught in the common schools of such town for the period of twenty-five years or more, to make concise statement of the term of service, the districts in which he has taught and the wages, monthly or weekly, received during the last year in which said teacher taught, which statement shall be acknowledged before any officer qualified to take acknowledgments, and filed in the office of the clerk of such town. Thereupon, and at the next annual meeting of the board of supervisors of the county, and at every annual meeting thereafter, the said board shall include in the tax levy of the town so voting as hereinbefore provided in favor of a teachers' pension fund, the amount necessary in each year as estimated and reported by the town board of such town, which sum, when collected, shall be paid over by the collector of such town, to the supervisor thereof, who shall pay out the said money to each teacher found to be entitled thereto in monthly payments equal to one-half the sum received by each such teacher during the last year of employment as teacher in the common schools of such town. And such teachers sharing in the money so appropriated and paid shall be allowed such amount in instalments herein provided as long as they continue to reside in such town, but no longer, and they shall, in receiving the benefits conferred by this section, be deemed to be retired from teaching and placed upon a roll kept by the town clerk of the town as superannuated and retired teachers; subject, however, to the obligation, if not physically disabled, to perform such service in the place of any teacher temporarily absent or disqualified, as the school commissioner may require and direct without additional compensation.

Formerly L. 1895, ch. 767, § 2, and part of § 3.

**§ 561. No resubmission within three years after negative vote.** When a vote has been had on the proposition provided to be so submitted by sections five hundred and fifty-nine and five hundred and sixty, in any town, and such vote shall have been against the teachers' pension fund, another vote on the same question shall not be taken again within three years of the first vote so taken.

Formerly L. 1895, ch. 767, § 3 part.

**§ 562. Contract with teacher.** All trustees of school districts or boards of education who shall employ any teacher to teach shall, at the time of such employment, make and deliver to such teacher, or cause to be made and delivered, a contract in writing, signed by them, or by some person duly authorized to represent them in the premises, in which the details of the agreement between the parties, and particularly the length of the term of employment, the amount of compensation and the time when such compensation shall be due and payable shall be clearly and definitely set forth. No contract for the employment of a teacher shall be made for more than one year in advance or for a shorter time than ten weeks unless for the purpose of filling out an unexpired term of school. Nor shall any trustees contract with any teacher whose certificate of qualification shall not cover a period at least as long as that covered by the contract of service.

Formerly L. 1894, ch. 556, tit. 7, § 47, subds. 9, 10, part, as am'd by L. 1896, ch. 264, §§ 7, 8.

**§ 563. Penalty for teacher's failure to complete contract.** Any failure on the part of a teacher to complete an agreement to teach a term of school without good reason therefor shall be deemed sufficient ground for the revocation of the teacher's certificate.

Formerly L. 1894, ch. 556, tit. 7, § 47, subd. 9 part, as am'd by L. 1896, ch. 264, § 7.

**§ 564. Contract when teacher is related to trustee or member of board.** 1. No person who is related to any trustee by blood or marriage shall be employed as a teacher, except with the approval of two-thirds of the voters of such district present and voting upon the question at an annual or special meeting of the district.

Formerly L. 1894, ch. 556, tit. 7, § 47, subd. 9 part, as am'd by L. 1896, ch. 264, § 7.

2. No person who is related by blood or marriage to any member of a board of education shall be employed as a teacher by such board, except upon the consent in writing of two-thirds of the members thereof, to be entered upon the proceedings of the board.

Formerly L. 1894, ch. 556, tit. 8, § 15, subd. 11 part, as am'd by L. 1896, ch. 264, § 16.

**§ 565. Individual liability of trustee.** Any person employed in disregard of section five hundred and sixty-two or of section five hundred and sixty-four shall have no claim for wages against the district, but may enforce the specific contract made against the trustees or board of education consenting to such employment as individuals.

Formerly L. 1894, ch. 556, tit. 7, § 47, subd. 9 part, as am'd by L. 1896, ch. 264, § 7.

**§ 566. Dismissal of teacher.** No teacher shall be removed during a term of employment unless for neglect of duty, incapacity to teach, immoral conduct, or other reason which, when appealed to the commissioner of education, shall be held by him sufficient cause for such dismissal.

Formerly L. 1894, ch. 556, tit. 7, § 47, subd. 9 part, as am'd by L. 1896, ch. 264, § 7, and tit. 8, § 15, subd. 11 part, as am'd by L. 1896, ch. 264, § 16.

**§ 567. Teachers payable as often as monthly.** The pay of any teacher employed in the public schools of this state shall be due and payable at least as often as at the end of each calendar month of the term of employment.

Formerly L. 1894, ch. 556, tit. 15, § 18.

**§ 568. Common schools free to resident pupils; tuition from nonresident pupils.** 1. Common schools in the several school districts and cities of this state shall be free to all persons over five and under twenty-one years of age residing in such districts or cities.

2. Nonresidents of a district, if otherwise competent, may be admitted into the school of a district or city, upon the consent of the trustees, or the board of education, upon such terms as they shall prescribe; provided that if such nonresident pupils, their parents or guardians, shall be liable to be taxed for the support of said schools in such district or city, on account of owning property therein, the amount of any such tax paid by a nonresident pupil, his parent or guardian, during the current school year, shall be deducted from the charge for tuition.

Formerly L. 1894, ch. 556, tit. 7, § 30.



**ARTICLE 22****Text-Books**

Section 580. Power to designate text-books.

581. Requisites for change.

582. Penalty for violation.

583. Free text-books in union free school districts.

**§ 580. Power to designate text-books.** The boards of education, or such bodies as perform the functions of such boards in the several cities and union free school districts of this state, shall have power and it shall be their duty to adopt and designate text-books to be used in the schools under their charge in their respective districts. In the common school districts in the state the text-books to be used in the schools therein shall be designated at any annual school meeting by a two-thirds vote of all the legal voters present and voting at such school meeting.

Formerly L. 1894, ch. 556, tit. 15, § 9.

**§ 581. Requisites for change.** When a text-book shall have been adopted for use in any of the public or common schools in this state, as provided in the last section, it shall not be lawful to supersede the text-book so adopted by any other book within a period of five years from the time of such adoption, except upon a three-fourths vote of the board of education, or of such body as performs the function of such board, where such board has made the designation, or upon a three-fourths vote of the legal voters present and voting at the annual school meeting in any common school district.

Formerly L. 1894, ch. 556, tit. 15, § 10.

**§ 582. Penalty for violation.** Any person violating any of the provisions of this article shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars for every such violation, to be sued for by any taxpayer of the school district, and recovered before any justice of the peace, said fine, when collected, to be paid to the collector or treasurer for the benefit of said school district.

Formerly L. 1894, ch. 556, tit. 15, § 11.

**§ 583. Free text-books in union free school districts.** The qualified voters of any union free school district present at any annual school meeting therein, for which a notice

has been duly given that the vote hereinafter mentioned will be taken, or at any special school meeting therein, duly and legally called for that purpose, shall have power, by a majority vote, to be ascertained by taking and recording the ayes and noes, to vote a tax for the purchase of all text-books used, or to be used, in the schools of the district. If such tax shall be voted it shall be the duty of the board of education of such district, within ninety days thereafter, to purchase and furnish free text-books to all the pupils attending the schools in such district. Such board of education shall have power to establish such rules and regulations concerning the use by the pupils of such text-books, and the care, preservation and custody thereof as it shall deem necessary.

Formerly L. 1894, ch. 556, tit. 8, § 13 part, as added by L. 1897, ch. 195, § 1.

## ARTICLE 23

### Contract System

Section 600. Power to make and effect of contracts.

601. Report of pupils from other districts.

602. Instruction by commissioner of education.

#### § 600. Power to make and effect of contracts. 1.

Whenever any school district, by a vote of a majority of the qualified voters present and voting thereon, shall empower the trustees or board of education thereof, the said trustees or board of education shall enter into a written contract with the trustees or boards of education consenting thereto, of any district, or city, whereby all or part of the children of such district may be entitled to be taught in the public schools of such city, or school district for such period as said authorities may agree upon not exceeding one full school year. Upon filing a copy of such contract, duly certified by the trustees of each of such school districts, or by the secretary of the board of education of such city in the office of the commissioner of education such school district shall, after such contract has been approved by the commissioner of education, be deemed to have employed a competent teacher for the period of such contract.

2. Whenever the period of such contract or the period of such contract together with the time school is actually taught in said district shall amount to at least one hundred and sixty days and the contract shall include all the children of school age in said district, said district shall be entitled to receive one distributive district quota; if said district maintains a home school and con-

tracts for a part only of the children, it shall be entitled to one teacher's quota in addition to its district quota for not less than twelve pupils attending under such contract; but in no instance shall any school district receive a greater apportionment than the total expense incurred in payment of tuition and transportation of pupils as shown by the report of the trustee to the school commissioner.

Formerly L. 1894, ch. 556, tit. 15, § 14, as am'd by L. 1896, ch. 264, § 18; L. 1897, ch. 294, § 1; L. 1903, ch. 265, § 1, and L. 1904, ch. 322, § 1.

**§ 601. Report of pupils from other districts.** The board of education of any city, and the trustees of any school district so contracting with any other school district, shall report for the pupils attending such schools from such other districts to the commissioner of education the same as though they were residents of such city or school district.

Formerly L. 1894, ch. 556, tit. 15, § 15, as am'd by L. 1896, ch. 264, § 19; L. 1897, ch. 294, § 1, and L. 1903, ch. 265, § 2.

**§ 602. Instruction by commissioner of education.** It shall be the duty of the commissioner of education to give to school commissioners such directions as may, in his judgment, be required and proper in relation to the reports to be made by the trustees of such districts to school commissioners.

Formerly L. 1894, ch. 556, tit. 15, § 16.

## ARTICLE 24

### Teachers' Institutes

Section 620. Duties of commissioner of education regarding teachers' institutes.

621. Duties of school commissioners.

622. Right to use school buildings for institutes.

623. Closing schools; teachers' wages.

624. Effect of closing school.

625. Penalty for failure to attend or to close schools; duty to attend.

626. Payment of expenses.

**§ 620. Duties of commissioner of education regarding teachers' institutes.** It shall be the duty of the commissioner of education: 1. To appoint a teachers' institute once in each year in each school commissioner district of the state, for the benefit and instruction of the teachers in the public

schools, and of such as intend to become teachers, with special reference to the presentation of subjects relating to the principles of education and methods of instruction in the various branches of study pursued in the schools. After consultation with the school commissioners, the said commissioner of education shall have power to determine the duration of each institute and to designate the time and place of holding the same.

2. To employ suitable persons, at a reasonable compensation, to supervise and conduct the institutes, and, in his discretion, to provide for such additional instruction as he may deem advisable and for the best interests of the schools.

3. To appoint in his discretion an institute for two or more school commissioner districts.

4. To establish such regulations for the government of institutes as he may deem best; and he may establish such regulations in regard to certificates of qualification or recommendation which may be issued by school commissioners as will, in his judgment, furnish incentives and encouragement to teachers to attend the institutes.

5. To visit the institutes, or cause them to be visited by representatives of the education department, for the purpose of examining into the course and character of instruction given, and of rendering such assistance as he may find expedient.

Formerly L. 1894, ch. 556, tit. 10, § 1.

**§ 621. Duties of school commissioners.** 1. It shall be the duty of every school commissioner, subject always to the advice and direction of the commissioner of education and in such form and manner as may be deemed most effectual, to notify all teachers, trustees, boards of education and others known to him, who may desire to become teachers under his jurisdiction, of the time when and the place where the institute will be held.

2. The school commissioner shall make all necessary arrangements for holding the institute when appointed; see that a suitable room is provided; attend to all necessary details connected therewith; assist the conductor in organization; keep a record of all teachers in attendance; and notify the trustees of the number of days attended by the teachers of the various districts, which shall be the basis of pay to such teacher for attendance as hereafter provided.

3. He shall also transmit to the commissioner of education at the close of each institute, in such form, and within such time as such commissioner shall prescribe, a full report of the institute, including a list of all teachers in attendance, the number of days at-

tended by each teacher, with such other statistical information as may be required. He shall present a full statement of all expenses incurred by him in carrying on the institute, with vouchers for all expenditures made, accompanying the same by an affidavit of the correctness of statements made and of accounts presented.

Formerly L. 1894, ch. 556, tit. 10, § 2.

**§ 622. Right to use school buildings for institutes.**

The school commissioner shall have the right to hold an institute when appointed in any school building in any district under such school commissioner's jurisdiction which receives public money from the state, without expense therefor to the state beyond a reasonable allowance to said district for lighting, heating and janitor service, provided always that due and proper care shall be maintained, and the school building left in the like condition as found as regards cleanliness and neatness.

Formerly L. 1894, ch. 556, tit. 10, § 3.

**§ 623. Closing schools; teachers' wages.** All schools in school districts and parts of school districts within any school commissioner district wherein an institute is held, not included within the boundaries of an incorporated city, except as hereinafter provided, shall be closed during the time such institute shall be in session. The closing of a school within the school commissioner district wherein an institute shall be held, at which a teacher has attended, shall not work a forfeiture of the contract under which such teacher was employed. In all districts having a population of more than five thousand, and employing a superintendent whose time is exclusively devoted to the supervision of the schools therein, the schools may be closed or not at the option of the boards of education in such districts. The trustees of every school district are hereby directed to give the teachers employed by them, the whole of the time spent by them in attending at institutes held as hereinbefore stated, without deducting anything from the wages of such teachers for the time so spent. All teachers under a contract to teach in any commissioner district shall attend such institute so held for that district, and shall receive wages for such attendance.

Formerly L. 1894, ch. 556, tit. 10, § 4, as am'd by L. 1897, ch. 512, § 5.

**§ 624. Effect of closing school.** In the apportionment of public school money, the schools thus closing in any school term shall be allowed the same average pupil attendance during such time, as was the average weekly aggregate during

the week previous to such institute, and any school continuing its sessions in violation of the above provision shall not be allowed any public money based upon the aggregate attendance for the period during which the institute was held. Trustees and boards of education in such school districts and parts of school districts shall report, in their annual reports to the school commissioners, the number of days and the dates thereof on which a teachers' institute was held in their districts during the school year, and whether schools under their charge were or were not closed during such days; and whenever the trustees' report shows a district school has been supported for the full time required by law, including the time spent by the teachers in their employ in attendance upon such institute, and that the trustees have given the teachers the time of such absence, and have not deducted anything from their salary on account thereof, the commissioner of education may include the district in his apportionment of the state school moneys, and direct that it be included by the school commissioners in their apportionment of school moneys; provided, that such school district be in all other respects entitled to be included in such apportionment.

Formerly L. 1894, ch. 556, tit. 10, § 5.

**§ 625. Penalty for failure to attend or to close schools; duty to attend.** Wilful failure on the part of a teacher to attend a teachers' institute as required, shall be considered sufficient cause for the revocation of such teacher's license, and a wilful failure on the part of trustees to close their schools during the holding of an institute as required, shall be considered sufficient cause for withholding the public moneys to which such districts would otherwise be entitled. Any person under contract to teach in a school in any commissioner district, is required to attend an institute if held for that district, even though at the time the school is not in session, and shall be entitled to receive wages for such attendance.

Formerly L. 1894, ch. 556, tit. 10, § 6, as am'd by L. 1896, ch. 264, § 17.

**§ 626. Payment of expenses.** The treasurer shall pay, on the warrant of the comptroller, to the order of any one or more of the school commissioners, such sum of money as the commissioner of education shall certify to be due to them for expenses in holding a teachers' institute; and upon the like warrant and certificate shall pay to the order of any persons employed by the commissioner of education as additional instructors to conduct, instruct, teach or supervise any such teachers' institute.

Formerly L. 1894, ch. 556, tit. 10, § 7.

**ARTICLE 25****Training Classes and Training Schools**

Section 640. Designation of schools for classes.

641. Regulations for classes.

642. Instruction free.

643. Pay for classes.

644. School commissioners shall supervise and examine classes; teachers' certificates.

645. Teachers' schools or classes under superintendents of schools.

**§ 640. Designation of schools for classes.** The commissioner of education shall designate the academies and union schools in which instruction in the science and practice of common school teaching, shall be given, distributing them among the school commissioner districts of the state, as nearly as may be, having reference to the number of school districts in each, to location and to the character of the institution selected.

Formerly L. 1894, ch. 556, tit. 11, § 2.

**§ 641. Regulations for classes.** Every academy and union school so designated shall instruct a class of not less than ten nor more than twenty-five scholars, and every scholar admitted to such class shall continue under instruction not less than sixteen weeks. Whenever it shall be shown to the satisfaction of the commissioner of education that any pupil attending such classes, has been prevented from attending the same for the full term of sixteen weeks, or has attended the first full term, but not the full time in the second term, during any one year; or that for any reason satisfactory to such commissioner, said classes have not been held for the full term of sixteen weeks, such commissioner may excuse such default and allow to the trustees of the academy or union free school in which said classes shall have been instructed, pay for such scholars for the time actually spent in attendance, or during which said classes shall have been under instruction, at the rate of one dollar for each week's instruction, as provided in section six hundred and forty-three of this chapter. The commissioner shall prescribe the conditions of admission to the classes, the course of instruction and the rules and regulations under which said instruction shall be given, and shall, in his discretion, determine the number of classes which may be formed in any one year, in an academy or union school, and the length of

time exceeding sixteen weeks during which such instruction may be given.

Formerly L. 1894, ch. 556, tit. 11, § 3.

**§ 642. Instruction free.** Instruction shall be free to all scholars admitted to such classes, who have continued in them the length of time required by section six hundred and forty-one.

Formerly L. 1894, ch. 556, tit. 11, § 4.

**§ 643. Pay for classes.** The trustees of all academies and union schools in which such instruction shall be given shall be paid from the appropriations named in section four hundred and seventy-four at the rate of one dollar for each week's instruction to each scholar who has attended for the term of time as required by section six hundred and forty-one, on the certificate of the commissioner of education, to be furnished to the comptroller.

Formerly L. 1894, ch. 556, tit. 11, § 5.

**§ 644. School commissioners shall supervise and examine classes; teachers' certificates.** Each class organized in any academy or union school under appointment by the commissioner of education for instruction in the science and practice of common school teaching, shall be subject to the visitation of the school commissioner of the district in which such academy or union school is situated; and it shall be the duty of said school commissioner to advise and assist the principals of said academies or union schools in the organization and management of said classes, and at the close of the term of instruction of said classes, under the direction of the commissioner of education, to examine the students in such classes, and to issue teachers' certificates to such as show moral character, fitness and scholastic and professional qualifications, worthy thereof.

Formerly L. 1894, ch. 556, tit. 11, § 6.

**§ 645. Teachers' schools or classes under superintendents of schools.** The board of education or the public school authorities of any city or of any village employing a superintendent of schools, may establish, maintain, direct and control one or more schools or classes for the professional instruction and training of teachers in the principles of education and in the method of instruction for not less than thirty-eight weeks in each school year.

Formerly L. 1894, ch. 556, tit. 11, § 7.



**ARTICLE 26****Normal Schools; State Normal College**

Section 660. Normal schools continued.

661. Local boards.

662. Powers of local boards.

663. Local boards shall have management of buildings and property.

664. Course of study; duties of commissioner of education.

665. Commissioner may perform duties of defaulting local board.

666. Diplomas.

667. Requisites for admission, privileges and duties of pupils.

668. Practice departments in Fredonia school.

669. Special policemen.

670. Village or city may insure normal school property.

671. Expense of insurance a village or city charge.

672. Deposit of insurance moneys in bank.

673. Acceptance of grants and bequests authorized.

674. Education of Indian youth.

675. Selection of Indian youth.

676. Age of youth and limit of time for support.

677. Guardians of youth.

678. Indian pupils on equality with others.

679. New York state normal college.

**§ 660. Normal schools continued.** The state normal schools heretofore established at Brockport, Buffalo, Cortland, Fredonia, Geneseo, New Paltz, Oneonta, Oswego, Plattsburgh and Potsdam, are continued.

New.

**§ 661. Local boards.** There shall continue to be a local board of each of said state normal schools, consisting of not less than three nor more than thirteen persons and the members thereof shall hold their offices until removed by the concurrent action of the chancellor of the university and the commissioner of education. Any vacancy occurring in any of said boards shall be filled by the appointment of the commissioner of education.

Formerly L. 1866, ch. 466, § 3 part, as am'd by L. 1897, ch. 224, § 1, and L. 1901, ch. 492, § 1; and L. 1866, ch. 466, § 8 part, as added by L. 1869, ch. 18, § 1.

**§ 662. Powers of local boards.** 1. Said local boards shall have the immediate supervision and management of said schools, subject however to the general supervision of the commissioner of education and to his direction in all things pertaining to the school. Said local boards shall have power to appoint one of their number chairman, one secretary and another treasurer of the board. The secretary may also be treasurer. The treasurer shall give an undertaking to the people of the state for the faithful performance of his trust, in an amount fixed by the commissioner of education. The undertaking shall be approved by the commissioner and filed in the office of the comptroller. The secretary and the treasurer shall each be paid an annual salary, to be fixed by the local board, with the approval of the commissioner of education, but the aggregate amount of such salaries shall not exceed four hundred dollars.

2. A majority of each of said boards shall form a quorum for the transaction of business, and in the absence of any officer of the board, another member may be appointed pro tempore to fill his place and perform his duties.

3. It shall be the duty of such board to make and establish, and from time to time to alter and amend, such rules and regulations for the government of such schools under their charge, respectively, as they shall deem best, which shall be subject to the approval of the commissioner of education.

4. They shall also severally transmit through him, and subject to his approval, a report to the legislature on the first day of January in each year, showing the condition of the school under their charge during the year next preceding, which report shall be in such form and contain such an account of their acts and doings as the commissioner of education shall direct, including, especially, an account in detail of their receipts and expenditures, which shall be duly verified by the oath or affirmation of their chairman and secretary.

Formerly L. 1866, ch. 466, § 3 part, as am'd by L. 1897, ch. 224, § 1, and L. 1901, ch. 492, § 1.

**§ 663. Local boards shall have management of buildings and property.** The local boards of managers of the respective normal schools in this state shall have the custody, keeping and management of the grounds and buildings provided or used for the purposes of such schools, respectively, and other property of the state pertaining thereto, with power to protect, preserve and improve the same.

Formerly L. 1880, ch. 348, § 1.

**§ 664. Course of study; duties of commissioner of education.** It shall be the duty of the local board subject to the approval of the commissioner of education to prescribe the course of study to be pursued in each of said schools. It shall be the duty of the commissioner of education to determine what number of teachers shall be employed in each school, and their wages, whose employment shall also be subject to his approval; to order, in his discretion, that one or more of said schools shall be composed exclusively of males and one or more of females; to decide upon the number of pupils to be admitted to each of said schools, and to prescribe the time and manner of their selection, but he shall take care in such selection to provide that every part of the state shall have its proportionate representation in such school as near as may be according to population; but if any school commissioner district or any city, shall not, for any cause, be fully represented in any of said schools, then the commissioner of education may cause the maximum number of such pupils to be supplied from any part of the state, giving preference, however, to those living in the county, city or village where such school is situated.

Formerly L. 1866, ch. 466, § 4.

**§ 665. Commissioner may perform duties of defaulting local board.** During such time as any local board shall omit to discharge its duties, the commissioner of education is authorized to discharge the duties of such local boards or any of their officers; and the acts of said commissioner of education in the premises shall be as valid and binding as if done by a competent local board or its officers, or with their co-operation.

Formerly L. 1866, ch. 466, § 8 part, as added by L. 1869, ch. 18, § 1.

**§ 666. Diplomas.** The commissioner of education shall prepare suitable diplomas to be granted to the students of such school, who shall have completed one or more of the courses of study and discipline prescribed, and a diploma signed by him, the chairman and secretary of the local board and the principal of the school, shall be of itself a certificate of qualification to teach common schools.

Formerly L. 1866, ch. 466, § 6.

**§ 667. Requisites for admission; privileges and duties of pupils.** All applicants for admission shall be residents of this state, or, if not, they shall be admitted only upon the payment of such tuition fees as shall be, from time to time, prescribed by the commissioner of education. Applicants shall pre-

sent such evidences of proficiency or be subject to such examination at the school as shall be prescribed by said commissioner. Hereafter, it shall not be lawful for any such school to receive, into any academic department connected therewith, any pupil not a resident of the territory, for the benefit or advantage of whose residents the state has pledged itself to maintain such academic department. When admitted, students, unless they are students in the academic or practice department or are nonresidents, shall be entitled to all the privileges of the school, free from all charges for tuition or for the use of books or apparatus, but every pupil shall pay for books lost by him, and for any damage to books in his possession; any pupil may be dismissed from the school by the local board for immoral or disorderly conduct, or for neglect or inability to perform his duties.

Formerly L. 1866, ch. 466, § 5, as am'd by L. 1889, ch. 142, § 1.

**§ 668. Practice departments in Fredonia school.**

The local board of control of the state normal school at Fredonia shall have the same powers and privileges in respect to practice departments as boards of education, under subdivision three of section two hundred and twenty-nine and section two hundred and thirty-five of this chapter.

Formerly L. 1866, ch. 466, § 9, as added by L. 1904, ch. 677, § 1.

**§ 669. Special policemen.** For the purpose of protecting and preserving such buildings, grounds and other property, and preventing injuries thereto, and preserving order, preventing disturbances, and preserving the peace in such buildings and upon such grounds, the local boards of managers of each of said normal schools shall have power, by resolution or otherwise, to appoint, from time to time, one or more special policemen, and the same to remove at pleasure, who shall be police officers, with the same powers as constables of the town or city where such school is located, whose duty it shall be to preserve order, and prevent disturbances and breaches of the peace in and about the buildings, and on and about the grounds used for said school, or pertaining thereto, and protect and preserve the same from injury, and to arrest any and all persons making any loud or unusual noise, causing any disturbance, committing any breach of the peace, or misdemeanor or any wilful trespass upon such grounds, or in or upon said buildings, or any part thereof, and convey such person or persons so arrested, with a statement of the cause of the arrest, before a proper magistrate to be dealt with according to law.

Formerly L. 1880, ch. 348, § 3.

**§ 670. Village or city may insure normal school property.** It shall be lawful for each village and city in this state, wherein is located a state normal and training school, to insure and keep insured, the real and personal property of such school against loss or damage by fire, when the state refuses to insure, or keep adequately insured, such property. The insurance is to be in the name of the state, and in case of loss, any moneys obtained from such insurance are to be used and disposed of the same as if the state had effected such insurance. The amount of insurance to be carried shall be determined by the municipal authorities of such village or city.

Formerly L. 1905, ch. 252, § 1.

**§ 671. Expense of insurance a village or city charge.** The amount of money necessary to effect and continue such insurance shall be raised annually by such village or city at the same time, and in the same manner, as the ordinary expenses of the village or city are raised.

Formerly L. 1905, ch. 252, § 2.

**§ 672. Deposit of insurance moneys in bank.** Where any loss or damage, against which insurance exists, occurs to the real or personal property of any of the normal and training schools of the state, the moneys realized from such insurance shall be deposited by each company in which such property is insured in a bank to be designated by the state comptroller, subject to the check of the local board of managers of such school, countersigned by the state comptroller, and shall be kept as a separate fund to the credit of the local board of managers of such school, and shall be immediately available to be expended under the direction of such local board of managers, subject to the approval of the commissioner of education, to repair or replace, wholly or partially, the real or personal property so damaged or destroyed.

Formerly L. 1894, ch. 488, § 1.

**§ 673. Acceptance of grants and bequests authorized.** By and with the sanction and consent of the commissioner of education, it shall be lawful for the local board of managers of any state normal and training school of this state, to accept, for the state, the gift, grant, devise or bequest of money or other property, and to apply the same to any purpose, not inconsistent with the general purposes of such school, which shall be prescribed in the instrument by which such gift, grant, devise or bequest shall be made.

Formerly L. 1896, ch. 105, § 1.

**§ 674. Education of Indian youth.** The treasurer shall pay, on the warrant of the comptroller, on bills approved by the commissioner of education, from the general fund, a sum not exceeding one thousand dollars per year, for the support and education of ten Indian youth in the state normal schools.

Formerly L. 1850, ch. 89, § 1.

**§ 675. Selection of Indian youth.** The selection of such youth shall be made by the commissioner of education, from the several Indian tribes located within this state; and in making such selection due regard shall be had to a just participation in the privileges of this article by each of the said several tribes, and, if practicable, reference shall also be had to the population of each of said tribes in determining such selection.

Formerly L. 1850, ch. 89, § 2.

**§ 676. Age of youth and limit of time for support.** Such youth shall not be under sixteen years of age, nor shall any of such youth be supported or educated at said normal schools for a period exceeding three years.

Formerly L. 1850, ch. 89, § 3.

**§ 677. Guardians of youth.** The local board of each normal school shall be the guardians of such Indian youth, during the period of their connection with the school; and shall pay their necessary expenses, not to exceed one hundred dollars per year for each pupil, to be defrayed as provided in section six hundred and seventy-four of this article.

Formerly L. 1850, ch. 89, § 4.

**§ 678. Indian pupils on equality with others.** The Indian pupils selected in pursuance of this article, and attending said normal schools, shall enjoy the same privileges, of every kind, as the other pupils attending said schools, including the payment of traveling expenses, not exceeding ten dollars to each pupil.

Formerly L. 1850, ch. 89, § 5.

**§ 679. New York state normal college.** 1. The state normal school heretofore established at Albany is continued under the name of the New York state normal college and the executive committee of said college shall be known as the board of trustees thereof.

2. The said state normal college shall be as heretofore, under the supervision, management and government of the commissioner of education and the regents of the university. The said

commissioner and regents shall from time to time, make all needful rules and regulations to fix the number and compensation of teachers and others to be employed therein; prescribe the preliminary examination and the terms and conditions on which pupils shall be received and instructed therein; the number of pupils from the respective counties conforming as nearly as may be to the ratio of population, and provide in all things for the good government and management of the said college.

3. The commissioner of education and regents shall appoint a board consisting of five persons of whom the said commissioner shall be one, who shall constitute the board of trustees for the care, management and government of said college, under the rules and regulations prescribed as aforesaid, whose duty it shall be from time to time to make full and detailed reports to the said commissioner and regents, and among other things to recommend the rules and regulations which they may deem necessary and proper for the said college.

4. In addition to the powers and duties named herein the commissioner of education and the board of trustees of said state normal college shall possess all the powers and duties which the said commissioner and the local boards respectively possess under this article in relation to state normal schools.

Subds. 1, 4, new. Subds. 2, 3, formerly L. 1844, ch. 311, § 3, and L. 1848, ch. 318, § 3.

## ARTICLE 27

### The Flag

Section 700. Purchase and display of flag.

701. Rules and regulations.

702. Commissioner of education shall prepare program.

703. Military drill excluded.

**§ 700. Purchase and display of flag.** It shall be the duty of the school authorities of every public school in the several cities and school districts of the state to purchase a United States flag, flag-staff and the necessary appliances therefor, and to display such flag upon or near the public school building during school hours, and at such other times as such school authorities may direct.

Formerly L. 1898, ch. 481, § 1.

**§ 701. Rules and regulations.** The said school authorities shall establish rules and regulations for the proper custody,

care and display of the flag, and when the weather will not permit it to be otherwise displayed, it shall be placed conspicuously in the principal room in the school-house.

Formerly L. 1898, ch. 481, § 2.

**§ 702. Commissioner of education shall prepare program.** It shall be the duty of the commissioner of education to prepare, for the use of the public schools of the state, a program providing for a salute to the flag at the opening of each day of school and such other patriotic exercises as may be deemed by him to be expedient, under such regulations and instructions as may best meet the varied requirements of the different grades in such schools. It shall also be his duty to make special provision for the observance in such public schools of Lincoln's birthday, Washington's birthday, Memorial day and Flag day, and such other legal holidays of like character as may be hereafter designated by law.

Formerly L. 1898, ch. 481, § 3.

**§ 703. Military drill excluded.** Nothing herein contained shall be construed to authorize military instruction or drill in the public schools during school hours.

Formerly L. 1898, ch. 481, § 5.

## ARTICLE 28

### Fire Drills

Section 720. Duty to maintain drills.

721. Penalty for neglect.

722. Duty to instruct teachers.

723. Not applicable to colleges or universities.

**§ 720. Duty to maintain drills.** It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state, having more than one hundred pupils, to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least once in each month.

Formerly L. 1901, ch. 201, § 1.

**§ 721. Penalty for neglect.** Neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provisions of this



article shall be a misdemeanor punishable at the discretion of the court by fine not exceeding fifty dollars; such fine to be paid to the pension fund of the local fire department where there is such a fund.

Formerly L. 1901, ch. 201, § 2.

**§ 722. Duty to instruct teachers.** It shall be the duty of the board of education or school board or other body having control of the schools in any district or city to cause a copy of this article to be printed in the manual or handbook prepared for the guidance of teachers, where such manual or handbook is in use or may hereafter come into use.

Formerly L. 1901, ch. 201, § 3.

**§ 723. Not applicable to colleges or universities.** The provisions of this article shall not apply to colleges or universities.

Formerly L. 1901, ch. 201, § 4.

## ARTICLE 29

### Arbor Day

Section 740. Arbor day.

741. Manner of observance.

742. Prescribed course of exercises.

743. Annual appropriation.

**§ 740. Arbor day.** The Friday following the first day of May in each year shall be known throughout the state as Arbor day.

Formerly L. 1894, ch. 556, tit. 15, § 44.

**§ 741. Manner of observance.** It shall be the duty of the authorities of every public school in this state to assemble the scholars in their charge on that day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct, under the general supervision of the city superintendent or the school commissioner, or other chief officers having the general oversight of the public schools in each city or district, such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results.

Formerly L. 1894, ch. 556, tit. 15, § 45.

**§ 742. Prescribed course of exercises.** The commissioner of education shall have power to prescribe from time

to time a course of exercises and instruction in the subjects herebefore mentioned, which shall be adopted and observed by the public school authorities on Arbor day, and upon receipt of copies of such course sufficient in number to supply all the schools under their supervision, the school commissioner or city superintendent aforesaid shall promptly provide each of the schools under his or their charge with a copy, and cause it to be observed.

Formerly L. 1894, ch. 556, tit. 15, § 46.

**§ 743. Annual appropriation.** The legislature shall annually make an appropriation for carrying out the provisions of this article, upon the recommendation of the commissioner of education.

Formerly L. 1894, ch. 556, tit. 15, § 47.

## ARTICLE 30

### Physiology and Hygiene

Section 760. Instruction regarding nature of alcoholic drinks.

761. Enforcement of last section.

**§ 760. Instruction regarding nature of alcoholic drinks.** 1. The nature of alcoholic drinks and other narcotics and their effects on the human system shall be taught in connection with the various divisions of physiology and hygiene, as thoroughly as are other branches in all schools under state control, or supported wholly or in part by public money of the state, and also in all schools connected with reformatory institutions.

2. All pupils in the above-mentioned schools below the second year of the high school and above the third year of school work computing from the beginning of the lowest primary, not kindergarten, year, or in corresponding classes of ungraded schools, shall be taught and shall study this subject every year with suitable text-books in the hands of all pupils, for not less than three lessons a week for ten or more weeks, or the equivalent of the same in each year, and must pass satisfactory tests in this as in other studies before promotion to the next succeeding year's work; except that, where there are nine or more school years below the high school, the study may be omitted in all years above the eighth year and below the high school, by such pupils as have passed the required tests of the eighth year.

3. In all schools above-mentioned, all pupils in the lowest three primary, not kindergarten, school years or in corresponding classes in ungraded schools shall each year be instructed in this subject

orally for not less than two lessons a week for ten weeks, or the equivalent of the same in each year, by teachers using text-books adapted for such oral instruction as a guide and standard, and such pupils must pass such tests in this as may be required in other studies before promotion to the next succeeding year's work. Nothing in this article shall be construed as prohibiting or requiring the teaching of this subject in kindergarten schools.

4. The local school authorities shall provide needed facilities and definite time and place for this branch in the regular courses of study.

5. The text-books in the pupils' hands shall be graded to the capacities of fourth year, intermediate, grammar and high school pupils, or to corresponding classes in ungraded schools. For students below high school grade, such text-books shall give at least one-fifth their space, and for students of high school grade, shall give not less than twenty pages to the nature and effects of alcoholic drinks and other narcotics. This subject must be treated in the text-books in connection with the various divisions of physiology and hygiene, and pages on this subject in a separate chapter at the end of the books shall not be counted in determining the minimum. No text-book on physiology not conforming to this article shall be used in the public schools.

6. All regents' examinations in physiology and hygiene shall include a due proportion of questions on the nature of alcoholic drinks and other narcotics, and their effects on the human system.

Formerly L. 1894, ch. 556, tit. 15, § 19, as am'd by L. 1895, ch. 1041, § 1, and L. 1896, ch. 901, § 1.

**§ 761. Enforcement of last section.** 1. In all normal schools, teachers' training classes and teachers' institutes, adequate time and attention shall be given to instruction in the best methods of teaching this branch, and no teacher shall be licensed who has not passed a satisfactory examination in the subject, and the best methods of teaching it. On satisfactory evidence that any teacher has wilfully refused to teach this subject, as provided in this article, the commissioner of education shall revoke the license of such teacher.

2. No public money of the state shall be apportioned by the commissioner of education or paid for the benefit of any city until the superintendent of schools therein shall have filed with the treasurer or chamberlain of such city an affidavit, and with the commissioner of education a duplicate of such affidavit, that he has made thorough investigation as to the facts, and that

to the best of his knowledge, information and belief, all the provisions of this article have been complied with in all the schools under his supervision in such city during the last preceding legal school year; nor shall any public money of the state be apportioned by the commissioner of education or by school commissioners, or paid for the benefit of any school district, until the president of the board of trustees, or in the case of common school districts the trustee or some one member of the board of trustees, shall have filed with the school commissioner having jurisdiction an affidavit that he has made thorough investigation as to the facts and that to the best of his knowledge, information and belief, all the provisions of this article have been complied with in such district, which affidavit shall be included in the trustees' annual report; and it shall be the duty of every school commissioner to file with the commissioner of education an affidavit in connection with his annual report, showing all districts in his jurisdiction that have and those that have not complied with all the provisions of this article, according to the best of his knowledge, information and belief, based upon a thorough investigation by him as to the facts; nor shall any public money of the state be apportioned or paid for the benefit of any teachers' training class, teachers' institute or other school mentioned herein until the officer having jurisdiction or supervision thereof shall have filed with the commissioner of education an affidavit that he has made thorough investigation as to the facts and that to the best of his knowledge, information and belief, all the provisions of this article relative thereto have been complied with.

3. The principal of each normal school in the state shall at the close of each school year file with the commissioner of education an affidavit that all the provisions of this article applicable thereto have been complied with during the school year just terminated and until such affidavit shall be filed no warrant shall be issued by the commissioner of education for the payment by the treasurer of any part of the money appropriated for such school.

4. It shall be the duty of the commissioner of education to provide blank forms of affidavit required herein for use by the local school officers, and he shall include in his annual report a statement showing every school, city or district which has failed to comply with all the provisions of this article during the preceding school year.

5. On complaint by appeal to the commissioner of education by any patron of the schools mentioned in the last preceding section, or by any citizen, that any provision of this article has not been

Art. 31 Special Instruction by Pictorial or Graphic Reproduction. §§ 780, 781

complied with in any city or district, the commissioner of education shall make immediate investigation, and on satisfactory evidence of the truth of such complaint, shall thereupon and thereafter withhold all public money of the state to which such city or district would otherwise be entitled, until all the provisions of this article shall be complied with in said city or district, and shall exercise his power of reclamation and deduction under section four hundred and sixty-two of this chapter.

Formerly L. 1894, ch. 556, tit. 15, § 20, as am'd by L. 1895, ch. 1041, § 1, and L. 1896, ch. 901, § 1.

## ARTICLE 31

### Special Instruction by Pictorial or Graphic Reproduction

Section 780. Special instruction for certain common schools.

781. Reports of school superintendents.

**§ 780. Special instruction for certain common schools.** The commissioner of education is hereby authorized to furnish additional facilities for instruction in natural history, geography and kindred subjects, by means of pictorial representation and lectures, to the common schools of each city and village of the state that has, or may have, a superintendent of common schools. The local school authorities may, in their discretion, cause the aforesaid illustrated lectures to be repeated to their artisans, mechanics and other citizens on the legal holidays and at other times. Any institution instructing a teachers' training class, or any union free school, may have the free use of the apparatus provided by this article, upon the payment to the superintendent of schools loaning the same of necessary expenses incurred in such use or for any loss or injury to said property. Said commissioner may, from time to time, establish the rules and regulations and make and enter into the contracts necessary for carrying out the provisions of this article.

Formerly L. 1899, ch. 489, § 1.

**§ 781. Reports of school superintendents.** The annual report of each school superintendent to the department of education shall contain a full statement of the extent to which the instructions described may be given and his judgment of the usefulness of the same.

Formerly L. 1899, ch. 489, § 2.

**ARTICLE 32****Instruction in Drawing and in Vocal Music**

Section 800. Instruction in industrial drawing.

801. Evening schools for industrial drawing.

802. Instruction in vocal music.

**§ 800. Instruction in industrial drawing.** In each of the state normal schools the course of study shall embrace instruction in industrial or free-hand drawing. The board of education in each city in this state shall cause free instruction to be given in industrial or free-hand drawing in at least one department of the schools under their charge. The board of education of each union free school district shall cause free instruction to be given in industrial or free-hand drawing in the schools under their charge, unless excused therefrom by the commissioner of education.

Formerly L. 1894, ch. 556, tit. 15, § 21.

**§ 801. Evening schools for industrial drawing.** The board of education, or other body having supervision of the public schools in any city or union free school district in this state, is hereby authorized to establish and maintain evening schools for free instruction in industrial drawing, whenever the city authorities in any city or the qualified electors duly convened in any union free school district shall so direct, and shall make provision for the maintenance of such schools. In addition to the powers now conferred by law upon the authorities of any city, or upon the electors of any union free school district in the state, such authorities and such electors shall also have power, whenever they shall think it advisable, to raise such moneys as shall be necessary to carry out the purposes of this article.

Formerly L. 1894, ch. 556, tit. 15, § 22.

**§ 802. Instruction in vocal music.** In each of the state normal schools the course of study may embrace instruction in vocal music. The boards of education in each city, and in each union free school district incorporated under the laws of this state, may cause free instruction to be given in vocal music in the schools under their charge. The commissioner of education may provide instruction in vocal music in all teachers' institutes held throughout the state.

Formerly L. 1894, ch. 556, tit. 15, § 23.

**ARTICLE 33****General Industrial and Trade Schools**

Section 820. General industrial and trade schools may be established.

821. Appointment of an advisory board.

822. Authority of the board of education over such schools.

823. State aid for general industrial and trade schools.

824. Annual estimate by board of education and appropriations by municipal and school districts.

**§ 820. General industrial and trade schools may be established.**

1. The board of education of any city, and in a city not having a board of education the officer having the management and supervision of the public school system, may establish, acquire, conduct and maintain as a part of the public school system of such city general industrial schools open to pupils who have completed the elementary school course or who have attained the age of fourteen years, and trade schools open to pupils who have attained the age of sixteen years and have completed either the elementary school course or a course in the above mentioned general industrial school or who have met such other requirements as the local school authorities may have prescribed.

2. The board of education of any union free school district shall also establish, acquire and maintain such school for like purposes whenever such schools shall be authorized by a district meeting.

Formerly L. 1894, ch. 556, tit. 15, § 25, as am'd by L. 1908, ch. 263, § 1.

**§ 821. Appointment of an advisory board.** 1. The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education shall appoint an advisory board of five members representing the local trades and industries. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be filled by the appointing power named in this section for the remainder of the unexpired term.

2. It shall be the duty of such advisory board to counsel with and advise the board of education or the officer having the manage-

ment and supervision of the public school system in a city not having a board of education in relation to the powers and duties vested in such board or officer by section eight hundred twenty-two of this chapter.

Formerly L. 1894, ch. 556, tit. 15, § 25-a, as added by L. 1908, ch. 263, § 2.

**§ 822. Authority of the board of education over such schools.** The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education and the board of education in a union free school district which authorizes the establishment of a general industrial or a trade school is vested with the same power and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board or officer now has over the schools and teachers under their charge. Such boards of education or such officer shall also have full power and authority:

1. To employ competent teachers or instructors.
2. To provide proper courses of study.
3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.
4. To purchase necessary machinery, tools, apparatus and supplies.

Formerly L. 1894, ch. 556, tit. 15, § 26, as am'd by L. 1908, ch. 263, § 3.

**§ 823. State aid for general industrial and trade schools.** The commissioner of education in the annual apportionment of the state school moneys shall apportion therefrom to each city and union free school district the sum of five hundred dollars for each independently organized general industrial or trade school maintained therein for forty weeks during the school year and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least twenty-five pupils and maintaining a course of study approved by him. He shall also make an additional apportionment to each city and union free school district of two hundred dollars for each additional teacher employed exclusively in such schools for forty weeks during the school year. All such moneys apportioned by the commissioner of education shall be used exclusively for the support and maintenance of such schools in the city or district to which such moneys are apportioned. But the commissioner of education may in his discretion apportion to a district or city maintaining



such schools or employing such teachers for a shorter time than forty weeks, an amount pro rata to the time such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

Formerly L. 1894, ch. 556, tit. 15, § 27, as am'd by L. 1908, ch. 263, § 4.

**§ 824. Annual estimate by board of education and appropriations by municipal and school districts.**

1. The board of education of each city or the officer having the management and supervision of the public school system in a city not having a board of education shall file with the common council of such city within thirty days after the commencement of the fiscal year of such city a written itemized estimate of the expenditures necessary for the maintenance of its general industrial and trade schools and the estimated amount which the city will receive from the state school moneys applicable to the support of such schools. The common council shall give a public hearing to such persons as wish to be heard in reference thereto. The common council shall adopt such estimate and after deducting therefrom the amount of state moneys applicable to the support of such schools shall include the balance in the annual tax budget of such city. Such amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner that other taxes for school purposes are raised. The common council shall have power by a two-thirds vote to reduce or reject any item included in such estimate.

2. The board of education in a union free school district which maintains a general industrial or trade school shall include in its estimate of anticipated expenses pursuant to the provisions of sections two hundred forty-two and two hundred and forty-seven of this chapter the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the commissioner of education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the district at the time and in the manner that other taxes for school purposes are raised in such district.

Formerly L. 1894, ch. 556, tit. 15, § 28, as added by L. 1908, ch. 263, § 5.

**ARTICLE 34****Kindergartens**

Section 840. Authority and regulations for free kindergartens.

**§ 840. Authority and regulations for free kindergartens.** The school authorities of any union free or common school district, located in any county having less than one million inhabitants, may establish and maintain one or more free kindergarten schools. The moneys for the support of such schools shall be raised in like manner as for the support of the other public schools of such district. No child under the age of four years shall be admitted to the schools, and the local school authorities are hereby empowered to fix the highest age limit of children who may attend. All teachers employed in these schools shall be licensed in accordance with rules and regulations established by the commissioner of education, and shall each share in the distribution of district quotas. The attendance of children under the age of five years who may be enrolled in the schools shall be reported separately and shall be counted in the distribution of public money.

Formerly L. 1894, ch. 556, tit. 15, § 24, as am'd by L. 1896, ch. 264, § 21.

**ARTICLE 35****Orphan Schools**

Section 860. Schools of orphan asylums.

861. Rules subject to supervision of school authorities.

862. Annual reports.

**§ 860. Schools of orphan asylums.** The schools of the several incorporated orphan asylum societies in this state, other than those in the city of New York, shall participate in the distribution of the school moneys, in the same manner and to the same extent, in proportion to the number of children educated therein, as the common schools in their respective cities or districts. The schools of said societies shall be subject to the rules and regulations of the common schools in such cities or districts, but shall remain under the immediate management and direction of the said societies as heretofore.

Formerly L. 1894, ch. 556, tit. 15, § 32.

**§ 861. Rules subject to supervision of school authorities.** Every such asylum may make all laws, rules and regulations relative to the education and discipline of their inmates, as a majority of the trustees thereof at their annual meetings shall think fit and proper; but such laws, rules and regulations shall not be repugnant to the laws of this state in its policy in reference to public and primary instruction, and shall be subject at all times to the inspection and supervision of the several educational officers of the different villages, towns or cities in which such orphan asylums may be located.

Formerly L. 1847, ch. 485, § 2.

**§ 862. Annual reports.** An annual report shall be made and sworn to by the presiding officer of any such asylum, stating the number of inmates thereof, the time spent by them in pursuing studies therein, in what studies they shall have been instructed, and the manner in which the public funds distributed to it shall have been expended, which shall be filed with the commissioner of education.

Formerly L. 1847, ch. 485, § 4.

## ARTICLE 36

### Indian Schools

Section 880. Duties of commissioner regarding Indian children.

881. Co-operation of Indians shall be sought.

882. Rights of Indians and of state shall be guarded.

883. When Indian children not entitled to attend public schools.

**§ 880. Duties of commissioner regarding Indian children.** The commissioner of education shall be charged with providing the means of education for all the Indian children in the state. He shall cause to be ascertained the condition of the various bands in the state in respect to education; he shall establish schools in such places, and of such character and description as he shall deem necessary; he shall employ superintendents for such schools, and shall, with the concurrence of the comptroller and secretary of state, cause to be erected, where necessary, convenient buildings for their accommodation.

Formerly L. 1894, ch. 556, tit. 15, § 33.

**§ 881. Co-operation of Indians shall be sought.** In the discharge of the duties imposed by this article, the said commissioner shall endeavor to secure the co-operation of all

the several bands of Indians, and for this purpose, shall visit, by himself or his authorized representative, all the reservations where they reside, lay the matter before them in public assembly, inviting them to assist either by appropriating their public moneys to this object, or by setting apart lands and erecting suitable buildings, or by furnishing labor or materials for such buildings, or in any other way which he or they may suggest as most effectual for the promotion of this object.

Formerly L. 1894, ch. 556, tit. 15, § 34.

**§ 882. Rights of Indians and of state shall be guarded.** In any contract which may be entered into with said Indians, for the use or occupancy of any land for school grounds, sites or buildings, care shall be taken to protect the title of the Indians to their lands, and to reserve to the state the right to remove or otherwise dispose of all improvements made at the expense of the state.

Formerly L. 1894, ch. 556, tit. 15, § 35.

**§ 883. When Indian children not entitled to attend public schools.** If a school district includes a portion of an Indian reservation, whereon a school for Indian children has been established by the commissioner of education, and is taught, the school of the district is not free to Indian children resident in the district or on the reservation, nor shall they be admitted to such school except by the permission of the commissioner.

Formerly L. 1894, ch. 556, tit. 7, § 37.

## ARTICLE 37

### Compulsory Education of Indians

Section 900. When Indian child is required to attend school.

901. Required attendance upon instruction.

902. Duties of persons in parental relation to Indian children.

903. Persons employing Indian children unlawfully to be fined.

904. Teachers' record of attendance.

905. Attendance officers.

906. Arrest of truants.

907. Superintendent to contract for keeping of truants.

908. Enumeration.

909. Payment of services herein required.

**§ 900. When Indian child is required to attend school.** An Indian child under sixteen years of age required

by the persons in parental relation to such child to attend upon lawful instruction at a school or elsewhere upon which such child is entitled to attend, is lawfully required to attend such school.

An Indian child between six and sixteen years of age, who is required by law to attend upon instruction, and is required by the persons in parental relation to such child, to attend upon lawful instruction at a school or elsewhere upon which such child is entitled to attend, is lawfully required to attend upon such instruction; if not required by the persons in parental relation to such child to attend upon any instruction, is lawfully required to attend a school on the reservation, upon which such child shall reside.

Formerly L. 1904, ch. 424, § 2.

**§ 901. Required attendance upon instruction.**

Every Indian child between six and sixteen years of age, in proper physical and mental condition to attend school, shall regularly attend upon instruction at a school in which at least the common school branches of reading, spelling, writing, arithmetic, English grammar and geography are taught, or upon equivalent instruction by a competent teacher elsewhere than at such school as follows: Every Indian child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and every such child between six and fourteen years of age, shall so attend upon instruction as many days annually during the period between the first days of September and the following July as a public school of the community or district of the reservation, in which such child resides, shall be in session during the same period. If any such child shall so attend upon instruction elsewhere than at the public school, such instruction shall be at least equivalent to the instruction given to Indian children of like age at a school of the community or district in which such child shall reside; and such attendance shall be for at least as many hours of each day thereof, as are required of children of like age at public schools and no greater total amount of holidays and vacations shall be deducted from such attendance during the period such attendance is required than is allowed in public schools for children of like age. Occasional absences from such attendance, not amounting to irregular attendance in a fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practices of public schools.

Formerly L. 1904, ch. 424, § 3.

**§ 902. Duties of persons in parental relation to Indian children.** Any person in parental relation to an Indian child between six and sixteen years of age in proper physical and mental condition to attend school, shall cause such child to so attend upon instruction or shall present to the superintendent of Indian schools of the reservation on which such child resides proof by affidavit that he is unable to compel such child to so attend. A violation of this section shall be a misdemeanor, punishable for the first offense by a fine not exceeding five dollars or by imprisonment not exceeding ten days, and for each subsequent offense, by a fine not exceeding twenty-five dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special sessions shall, subject to removal, as provided in sections fifty-seven and fifty-eight of the code of criminal procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violation of this section within their respective jurisdictions.

Formerly L. 1904, ch. 424, § 4.

**§ 903. Persons employing Indian children unlawfully to be fined.** It shall be unlawful for any person, firm, association or corporation to employ any Indian child residing on any Indian reservation between six and fourteen years of age, in any business or service whatever, during any part of the term during which the school in the community or district in which such child resides is in session, or to employ any Indian child residing on any reservation between fourteen and sixteen years of age, who does not, at the time of such employment present a consent in writing signed by the superintendent of the Indian schools on the reservation on which such child resides to the effect that such child may be employed, and specifying the nature of the service and the duration of such service or employment; and any person, firm, association or corporation who shall employ any Indian child contrary to the provisions of this section shall for each offense forfeit and pay to the superintendent of Indian schools of the reservation on which such child resides, a penalty of twenty-five dollars, the same, when paid, to be used for the support and maintenance of the schools on said reservation.

Formerly L. 1904, ch. 424, § 5.

**§ 904. Teachers' record of attendance.** An accurate record of attendance of all Indian children between six and sixteen years of age shall be kept by the teacher of every Indian school, showing each day, by the year, month, day of the month and day

of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction such Indian child shall attend elsewhere than at the school in the community or district of the reservation where he resides, shall keep a like record of such attendance. Such records shall at all times be open to the superintendents of the Indian schools on their respective reservations and to such persons as they may designate as attendance officers, who may inspect or copy the same, and any teacher shall answer all inquiries lawfully made by such superintendents or attendance officers or other persons; and a wilful neglect or refusal to keep such a record or answer any such inquiry shall be a misdemeanor.

Formerly L. 1904, ch. 424, § 6.

**§ 905. Attendance officers.** The superintendents of the Indian schools on their respective reservations shall supervise the enforcement of this article within said reservations and they shall appoint and remove at pleasure such number of attendance officers as the commissioner of education shall deem necessary, whose jurisdiction shall extend over all school districts on the reservation for which they shall be appointed, and said superintendents shall prescribe their duties, not inconsistent with this article, and may make rules and regulations for the performance thereof. And said superintendents are also vested with the same power and authority as the attendance officers appointed by them.

Formerly L. 1904, ch. 424, § 7.

**§ 906. Arrest of truants.** Any attendance officer may arrest without warrant anywhere within the state, any Indian child between six and sixteen years of age, found away from his home and who is then a truant from instruction upon which he is lawfully required to attend within the districts of which such attendance officer has jurisdiction. He shall forthwith deliver a child so arrested either to the person in parental relation to the child, or to the teacher of the school from which said child is then a truant, or in case of habitual or incorrigible truants, shall bring them before a magistrate for commitment to a truant school, as provided in the next section.

Formerly L. 1904, ch. 424, § 8.

**§ 907. Superintendent to contract for keeping of truants.** The superintendent of Indian schools on any of the Indian reservations may contract with any city or district having a truant school, for the confinement, maintenance and instruction therein of any child who shall be committed to such school

as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on said reservation are paid.

Formerly L. 1904, ch. 424, § 9.

**§ 908. Enumeration.** The superintendents of Indian schools on the several Indian reservations shall whenever so directed by the commissioner of education, make a complete enumeration of the Indian inhabitants on said reservations; such enumeration shall be made between the first day of May and the first day of August and shall be tabulated by said superintendents, and such tabulation shall show the name and age of each Indian person on said reservations and shall show in what school district each of such persons resides. Such superintendents shall designate in such tabulation, the district in which each Indian child of school age shall be required to attend school.

Formerly L. 1904, ch. 424, § 10.

**§ 909. Payment of services herein required.** The superintendents of Indian schools on the several Indian reservations shall be entitled to receive the sum of three dollars per day, in addition to the salary now paid to such superintendents, for each day necessarily spent by them in enforcing the provisions of this article and also for each day necessarily spent in making the enumerations of the reservations and tabulating the same, together with their necessary expenses while employed in enumerating and tabulating the same and enforcing the provisions of this article. Each of the attendance officers herein provided for shall receive such sum per day as shall be fixed by said superintendents of Indian schools for each day necessarily employed in enforcing this article; and each person employed by said superintendents to assist them in taking and tabulating the census of the residents of said reservations, shall be entitled to such compensation as he shall contract for with said superintendents of said schools, not exceeding two dollars per day, together with necessary expenses. The expense in taking the enumeration herein provided for shall be audited by the commissioner of education and paid in the same manner as other accounts for the support and maintenance of the schools on said reservations are now paid.

Formerly L. 1904, ch. 424, § 11.



**ARTICLE 38****Instruction of Deaf Mutes and of the Blind**

Section 920. Duties of commissioner of education.

921. Persons eligible as pupils to institutions for instruction of the deaf and dumb.

922. Persons eligible as pupils to institutions for instruction of the blind.

923. Support and term of instruction of state pupils.

924. Regulations for admission.

925. Clothing for state pupils.

926. Employment of reader for blind students.

927. Indigent deaf-mute children.

928. Deaf-mute children improperly cared for.

929. Maintenance of children.

930. Payment of expenses of tuition and maintenance.

**§ 920. Duties of commissioner of education.** All the institutions for the instruction of the deaf and dumb, and blind, and all other similar institutions, incorporated under the laws of the state, or that may be hereafter incorporated, shall be subject to the visitation of the commissioner of education, and it shall be his duty:

1. To inquire, from time to time, into the expenditures of each institution, and the systems of instruction pursued therein, respectively.

2. To visit and inspect or cause to be visited and inspected, the schools belonging thereto, and the lodgings and accommodations of the pupils.

3. To ascertain by a comparison with other similar institutions, whether any improvements in instruction and discipline can be made; and for that purpose to appoint, from time to time, suitable persons to visit the schools.

4. To suggest to the directors of such institutions and to the legislature such improvements as he shall judge expedient.

5. To make an annual report to the legislature on all the matters before enumerated, and particularly as to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.

Formerly L. 1894, ch. 556, tit. 15, § 40.

**§ 921. Persons eligible as pupils to institutions for instruction of the deaf and dumb.** All deaf and dumb

persons resident in this state and upwards of twelve years of age, who shall have been resident in this state for one year immediately preceding the application, or, if a minor, whose parent or parents, or, if an orphan, whose nearest friend shall have been resident in this state for one year immediately preceding the application, shall be eligible to appointment as state pupils in one of the deaf and dumb institutions of this state, authorized by law to receive such pupils.

Formerly L. 1894, ch. 556, tit. 15, § 41 part, as am'd by L. 1903, ch. 62, § 1.

**§ 922. Persons eligible as pupils to institutions for instruction of the blind.** All blind persons of suitable age and similar qualifications shall be eligible to appointment to the institutions for the blind in the city of New York, or in the village of Batavia, as follows: All such as are residents of the counties of New York, Kings, Queens, Suffolk, Nassau, Richmond, Westchester, Putnam and Rockland, shall be sent to the institution for the blind in the city of New York; those who reside in other counties of the state shall be sent to the institution for the blind in the village of Batavia. All such appointments, with the exception of those to the institution for the blind in the village of Batavia, shall be made by the commissioner of education upon application, and in those cases in which, in his opinion, the parents or guardians of the applicants are able to bear a portion of the expense, he may impose conditions whereby some proportionate share of expense of educating and clothing such pupils shall be paid by their parents, guardians or friends, in such manner and at such times as the commissioner shall designate, which conditions he may modify from time to time, if he shall deem it expedient to do so.

Formerly L. 1894, ch. 556, tit. 15, § 41 part, as am'd by L. 1903, ch. 62, § 1.

**§ 923. Support and term of instruction of state pupils.** Each pupil so received into any of the institutions aforesaid shall be provided with board, lodging and tuition; and the directors of the institution shall receive an annual appropriation for each pupil so provided for, in quarterly payments, to be paid by the treasurer of the state, on the warrant of the comptroller, to the treasurer of said institution, on his presenting a bill showing the actual time and number of such pupils attending the institution, which bill shall be signed by the president and secretary of the institution, and verified by their oaths. The regular term of instruction for such pupils shall

be five years; but the commissioner of education may, in his discretion, extend the term of any pupil for a period not exceeding three years. The pupils provided for in this section and sections nine hundred and twenty-one and nine hundred and twenty-two of this article shall be designated state pupils; and all the existing provisions of law applicable to state pupils now in said institutions shall apply to pupils herein provided for.

Formerly L. 1894, ch. 556, tit. 15, § 42.

**§ 924. Regulations for admission.** The commissioner of education may make such regulations and give such directions to parents and guardians, in relation to the admission of pupils into either of the above-named institutions, as will prevent pupils entering the same at irregular periods.

Formerly L. 1894, ch. 556, tit. 15, § 43.

**§ 925. Clothing for state pupils.** 1. The supervisors of any county in this state from which county state pupils may be hereafter appointed to any institution for the instruction of the deaf and dumb, whose parents or guardians are unable to furnish them with suitable clothing, are hereby authorized and required to raise in each year for each such pupil from said county, the sum of thirty dollars.

Formerly L. 1894, ch. 556, tit. 15, § 43-a, as added by L. 1903, ch. 223, § 1.

2. The supervisors of any county in this state from which state pupils shall be sent to and received in the New York institution for the blind, whose parents or guardians shall, in the opinion of the commissioner of education, be unable to furnish them with suitable clothing are hereby authorized and directed, in every year while such pupils are in said institution, to raise and appropriate thirty dollars for each of said pupils, and to pay the sum so raised to the said institution, to be by it applied to furnishing such pupils with suitable clothing while in said institution. And if in any case all or any of said moneys are not expended before the expiration of the periods of appointment of such pupils, then the unexpended residue shall go into the general clothing fund of the said institution, to be by it devoted to furnishing state pupils with suitable clothing. If said sums shall not be paid to the said institution within six months after the annual meeting of the supervisors of any of said counties, the sums so unpaid shall bear interest at the rate of seven per centum per annum, from the expiration of said six months until the same be paid. The super-

visors of any county in this state from whose pauper institutions pupils shall be sent to the said institution for the blind, shall raise, appropriate and pay to the order of the comptroller of the state, towards the expense of educating and clothing such pupils, a sum equal to that which the county would have to pay to support the pupils as paupers at home. This subdivision does not apply to the counties of New York, Kings, Queens, Nassau and Suffolk.

Formerly L. 1839, ch. 200, § 5, as am'd by L. 1862, ch. 351, § 1.

3. The supervisors, or officers corresponding thereto, of the counties of New York, Kings, Queens, Nassau or Suffolk, from which state pupils shall be sent to and received in the New York institution for the blind, whose parents or guardians shall, in the opinion of the commissioner of education, be unable to furnish them with suitable clothing, are hereby authorized and directed, in every year while such pupils are in said institution, to raise and appropriate fifty dollars for each of said pupils from said counties respectively, and to pay the sum so raised to the said institution, to be by it applied to furnishing such pupils with suitable clothing while in said institution. If in any year hereafter there shall be any surplus of the amount above required to be paid yearly by the said counties for clothing for pupils from said counties, respectively, then such surplus shall be deducted pro rata the ensuing year from the amount above required to be paid by the said counties respectively.

Formerly L. 1870, ch. 166, §§ 3, 4; section 3 as am'd by L. 1871, ch. 166, § 2.

**§ 926. Employment of reader for blind students.**

Whenever a blind person, who is a citizen of this state and a pupil in actual attendance at a college, university, technical or professional school located in this state and authorized by law to grant degrees, other than an institution established for the regular instruction of the blind, shall be designated by the trustees thereof as a fit person to receive the aid hereinafter provided for, there shall be paid by the state for the use of such pupil the sum of three hundred dollars per annum with which to employ persons to read to such pupil from text-books and pamphlets used by such pupil in his studies at such college, university or school.

Such moneys shall be paid annually, after the beginning of the school year of such institution, by the treasurer of the state on the warrant of the comptroller, to the treasurer of such institution, on his presenting an account showing the actual number of blind pupils matriculated and attending the institution, which account shall be verified by the president of the institution and

accompanied by his certificate that the trustees have recommended the pupils named in said account as hereinbefore provided. The trustees of any of the said institutions shall recommend no blind person, who is not regularly matriculated, and who is not in good and regular standing, and who is not working for a degree from the institution in which he is matriculated; and no blind person shall be recommended, who is not doing the work regularly prescribed by the institution for the degree for which he is a candidate. The moneys so paid to any such institution shall be disbursed for the purposes aforesaid by and under the direction of its board of trustees.

Formerly L. 1894, ch. 556, tit. 15, §§ 43-b, 43-c, as added by L. 1907, ch. 608, §§ 1, 2.

**§ 927. Indigent deaf-mute children.** Whenever a deaf-mute child under the age of twelve years shall become a charge for its maintenance on any of the towns or counties of this state, or shall be liable to become such charge, it shall be the duty of the overseers of the poor of such town or of the supervisors of such county to place such child in one of the institutions enumerated in the next section.

Formerly L. 1863, ch. 325, § 1, as am'd by L. 1870, ch. 180, § 1; L. 1871, ch. 548, § 1, and L. 1875, ch. 213, § 1.

**§ 928. Deaf-mute children improperly cared for.** Any parent, guardian or friend of a deaf-mute child, within this state, over the age of five years and under the age of twelve years, may make application to the overseer of the poor of any town or to any supervisor of the county where such child may be, showing by satisfactory affidavit or other proof, that the health, morals or comfort of such child may be endangered, or not properly cared for, and thereupon it shall be the duty of such overseer or supervisor to place such child in one of the institutions authorized by the laws of eighteen hundred and ninety-two, chapter thirty-six, to receive such pupils, as follows:

1. The New York institution for the deaf and dumb; or,
2. The institution for the improved instruction of deaf-mutes; or,
3. The Le Couteulx Saint Mary's institution for the improved instruction of deaf-mutes in the city of Buffalo; or,
4. The Central New York institution for deaf-mutes in the city of Rome; or,
5. The Albany home school for the oral instruction of the deaf at Albany; or,
6. To any other institution in the state for the education of deaf-mutes as to which the state board of charities shall

have filed with the commissioner of education a certificate to the effect that said institution has been duly organized and is prepared for the reception and instruction of such pupils.

Formerly L. 1863, ch. 325, § 2 part, as am'd by L. 1870, ch. 180, § 1; L. 1871, ch. 548, § 1; L. 1875, ch. 213, § 2, and L. 1892, ch. 36, § 1.

**§ 929. Maintenance of children.** The children placed in said institutions, in pursuance of the last two sections, shall be maintained therein at the expense of the county from whence they came, provided that such expense shall not exceed three hundred dollars each per year, until they attain the age of twelve years, unless the directors of the institution to which a child has been sent shall find that such child is not a proper subject to remain in said institution.

Formerly L. 1863, ch. 325, § 3, as am'd by L. 1867, ch. 725, § 1, and L. 1875, ch. 213, § 3.

**§ 930. Payment of expenses of tuition and maintenance.** The expenses for the board, tuition and clothing for such deaf-mute children, placed as aforesaid in said institutions, not exceeding the amount of three hundred dollars per year, above allowed, shall be raised and collected as are other expenses of the county from which such children shall be received; and the bills therefor, properly authenticated by the principal or one of the officers of the institution, shall be paid to said institution by the said county; and its county treasurer or chamberlain, as the case may be, is hereby directed to pay the same on presentation, so that the amount thereof may be borne by the proper county.

Formerly L. 1863, ch. 325, § 4, as am'd by L. 1867, ch. 725, § 1, and L. 1875, ch. 213, § 3.

## ARTICLE 39

### New York State School for the Blind

Section 940. Change of name.

941. Requisites for admission.

942. Applicants from without the state.

943. Applications for admission.

944. Object of institution.

945. Appointment and terms of trustees.

946. Filling vacancies.

947. Trustees entitled to mileage; disabilities.

948. General powers of trustees.

949. Officers, committees and seal.

950. Secretary.

- Section 951. Treasurer's duties and bond.
952. Appointment of superintendent, instructors and assistants.
953. Purchase of equipment.
954. Duty to provide clothing and pay traveling expenses.
955. Charges against county.
956. Accounts against counties and payment thereof.
957. Reimbursement of counties.
958. Entitled to publications and may receive bequests and donations.
959. Records and annual reports.
960. Payments by state treasurer.
961. Drafts upon state treasury.

**§ 940. Change of name.** The New York state institution for the blind as the same was authorized to be established by chapter five hundred and eighty-seven of the laws of eighteen hundred and sixty-five and the acts supplemental thereto and renamed the "New York state school for the blind" by laws of eighteen hundred and ninety-five, chapter five hundred sixty-three, shall continue to be known and designated as the "New York state school for the blind."

Formerly L. 1895, ch. 563, § 1.

**§ 941. Requisites for admission.** All blind persons of suitable age and capacity for instruction, who are legal residents of the state, shall be entitled to the privileges of the New York state school for the blind, without charge, and for such a period of time in each individual case as may be deemed expedient by the board of trustees of said school; provided, that whenever more persons apply for admission at one time than can be properly accommodated in the school, the trustees shall so apportion the number received, but each county may be represented in the ratio of its blind population to the total blind population of the state; and provided further, that the children of citizens who died in the United States service, or from wounds received therein during the late rebellion, shall take precedence over all others.

Formerly L. 1867, ch. 744, § 1.

**§ 942. Applicants from without the state.** Blind persons from without the state may be received into the school upon the payment of an adequate sum, fixed by the trustees, for their boarding and instruction; provided that such applicant shall in no case exclude those from the state of New York.

Formerly L. 1867, ch. 744, § 2.

**§ 943. Applications for admission.** Applications for admission into the school shall be made to the board of trustees in such manner as they may direct, but the board shall require such application to be accompanied by a certificate from the county judge or county clerk of the county or the supervisor or town clerk of the town, or the mayor of the city where the applicant resides, setting forth that the applicant is a legal resident of the town, county and state claimed as his residence.

Formerly L. 1867, ch. 744, § 3, as am'd by L. 1872, ch. 616, § 1.

**§ 944. Object of institution.** The primary object of the school shall be, to furnish to the blind children of the state the best known facilities for acquiring a thorough education, and train them in some useful profession or manual art, by means of which they may be enabled to contribute to their own support after leaving the school; but it may likewise, through its industrial department, provide such of them with appropriate employment and boarding accommodations as find themselves unable, after completing their course of instruction and training, to procure these elsewhere for themselves. It shall, however, be in no sense an asylum for those who are helpless from age, infirmity or otherwise, or a hospital for the treatment of blindness.

Formerly L. 1867, ch. 744, § 4.

**§ 945. Appointment and terms of trustees.** The governor shall continue, each alternate year, to appoint, by and with the consent of the senate, three trustees who shall serve for a term of six years. Two of the board must be residents of the county of Genesee, and a majority must be residents within fifty miles of said school.

Formerly L. 1867, ch. 744, § 5.

**§ 946. Filling vacancies.** In case of the declination of any member of said board of trustees to act under his appointment, or of the occurrence of any other casual vacancy in the board, the governor shall forthwith appoint some suitable person to fill such vacancy, and the member so appointed shall serve out the term of his predecessor.

Formerly L. 1867, ch. 744, § 6.

**§ 947. Trustees entitled to mileage; disabilities.** The trustees shall receive no compensation as such, but they may allow themselves mileage, at the same rate as that paid to members of the legislature, for any distance actually traveled in the service of the school. Nor shall any trustee be pecuniarily



---

Art. 39                      New York State School for the Blind.                      §§ 948-953

---

interested in any contract for buildings pertaining to the school, or in furnishing supplies therefor.

Formerly L. 1867, ch. 744, § 7.

**§ 948. General powers of trustees.** The board of trustees shall have charge of all the affairs of the school, with power to make all necessary by-laws and regulations for their government and the proper management of the school, as well as for the admission of pupils, and to do all else which may be found necessary for the advancement of its humane design.

Formerly L. 1867, ch. 744, § 8.

**§ 949. Officers, committees and seal.** They shall elect from their own number a president and treasurer, together with such standing committees as they may deem necessary, and adopt a common seal for the school.

Formerly L. 1867, ch. 744, § 9.

**§ 950. Secretary.** The board of trustees may elect a secretary, who shall serve during the pleasure of the board, and who shall not be a member thereof, and may fill any vacancy in the said office as often as the same shall occur, and may prescribe his duties and fix his compensation.

Formerly L. 1873, ch. 463, § 2.

**§ 951. Treasurer's duties and bond.** The treasurer shall have the custody of all the funds of the school, and pay out the same only upon properly authenticated orders of the board or executive committee. Before entering upon the duties of his office, he shall execute and file in the office of the comptroller, a bond with such sureties and in such amount of penalty as the comptroller shall require and approve, conditioned for the faithful discharge of his duties as such treasurer.

Formerly L. 1867, ch. 744, § 10, as am'd by L. 1905, ch. 154, § 1.

**§ 952. Appointment of superintendent, instructors and assistants.** The trustees shall have power to appoint a competent and experienced superintendent, who shall be the chief executive officer of the school, together with an efficient corps of instructors and other subordinate officers; prescribe the duties and terms of service of the same; fix and pay their salaries, and for just cause, remove any or all of them from office. They shall likewise employ the requisite number of servants and other assistants in the various departments of the school, and pay the wages of the same.

Formerly L. 1867, ch. 744, § 11.

**§ 953. Purchase of equipment.** They shall purchase all furniture, apparatus and other supplies necessary to the

equipment and carrying on of the school in the most efficient manner.

Formerly L. 1867, ch. 744, § 12.

**§ 954. Duty to provide clothing and pay traveling expenses.** When any blind person shall, upon proper application, be admitted into the school, it shall be the duty of his parents, guardians or other friends, to suitably provide such person with clothing at the time of entrance and during continuance therein, and likewise to defray his traveling expenses to and from the school, at the time of entrance and discharge, as well as at the beginning and close of each session of the school, and at any other time when it shall become necessary to send such person home on account of sickness or other exigency. And whenever it shall be deemed necessary by the trustees to have such person permanently removed from the school, in accordance with the by-laws and regulations thereof, the same shall be promptly removed upon their order, by his parents, guardians or other friends.

Formerly L. 1867, ch. 744, § 13.

**§ 955. Charges against county.** If the friends of any pupil from within the state of New York shall fail through neglect or inability to provide the same with proper clothing or with funds to defray his necessary traveling expenses to and from the school, or to remove him therefrom, as required in the preceding section, the trustees shall furnish such clothing, pay such traveling expenses, or remove such pupil to the care of the overseers of the poor of his township, and charge the cost of the same to the county to which the pupil belongs, provided that the annual amount of such expenditures on account of any one pupil shall not exceed the sum of sixty dollars. And in case of the death of any pupil at the school, whose remains shall not be removed or funeral expenses borne by the friends thereof, the trustees shall defray the necessary burial expenses, and charge the same to his county as aforesaid. Upon the completion of their course of training in the industrial department, the trustees may furnish to such worthy poor pupils as may need it, an outfit of machinery and tools for commencing business, at a cost not exceeding seventy-five dollars each, and charge the same to the proper county as aforesaid.

Formerly L. 1867, ch. 744, § 14, as am'd by L. 1873, ch. 463, § 1.

**§ 956. Accounts against counties and payment thereof.** On the first day of October in each year, the trustees shall cause to be made out against the respective counties concerned, itemized accounts, separate in each case, of the expenditures author-

ized by the preceding section, and forward the same to the board of supervisors chargeable with the account. The board shall thereupon direct the county treasurer to pay the amount so charged to the treasurer of the school for the blind, on or before the first day of March next ensuing.

Formerly L. 1867, ch. 744, § 15.

**§ 957. Reimbursement of counties.** The counties against which the said accounts shall be made out as aforesaid, shall cause their respective treasurers, in the name of their respective counties, to collect the same, by legal process, if necessary, from the parents or estates of the pupils who have the ability to pay, on whose account the said expenditures shall have been made; provided that at least five hundred dollars' value of the property of such parents or estate shall be exempt from the payment of the accounts aforesaid.

Formerly L. 1867, ch. 744, § 16.

**§ 958. Entitled to publications and may receive bequests and donations.** The school shall be entitled to receive copies of all books and other publications which are distributed gratuitously by the state to township or county libraries, common schools, academies, colleges and societies. It may also receive in the name of the state, bequests or donations of money or any kind of property, but such money or property shall in all cases belong to the state, and be subject to its control; provided that the same shall not be diverted from the particular object for which it shall be bequeathed or donated.

Formerly L. 1867, ch. 744, § 17.

**§ 959. Records and annual reports.** The board of trustees shall keep full and complete records of their proceedings, and make an annual report of the same to the legislature, at the commencement of the regular session thereof, strictly accounting in detail for their expenditures, on account of the school, during the preceding fiscal year of the state, setting forth the progress and condition of the several departments of the school, making such suggestions concerning its future management as they may deem essential, and submitting proper estimates of the funds needed for its support, as well as for building and all other purposes.

Formerly L. 1867, ch. 744, § 18.

**§ 960. Payments by state treasurer.** The state treasurer is hereby directed to pay over to the board of trustees, upon the warrant of the comptroller, all moneys which shall hereafter be appropriated on account of the New York state school for the

§§ 961, 980-982 Schools for Colored Children — School Census. Arts. 39-41

blind; the general appropriations for the current support of the school, to be paid in equal quarterly instalments, and specific appropriations for building and other purposes, to be paid when needed by the trustees.

Formerly L. 1867, ch. 744, § 19.

**§ 961. Drafts upon state treasury.** All drafts upon the state treasury on behalf of the school, shall be based upon orders of the board of trustees, signed by the president and secretary of the same, and attested by the common seal of the school.

Formerly L. 1867, ch. 744, § 20.

## ARTICLE 40

### Schools for Colored Children

Section 980. No exclusion on account of race or color.

981. Provision for separate schools.

982. Only qualified teachers shall be employed.

**§ 980. No exclusion on account of race or color.** No person shall be refused admission into or be excluded from any public school in the state of New York on account of race or color.

Formerly L. 1900, ch. 492, § 1.

**§ 981. Provision for separate schools.** The trustees of any union school district, or of any school district organized under a special act, may, when the inhabitants of any district shall so determine, by resolution, at any annual meeting, or at a special meeting called for that purpose, establish separate schools for the instruction of colored children resident therein, and such schools shall be supported in the same manner and receive the same care, and be furnished with the same facilities for instruction, as the white schools therein.

Formerly L. 1894, ch. 556, tit. 15, § 29.

**§ 982. Only qualified teachers shall be employed.** No person shall be employed to teach any of such schools who shall not, at the time of such employment, be legally qualified.

Formerly L. 1894, ch. 556, tit. 15, § 30.

## ARTICLE 41

### School Census

Section 1000. School census in cities of the first class.

1001. School census in cities not of the first class.

- Section 1002. School census in school districts.  
1003. Penalty for withholding information.  
1004. Payment of expenses.

**§ 1000. School census in cities of the first class.**

A permanent census board is hereby established in each city of the first class. Such board shall consist of the mayor, the superintendent of schools, the police commissioner or officer performing duties similar to those of a police commissioner. Such board shall have power to make such rules and regulations as may be necessary to carry out the provisions of this article. Such board shall have power to appoint a secretary and such clerks and other employees as may be necessary to carry out the provisions of this article and to fix the salaries of the same. Such board shall ascertain through the police force, the residences and employments of all persons between the ages of four and eighteen years residing within such cities and shall report thereon from time to time to the school authorities of such cities. Under the regulations of such board during the month of October, nineteen hundred and nine, it shall be the duty of the police commissioners in the cities of the first class to cause a census of the children of their respective cities to be taken. Thereafter such census shall be amended from day to day by the police, precinct by precinct, as changes of residence occur among the children of such cities within the ages prescribed in this article and as other persons come within the ages prescribed herein and as other persons within such ages shall become residents of such cities, so that said board shall always have on file a complete census of the names and residences of the children between such ages and of the persons in parental relation thereto. If in the taking of the first census in any city of the first class during the month of October, nineteen hundred and nine, additional policemen shall be required, such additional policemen shall be appointed by the police commissioner of said city from the civil service lists of persons eligible for appointment as such policemen, and said additional policemen shall be allowed in addition to the number now allowed by law. It shall be the duty of persons in parental relation to any child residing within the limits of said cities of the first class to report at the police station house of the precinct within which they severally reside, the following information:

1. Two weeks before any child becomes of the compulsory school age, the name of such child, its residence, the name of the person or persons in parental relation thereto, and the name and location of the school to which such child is sent as a pupil.

2. In case a child of compulsory school age is for any cause removed from one school and sent to another school, or sent to work in accordance with the child labor law, all the facts in relation thereto.

3. In case the residence of a child is removed from one police precinct to another police precinct, the new residence and the other facts required in the two preceding subdivisions.

4. In case a child between the ages of four and eighteen becomes a resident of one of said cities of the first class for the first time the residence and such other facts as the census board shall require. Such census shall include all persons between the ages of four and eighteen years, the day of the month and the year of the birth of each of such persons, their respective residences by street and number, the names of their parents or guardians, such information relating to illiteracy and to the enforcement of the child labor and the compulsory education law as the school authorities of the state and of such cities shall require and also such further information as such authorities shall require.

Formerly L. 1908, ch. 249, § 1.

**§ 1001. School census in cities not of the first class.** A permanent census board may be established in any city not of the first class, in accordance with the provisions of this article. If a census board shall not be established in such cities, then, during the month of October, nineteen hundred and nine, and in the month of October every fourth year thereafter, the school authorities of every city, not a city of the first class, shall take a census of the children of their respective cities. Such census shall include the information required from the cities of the first class as provided in section one thousand of this chapter.

Formerly L. 1908, ch. 249, § 2.

**§ 1002. School census in school districts.** The board of trustees of every school district shall annually on the thirtieth day of August cause a census of all children between the ages of five and eighteen years to be taken in their respective school districts. Such census shall include the information required from cities as provided in this article.

Formerly L. 1908, ch. 249, § 3.

**§ 1003. Penalty for withholding information.** A parent, guardian or other person having under his control or charge a child between the ages of four and eighteen years who withholds or refuses to give information in his possession relating

to such child and required under this article, or any such parent, guardian or other person who gives false information in relation thereto, shall be liable to and punished by fine not exceeding twenty dollars or by imprisonment not exceeding thirty days.

Formerly L. 1908, ch. 249, § 4.

**§ 1004. Payment of expenses.** The money required for the purpose of carrying this article into effect shall be paid by the cities and school districts respectively, included in the provisions of this article, but, in cities in which a permanent census board as provided under section one thousand of this chapter is not established and maintained, and in school districts, such moneys shall be paid for the services rendered in the taking of the school census on the certificate of the state commissioner of education that such census has been satisfactorily taken.

Formerly L. 1908, ch. 249, § 5.

## ARTICLE 42

### Libraries

- Section 1020. State library, how constituted.
- 1021. State medical library.
- 1022. Manuscript and records "on file."
- 1023. State library, when open; use of books.
- 1024. Duplicate department.
- 1025. Transfers from state officers.
- 1026. Other libraries owned by the state.
- 1027. Public and free libraries and museums.
- 1028. Establishment.
- 1029. Acceptance of conditional gift.
- 1030. Subsidies.
- 1031. Closing of museum; admission fee during certain hours.
- 1032. Taxes.
- 1033. Trustees.
- 1034. Incorporation.
- 1025. Use of free public libraries.
- 1036. Reports.
- 1037. Injuries to property.
- 1038. Detention.
- 1039. Transfer of libraries.
- 1040. Local neglect.
- 1041. Loans of books from state.
- 1042. Advice and instruction from state library officers.

- Section 1043. Apportionment of public library money.  
 1044. Abolition.  
 1045. Use and care of school library.  
 1046. Existing rules continued in force.  
 1047. Authority to raise and receive money for school library.  
 1048. Authority to transfer school library property to free public library.  
 1049. Transfer of property not in charge of librarian.  
 1050. Provision for change to circulating library.  
 1051. Penalty for disobedience to library law, rules or orders.  
 1052. Court of appeals library.  
 1053. Court of appeals judges' law libraries.  
 1054. Appellate division libraries.  
 1055. Appellate division library, first department.  
 1056. Appellate division library, fourth department.  
 1057. Supreme court libraries.  
 1058. Supreme court library at New York.  
 1059. Supreme court library in borough of Brooklyn.  
 1060. Supreme court library at Newburgh.  
 1061. Joseph F. Barnard Memorial library at Poughkeepsie.  
 1062. Supreme court library at Kingston.  
 1063. Supreme court library at Saratoga.  
 1064. Supreme court library at Utica.  
 1065. Supreme court library at Binghamton.  
 1066. Supreme court library at Delhi.  
 1067. Supreme court library at Elmira.  
 1068. David L. Follett Memorial library at Norwich.  
 1069. Supreme court library at Buffalo.  
 1070. Supreme court library at White Plains.  
 1071. Supreme court library at Troy.

**§ 1020. State library, how constituted.** All books, pamphlets, manuscripts, records, archives and maps, and all other property appropriate to a general library, if owned by the state and not placed in other custody by law, shall be in charge of the regents and constitute the state library.

Formerly L. 1892, ch. 378, § 15.

**§ 1021. State medical library.** The state medical library shall be a part of the New York state library under the same government and regulations and shall be open for consulta-



tion to every citizen of the state at all hours when the state library is open and shall be available for borrowing books to every accredited physician residing in the state of New York, who shall conform to the rules made by the regents for insuring proper protection and the largest usefulness to the people of the said medical library.

Formerly L. 1891, ch. 377, § 2.

**§ 1022. Manuscript and records "on file."** Manuscript or printed papers of the legislature, usually termed "on file," and which shall have been on file more than five years in custody of the senate and assembly clerks, and all public records of the state not placed in other custody by a specific law shall be part of the state library and shall be kept in rooms assigned and suitably arranged for that purpose by the trustees of public buildings. The regents shall cause such papers and records to be so classified and arranged that they can be easily found. No paper or record shall be removed from such files except on a resolution of the senate and assembly withdrawing them for a temporary purpose, and in case of such removal a description of the paper or record and the name of the person removing the same shall be entered in a book provided for that purpose, with the date of its delivery and return.

Formerly L. 1892, ch. 378, § 16.

**§ 1023. State library, when open; use of books.** The state library shall be kept open not less than eight hours every week day in the year except the legal holidays known as Independence day, Thanksgiving day and Christmas day, and members of the legislature, judges of the court of appeals, justices of the supreme court, and heads of state departments may borrow from the library books for use in Albany, but shall be subject to such restrictions and penalties as may be prescribed by the regents for the safety or greater usefulness of the library. Others shall be entitled to use or borrow books from the library only on such conditions as the regents shall prescribe.

Formerly L. 1892, ch. 378, § 17, as am'd by L. 1907, ch. 184, § 1.

**§ 1024. Duplicate department.** The regents shall have charge of the preparation, publication and distribution, whether by sale, exchange or gift, of the colonial history, natural history and all other state publications not otherwise assigned by law. To guard against waste or destruction of state publications, and to provide for the completion of sets to be permanently preserved in American and foreign libraries, the regents shall

maintain a duplicate department to which each state department, bureau, board or commission shall send not less than five copies of each of its publications when issued, and after completing its distribution, any remaining copies which it no longer requires. The above, with any other publications not needed in the state library, shall be the duplicate department, and rules for sale, exchange or distribution from it shall be fixed by the regents, who shall use all receipts from such exchanges or sales for expenses and for increasing the state library.

Formerly L. 1892, ch. 378, § 19, as am'd by L. 1895, ch. 859, § 1, and L. 1901, ch. 507, § 14.

**§ 1025. Transfers from state officers.** The librarian of any library owned by the state, or the officer in charge of any state department, bureau, board, commission or other office may, with the approval of the regents, transfer to the permanent custody of the state library or museum any books, papers, maps, manuscripts, specimens or other articles which, because of being duplicates or for other reasons, will in his judgment be more useful to the state in the state library or museum than if retained in his keeping.

Formerly L. 1892, ch. 378, § 20.

**§ 1026. Other libraries owned by the state.** The report of the state library to the legislature shall include a statement of the total number of volumes or pamphlets, the number added during the year, with a summary of operations and conditions, and any needed recommendation for safety or usefulness for each of the other libraries owned by the state, the custodian of which shall furnish such information or facilities for inspection as the regents may require for making this report. Each of these libraries shall be under the sole control now provided by law, but for the annual report of the total number of books owned by or bought each year by the state, it shall be considered as a branch of the state library and shall be entitled to any facilities for exchange of duplicates, inter-library loans or other privileges properly accorded to a branch.

Formerly L. 1892, ch. 378, § 21.

**§ 1027. Public and free libraries and museums.** All provisions of this section and of sections ten hundred and twenty-eight to ten hundred and forty-four inclusive shall apply equally to libraries, museums, and to combined libraries and museums, and the word "library" shall be construed to include reference and circulating libraries and reading-rooms.

Formerly L. 1892, ch. 378, § 35.

**§ 1028. Establishment.** By majority vote at any election, any city, village, town, school district, or other body authorized to levy and collect taxes, or by vote of its common council, or by action of a board of estimate and apportionment or other proper authority, any city, or by vote of its trustees, any village, may establish and maintain a free public library, with or without branches, either by itself or in connection with any other body authorized to maintain such library. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted, provided that due public notice shall have been given of the proposed action. A municipality or district named in this section may raise money by tax to establish and maintain a public library or libraries, or to provide a building or rooms for its or their use, or to share the cost as agreed with other municipal or district bodies, or to pay for library privileges under a contract therefor. It may also acquire real or personal property for library purposes by gift, grant, devise or condemnation, and may take, buy, sell, hold and transfer either real or personal property and administer the same for public library purposes.

Formerly L. 1892, ch. 378, § 36 part, as am'd by L. 1895, ch. 859, § 5; L. 1902, ch. 185, § 1, and L. 1907, ch. 606, § 1.

**§ 1029. Acceptance of conditional gift.** By majority vote at any election any municipality or district or by three-fourths vote of its council, any city, or any public library in the university, or any designated branch thereof, if so authorized by such vote of a municipality, district, or council, or of any combination of such voting bodies, may accept gifts, grants, devises or bequests for public library purposes on condition that a specified annual appropriation shall thereafter be made, by the municipality or district or combination so authorizing such acceptance, for maintenance of such library or branches thereof. Such acceptance, when approved by the regents of the university under seal and recorded in its book of charters, and in a school not subject to their visitation when approved by the commissioner of education, shall be a binding contract, and such municipality and district shall levy and collect yearly the amount provided in the manner prescribed for other taxes, and shall maintain any so accepted gift, grant, devise or bequest, intact and make good any impairment thereof.

Formerly L. 1892, ch. 378, § 36 part, as am'd by L. 1895, ch. 859, § 5; L. 1902, ch. 185, § 1, and L. 1907, ch. 606, § 1.

**§ 1030. Subsidies.** By vote similar to that required by sections ten hundred and twenty-eight and ten hundred and twenty-

nine, money may be granted toward the support of libraries not owned by the public but maintained for its welfare and free use; provided, that such libraries shall be subject to the inspection of the regents and registered by them as maintaining a proper standard, that the regents shall certify what number of the books circulated are of such a character as to merit a grant of public money, and that the amount granted yearly to libraries on the basis of circulation shall not exceed ten cents for each volume of the circulation thus certified by the regents.

Formerly L. 1892, ch. 378, § 37 part, as am'd by L. 1900, ch. 481, § 1.

**§ 1031. Closing of museum; admission fee during certain hours.** The trustees of any institution supported under this chapter by public money, in whole or in part, may, so far as consistent with free use by the public at reasonable or specified hours, close any of its museum collections at certain other hours, for study, to meet the demands of special students or for exhibition purposes, and may charge an admission fee at such hours, provided that all receipts from such fees shall be paid into the treasury and be used for the maintenance or enlargement of the institution.

Formerly L. 1892, ch. 378, § 37 part, as am'd by L. 1900, ch. 481, § 1.

**§ 1032. Taxes.** Taxes, in addition to those otherwise authorized, may be voted by any authority named in section ten hundred and twenty-eight and ten hundred and twenty-nine and for any purpose specified in sections ten hundred and twenty-eight to ten hundred and thirty inclusive, and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor till changed by further vote, and shall be levied and collected yearly, or as directed, as are other general taxes; and all money received from taxes or other sources for such library shall be kept as a separate library fund and expended only under direction of the library trustees on properly authenticated vouchers.

Formerly L. 1892, ch. 378, § 38.

**§ 1033. Trustees.** Free public libraries established by action of the voters or their representatives shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the university as defined in this chapter; provided, unless otherwise specified in the charter, that the number of trustees shall be five; that they shall be elected by the legal voters, except that in cities they shall be appointed by

the mayor with the consent of the common council, from citizens of recognized fitness for such position; that the first trustees determine by lot whose term of office shall expire each year and that a new trustee shall be elected or appointed annually to serve for five years.

Formerly L. 1892, ch. 378, § 39.

**§ 1034. Incorporation.** Within one month after taking office, the first board of trustees of any such free public library shall apply to the regents for a charter in accordance with the vote establishing the library.

Formerly L. 1892, ch. 378, § 40.

**§ 1035. Use of free public libraries.** Every library established under sections ten hundred and twenty-eight and ten hundred and twenty-nine of this chapter shall be forever free to the inhabitants of the locality which establishes it, subject always to rules of the library trustees, who shall have authority to exclude any person who wilfully violates such rules; and the trustees may, under such conditions as they think expedient, extend the privileges of the library to persons living outside such locality.

Formerly L. 1892, ch. 378, § 42, as am'd by L. 1895, ch. 859, § 6.

**§ 1036. Reports.** Every library or museum which receives state aid or enjoys any exemption from taxation or other privilege not usually accorded to business corporations shall make the report required by section ten hundred and ninety-six of this chapter, and such report shall relieve the institution from making any report now required by statute or charter to be made to the legislature, or to any department, court or other authority of the state. These reports shall be summarized and transmitted to the legislature by the regents with the annual reports of the state library and state museum.

Formerly L. 1892, ch. 378, § 41.

**§ 1037. Injuries to property.** Whoever intentionally injures, defaces or destroys any property belonging to or deposited in any incorporated library, reading-room, museum or other educational institution, shall be punished by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Formerly L. 1892, ch. 378, § 43.

**§ 1038. Detention.** Whoever wilfully detains any book, newspaper, magazine, pamphlet, manuscript or other property belonging to any public or incorporated library, reading-room, museum or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution, such article or other property may be kept, shall be punished by a fine of not less than one nor more than twenty-five dollars, or by imprisonment in the jail not exceeding six months, and the said notice shall bear on its face a copy of this section.

Formerly L. 1892, ch. 378, § 44.

**§ 1039. Transfer of libraries.** Any corporation, association, school district or combination of districts may, by legal vote duly approved by the regents, transfer, conditionally as provided in section ten hundred and twenty-nine of this article, or otherwise, the ownership and control of its library, with all its appurtenances, to any municipality, or district, or public library in the university, or any designated branch thereof, and thereafter such transferee shall be entitled to receive any money, books or other property from the state or other sources, to which the transferring body would have been entitled but for such transfer, and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred.

Formerly L. 1892, ch. 378, § 45, as am'd by L. 1907, ch. 606, § 2.

**§ 1040. Local neglect.** If the local authorities of any library supported wholly or in part by state money, fail to provide for the safety and public usefulness of its books, the regents shall in writing notify the trustees of said library what is necessary to meet the state's requirements, and on such notice all its rights to further grants of money or books from the state shall be suspended until the regents certify that the requirements have been met; and if said trustees shall refuse or neglect to comply with such requirements within sixty days after service of such notice, the regents may remove them from office and thereafter all books and other library property wholly or in part paid for from state money shall be under the full and direct control of the regents who, as shall seem best for public interests, may appoint new trustees to carry on the library, or may store it, or distribute its books to other libraries.

Formerly L. 1892, ch. 378, § 46.

**§ 1041. Loans of books from state.** Under such rules as the regents may prescribe, they may lend from the state

library, duplicate department, or from books specially given or bought for this purpose, selections of books for a limited time to any public library in this state under visitation of the regents, or to any community not yet having established such library, but which has conformed to the conditions required for such loans.

Formerly L. 1892, ch. 378, § 47.

**§ 1042. Advice and instruction from state library officers.** The trustees or librarian or any citizen interested in any public library in this state shall be entitled to ask from the officers of the state library any needed advice or instruction as to a library building, furniture and equipment, government and service, rules for readers, selecting, buying, cataloguing, shelving, lending books, or any other matter pertaining to the establishment, reorganization or administration of a public library. The regents may provide for giving such advice and instruction either personally or through printed matter and correspondence, either by the state library staff or by a library commission of competent experts appointed by the regents to serve without salary. The regents may, on request, select or buy books, or furnish them instead of money apportioned, or may make exchanges and loans through the duplicate department of the state library. Such assistance shall be free to residents of this state as far as practicable, but the regents may, in their discretion, charge a proper fee to nonresidents or for assistance of a personal nature or for other reason not properly an expense to the state, but which may be authorized for the accommodation of users of the library.

Formerly L. 1892, ch. 378, § 48.

**§ 1043. Apportionment of public library money.** Such sum as shall have been appropriated by the legislature as public library money shall be paid annually by the treasurer, on the warrant of the comptroller, from the income of the United States deposit fund, according to an apportionment to be made for the benefit of free libraries by the regents in accordance with their rules and authenticated by their seal; provided, that none of this money shall be spent for books except those approved or selected and furnished by the regents; that no locality shall share in the apportionment unless it shall raise and use for the same purpose not less than an equal amount from taxation or other local sources; that for any part of the apportionment not payable directly to the library trustees the regents shall file with the comptroller proper vouchers showing that it has been spent in accordance with law exclusively for books for free libraries or for

proper expenses incurred for their benefit; and that books paid for by the state shall be subject to return to the regents whenever the library shall neglect or refuse to conform to the ordinances under which it secured them.

Formerly L. 1892, ch. 378, § 50.

**§ 1044. Abolition.** Any library established by public vote or action of school authorities, or under sections ten hundred and twenty-eight and ten hundred and twenty-nine of this chapter, may be abolished only by a majority vote at a regular annual election, ratified by a majority vote at the next annual election. If any such library is abolished its property shall be used first to return to the regents, for the benefit of other public libraries in that locality, the equivalent of such sums as it may have received from the state or from other sources as gifts for public use. After such return any remaining property may be used as directed in the vote abolishing the library, but if the entire library property does not exceed in value the amount of such gifts it may be transferred to the regents for public use, and the trustees shall thereupon be free from further responsibility. No abolition of a public library shall be lawful till the regents grant a certificate that its assets have been properly distributed and its abolition completed in accordance with law.

Formerly L. 1892, ch. 378, § 51, as am'd by L. 1895, ch. 859, § 7.

**§ 1045. Use and care of school library.** The school library shall be a part of the school equipment and shall be kept in the school building at all times, and shall not be used as a circulating library, except that, so far as the rules fixed by the commissioner of education shall allow, teachers and school officers or pupils, with the leave of the librarian, may borrow from said library any book not needed for reference in the school-room, but such persons shall not borrow more than one volume at a time and shall not keep the same more than two weeks. The board of education or trustees shall appoint a teacher of the schools under their charge as librarian, who, with the trustees, shall be responsible for the safety and proper care of the books, and shall annually, and whenever required, make such reports concerning the library as the commissioner of education may direct.

Formerly L. 1894, ch. 556, tit. 13, § 2.

**§ 1046. Existing rules continued in force.** All existing provisions of law and rules established by the superintendent of public instruction or by the commissioner of education



for the management of district libraries shall hold good as to the management of school libraries till altered by or in pursuance of law.

Formerly L. 1894, ch. 556, tit. 13, § 3.

**§ 1047. Authority to raise and receive money for school library.** Each city and school district in the state is hereby authorized to raise moneys by tax in the same manner as other school moneys are raised, or to receive moneys by gift or devise, for starting, extending or caring for the school library.

Formerly L. 1894, ch. 556, tit. 13, § 4.

**§ 1048. Authority to transfer school library property to free public library.** Any board of education in any city or union free school district, or any duly constituted meeting in any other district, is hereby authorized to give any or all of its books or other library property to any township or other free public library under state supervision, or to aid in establishing such free public library, provided it is free to the people of such city or district. A receipt from the officers of the said free public library, and an approval of the transfer under seal by the regents of the university, shall forever thereafter relieve the said school authorities of further responsibility for the said library and property so transferred.

Formerly L. 1894, ch. 556, tit. 13, § 5.

**§ 1049. Transfer of property not in charge of librarian.** Any books or other library property belonging to any district library, and which have not been in direct charge of a librarian duly appointed within one year, may be taken and shall thereafter be owned by any public library under state supervision, which has received from the regents of the university written permission to collect such books or library property, and to administer the same for the benefit of the public; provided, that said books or other library property shall be found in the territory for which such public library is maintained, as defined in its charter or in the permission granted by the regents; and further provided, that, on written request of the school authorities, any dictionaries, cyclopedias and pedagogic books shall be placed in the school library of the district to which such books originally belong.

Formerly L. 1894, ch. 556, tit. 13, § 6.

**§ 1050. Provision for change to circulating library.** The public shall not be entitled to use any library, now or

hereafter in the custody of the school authorities, but said authorities may appoint three trustees who shall have the powers, duties and responsibilities of trustees of public libraries incorporated by the regents, and thereafter the school authorities may transfer to the custody of said trustees for the purposes of a circulating library any of their library property as provided in section ten hundred and forty-eight.

Formerly L. 1894, ch. 556, tit. 13, § 7.

**§ 1051. Penalty for disobedience to library law, rules or orders.** The commissioner of education is hereby authorized to withhold its share of public school moneys from any city or district which uses school library moneys for any other purpose than that for which they are provided, or for any wilful neglect or disobedience of the law or the rules or orders of said commissioner in the premises.

Formerly L. 1894, ch. 556, tit. 13, § 8.

**§ 1052. Court of appeals libraries.** 1. The consultation library of the court of appeals is continued. Said library shall be under the exclusive supervision of that court and the chief judge may add thereto from any funds available.

New. Written from L. 1849, ch. 300.

2. The library of the court of appeals, located at the city of Syracuse, is continued. The regents of the university shall appoint a suitable person to be librarian of the said library, who shall receive an annual salary of three thousand dollars, to be paid by the comptroller in monthly installments, upon the certificate of a justice of the supreme court residing in the city of Syracuse, which said amount shall be levied and assessed by the comptroller, one-half upon the county of Onondaga, and the residue thereof upon the several remaining counties constituting the fifth judicial district, in proportion to the assessed valuation of the real and personal property in said counties. Said librarian shall appoint an assistant librarian and such other assistants as shall be determined by the board of supervisors of said county of Onondaga, who shall be paid by said county of Onondaga a salary or salaries to be fixed by said board of supervisors of said county. The said library shall be maintained as a free public library for the use of the people of the state, the supreme court of the fifth judicial district and the local courts of the county of Onondaga and city of Syracuse. Such library shall be kept in the court-house of Onondaga county and without expense to the state, except for the purchase of books, binding and repair of

books. The regents of the university shall frame and establish suitable rules and regulations for the use of the books in such library, and shall add to and amend the same as shall be necessary.

Formerly L. 1849, ch. 300, §§ 3, 5, as am'd by L. 1908, ch. 482, §§ 1, 2.

**§ 1053. Court of appeals judges' law libraries.** The law libraries of the judges of the court of appeals are continued. Each judge has sole custody and control of the library assigned to him and on expiration of his term of office shall deliver it to his successor. He may add to it from any funds available.

New. Written from L. 1849, ch. 300.

**§ 1054. Appellate division libraries.** The libraries heretofore established for the appellate divisions of the supreme court are continued. They are under exclusive supervision of the respective appellate divisions. The justices of the court shall be trustees thereof who shall continue to be vested with all the powers with regard thereto now possessed by said justices.

New. Written from L. 1865, ch. 722, part; L. 1896, ch. 434, § 1; L. 1897, ch. 185, § 1; L. 1898, ch. 649, § 1; L. 1900, ch. 490, § 3, and L. 1907, ch. 496, § 4.

**§ 1055. Appellate division library, first department.** The law library of the appellate division of the first department shall be kept in the court-house thereof, and shall be in the care and custody and under the control of the justices of the appellate division of said first department, who shall be the trustees thereof. The said trustees may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover such penalties and may maintain actions for injury to said library. They may appoint a librarian and an assistant librarian and fix their salaries, the former at not to exceed the sum of four thousand dollars per annum, and the latter at not to exceed the sum of three thousand dollars per annum. The said librarian shall, in addition to the duties now performed by him, perform such duties in relation to the custody and distribution of stationery and other supplies furnished for the use of the appellate division of said first department and of the supreme court in the first judicial department as said justices of said appellate division shall direct. The said trustees may procure furniture for said library and shall defray all the expenses incidental to its care and management. They shall yearly ascertain the amount necessary for the aforesaid purposes and certify it

to the board of estimate and apportionment, who shall provide for raising and paying the same.

Formerly L. 1865, ch. 722, part; L. 1882, ch. 410, § 1095, and L. 1895, ch. 553, § 10, as am'd by L. 1898, ch. 649, § 1; L. 1900, ch. 490, § 3, and L. 1907, ch. 496, § 4.

**§ 1056. Appellate division library, fourth department.** The law library of the appellate division of the fourth department shall be kept in the court-house of Monroe county and without expense to the state for heat, light, janitor service, furniture, stationery supplies, binding and repair of books, which shall be provided by said county. This library shall be maintained as a free public library for the use of the people of the state, the appellate division of the supreme court in the fourth judicial department, the supreme court of the seventh judicial district and the local courts at Rochester. The consultation library heretofore provided for the appellate court shall be a part of this library but shall remain in the justices' chambers for their own personal use. The librarian of said library and an assistant librarian and their successors shall be appointed and may be removed at pleasure by the justices of the appellate division of the supreme court in the fourth judicial department. The librarian shall be paid an annual salary of three thousand dollars, to be paid in monthly instalments by the state comptroller which shall be levied and assessed by him upon the counties constituting the fourth judicial department, and the assistant librarian shall be paid by the county of Monroe, a salary to be fixed by the board of supervisors of said county. A certificate of the appointment of the librarian, signed by the presiding justice of the fourth judicial department, shall be filed with the comptroller of the state.

Formerly L. 1900, ch 258, §§ 2, 3, and 4, as am'd by L. 1907, ch. 186, § 1.

**§ 1057. Supreme court libraries.** The following supreme court law libraries are continued:

1. In the first judicial district the library formed by the consolidation of the libraries of the superior court of the city of New York and the court of common pleas of said city and county.
2. In the second judicial district the libraries at the borough of Brooklyn and at Newburgh and the Joseph F. Barnard memorial law library at Poughkeepsie.
3. In the third judicial district the library at Kingston and the library at Troy.
4. In the fourth judicial district the library at Saratoga Springs.

5. In the fifth judicial district the library at Utica.
6. In the sixth judicial district the libraries at Binghamton, Delhi and Elmira, and the David L. Follett memorial library at Norwich.
7. In the eighth judicial district the library at Buffalo.
8. In the ninth judicial district the library at White Plains.

New.

**§ 1058. Supreme court library at New York.** The assistant to the librarian of the law library of the appellate division of the first department shall act as the librarian of the law library of the supreme court of the first district.

Formerly L. 1898, ch. 649, § 1 part, as am'd by L. 1900, ch. 490, § 3, and L. 1907, ch. 496, § 4.

**§ 1059. Supreme court library in borough of Brooklyn.** The supreme court library in the borough of Brooklyn shall be under the care and management of the trustees of the law library of the borough of Brooklyn; subject, however, to such orders, rules and regulations, touching the same, as may be made, from time to time, by a majority of the justices of the supreme court, residing in said district. All appropriations made for said library, shall be paid to the said trustees, to be by them disbursed in the purchase of books for said library. The said trustees may make rules and regulations for the management and protection of said library, and prescribe penalties for the violation thereof; they may sue for and recover such penalties, and may maintain actions for injuries to said library, and may procure proper furniture for said library, hire suitable rooms, employ a librarian, provide fuel and lights, and defray all the incidental expenses of the care and management of said library; they shall yearly ascertain the amount necessary for the aforesaid purposes, and certify it to the board of estimate and apportionment of the city of New York, who shall pay the same. They shall yearly make a report to the regents of the university, of the additions made to said library during the preceding year.

Formerly L. 1863, ch. 463, § 2.

**§ 1060. Supreme court library at Newburgh.** The second judicial district law library at Newburgh shall be in charge of and under the care of the trustees of the Orange county referee law library association, and shall be governed by such rules as said trustees with the approval of a justice of the supreme court of the second judicial district may prescribe. The board of super-

visors of Orange county shall, subject to the approval of a justice of the supreme court of said district, provide suitable and proper rooms in which said library shall be placed and kept, and the annual rent of said rooms and the necessary expense of care for said library shall be a county charge payable by the treasurer of said county upon vouchers approved by a justice of the supreme court of said district.

The said trustees shall appoint a librarian for such library, who shall hold office during their pleasure. Such librarian shall receive an annual salary not to exceed six hundred dollars, which shall be paid to him quarterly by the treasurer of the county of Orange, out of money appropriated for the court expenses in said county.

It shall be the duty of said trustees to effect an insurance upon said library, the cost whereof shall be paid in like manner by the comptroller of the state of New York upon a certificate, from the appropriations that may be from time to time made for the maintenance of said library. Such insurance shall be made in the name of the people of the state of New York, and in case of loss the amount thereof shall be expended in the purchase of new books for said library, in the same manner that the original appropriations were used for that purpose.

Formerly L. 1893, ch. 63, §§ 1-4.

**§ 1061. Joseph F. Barnard memorial library at Poughkeepsie.** The Joseph F. Barnard memorial library located in the Dutchess county court-house at Poughkeepsie shall be under the care and management of a board of trustees, which board shall consist of five members. The trustees now in office shall continue to serve for the terms for which they were appointed. At the expiration of such terms the governor shall appoint their successors, each of whom shall serve for five years and until his successor is appointed. Such appointment shall be made from among the members of the Dutchess county bar who shall have practiced law for at least ten years. Said board of trustees shall have power to receive by gift or bequest any property for the purpose of a law library and hold and manage the same, and may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover such penalties and may maintain actions for any injury to said library or property connected therewith. They may procure proper furniture for said library and defray all the expenses of the care and management of said library, including

insurance, and the amounts required therefor shall be paid by the treasurer of the county of Dutchess upon the certificate of a justice of the supreme court of the second judicial district or of the county judge of Dutchess county, out of the moneys raised in said county for court and jury expenses, which sums as well as the salary of the librarian hereinafter specified shall be a county charge upon the county of Dutchess. All appropriations made for said library shall be paid by the treasurer of the state to said trustees to be by them or by a majority of them disbursed for the purchase of books for said library and for the necessary rebinding of the same.

The librarian of the Joseph F. Barnard memorial law library shall be appointed by said board and shall hold office at the pleasure of said board. The salary of said librarian shall be three hundred dollars and shall be paid quarterly on the first days of January, April, July and October in each year by the treasurer of the county of Dutchess out of the moneys raised in said county for court and jury expenses upon the certificate of the Dutchess county judge. Said librarian shall be subject to the direction of the said board and shall be governed by such rules as it shall from time to time establish.

Formerly L. 1904, ch. 254, § 1-3.

**§ 1062. Supreme court library at Kingston.** The justice of the supreme court residing in the city of Kingston is hereby authorized from time to time to appoint a librarian to take charge of the law library of the third judicial district, located at Kingston, who shall be paid a salary of six hundred dollars per year, the amount to be payable upon the certificate of said justice out of the moneys raised in the county of Ulster for court expenses by the treasurer thereof, upon the presentation of such certificate.

It shall also be the duty of said justice, so residing at Kingston, to effect an insurance upon said library, the cost whereof shall be paid in like manner by the comptroller of the state of New York upon a like certificate. Such insurance shall be made in the name of the people of the state of New York, and in case of loss the amount thereof shall be expended in the purchase of new books for said library, in the same manner that the original appropriations were used for that purpose.

Formerly L. 1876, ch. 318, §§ 1, 2.

**§ 1063. Supreme court library at Saratoga.** The justices of the supreme court of the fourth judicial district for

the time being shall be ex officio trustees of the supreme court library at Saratoga, and the same shall be under the care and management of the said trustees; and it shall be the duty of the said justices, by a majority of their said number, from time to time to make orders, rules and regulations touching the care, management, protection and due preservation of the said library, and prescribe penalties for the violation thereof, and they may sue for and recover such penalties for violation thereof, and may maintain actions for injuries to said library. They may procure proper furniture for said library, hire suitable rooms, appoint a suitable librarian, provide fuel and lights, and defray all incidental expenses of the care and management of the said library.

All appropriations made for said library shall be paid to said trustees, to be by them disbursed in the purchase of books for said library. The said trustees shall report annually to the trustees of the state library the catalogue of books in the said library, and the state and condition thereof. The trustees of the state library are hereby authorized to place in said library any duplicates of books in their possession not needed in the state library.

Formerly L. 1866, ch. 882, §§ 2, 3.

**§ 1064. Supreme court library at Utica.** A justice of the supreme court residing in the city of Utica, if there be a resident justice in said city, and if not, a justice of the supreme court residing in the county of Oneida, is hereby authorized to appoint from year to year beginning September first, nineteen hundred and eight, a librarian to take charge of the law library in the fifth judicial district, located in the city of Utica, who shall be paid a salary to be fixed by said judge not exceeding one thousand dollars per year. The said judge may also appoint an assistant librarian if in his judgment such assistant is necessary, who shall hold office during the pleasure of said judge, and who shall be paid a salary fixed by him not exceeding six hundred dollars per year. Said salaries shall be payable on the certificate of the said justice of the supreme court residing in the city of Utica, if there be such justice, and if not, on the certificate of a justice of the supreme court residing in the fifth judicial district, out of the moneys raised in the county of Oneida for court expenses by the treasurer thereof, upon the presentation of such certificate.

Formerly L. 1877, ch. 94, § 1, as am'd by L. 1887, ch. 14, § 1; L. 1904, ch. 37, § 1; and L. 1908, ch. 476, § 1.

**§ 1065. Supreme court library at Binghamton.** All books purchased for the supreme court library, located at Bing-



hamton, under and in pursuance of the laws of the state relating thereto shall be purchased by the justice of the supreme court residing at that place, or if there be no justice there, then by the justice residing nearest to the city of Binghamton. The books so purchased shall be paid for on the order of such justice.

The librarian of such library shall be appointed by said justice, and shall hold office during his pleasure. The salary of said librarian shall be paid monthly in each year, and the amount thereof shall be fixed in the month of October in each year for the following year by said justice, which shall be paid by the county of Broome, but shall not exceed six hundred dollars in any one year. Said librarian shall be subject in all respects to the direction of said justice, and shall be governed by such rules and regulations as he shall make from time to time.

The board of supervisors of Broome county shall provide a suitable room or rooms and suitable cases in the court-house at Binghamton for said supreme court library. The contingent expenses of said library, except for the purchase of books, shall be paid as heretofore by the county of Broome; which contingent expenses must be first certified to be correct by one of said justices or by the county judge of said county. Said court may have said library insured for the benefit of said library and the policies made payable to the clerk of the county of Broome and any insurance money received shall be invested and shall be paid out by said clerk under the orders of the justice of the supreme court charged with the purchase of books for said library, in restoring said library, in purchasing additional books therefor and in paying expenses necessarily incurred by reason of a fire in removing and caring for said library and in adjustment of the loss under the policies of insurance thereon.

The librarian of said library shall, upon the written request of any justice of the supreme court of such district, send to said justice any of the books contained in said library, and pay the charges for sending and returning the same. The sum so paid by him shall be repaid to him out of any moneys appropriated for the support or maintenance of said library, upon being duly certified by a majority of the justices of the supreme court of said district.

Formerly L. 1859, ch. 230, § 9, as am'd by L. 1897, ch. 482, § 1; L. 1872, ch. 392, § 4 part; L. 1883, ch. 270, § 1; L. 1893, ch. 58, §§ 1-3, § 3, as am'd by L. 1908, ch. 499, § 1.

**§ 1066. Supreme court library at Delhi.** The justices of the supreme court of the sixth judicial district, or a majority

of them, shall appoint a librarian for the supreme court library, located at Delhi, Delaware county, which librarian shall hold his office during the pleasure of said justices. Such appointment shall be in writing and signed by a majority of said justices and filed in the office of the clerk of Delaware county. The salary of such librarian shall be five hundred dollars per annum, and shall be paid in quarterly payments of one hundred and twenty-five dollars each, on the last day of each of the months of March, June, September and December of each year, by the county treasurer of the county of Delaware, from the funds in his hands as such treasurer. Said librarian shall be subject to the directions of said justices, and shall be governed by such rules and regulations as they shall make from time to time.

Formerly L. 1882, ch. 51, §§ 1-4, and § 3, as am'd by L. 1902, ch. 16, § 1, and L. 1906, ch. 64, § 1.

**§ 1067. Supreme court library at Elmira.** The supreme court library at Elmira shall be under the care and management of a board of trustees which board shall consist of three members who shall be appointed by the governor from among the members of the Chemung county bar who shall have practiced law for at least ten years. At the expiration of the terms of the trustees now in office the governor shall appoint their successors, each of whom shall serve for three years and until his successor is appointed. All appropriations made for said library shall be paid to said trustees, to be by them or a majority of them disbursed in the purchase of books for said library. The said trustees may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover for such penalties, and may maintain actions for injuries to said library. They may procure proper furniture for said library; hire suitable rooms; provide fuel and lights; and defray all the incidental expenses of the care and management of said library, including the insurance thereof. The amounts required therefor shall be paid by the treasurer of the county of Chemung, upon the certificate of the resident justice of the supreme court, if there be one, and if not, upon the certificate of any justice of the supreme court of the district, out of the moneys raised in said county for court expenses, which sums, as well as the salary of the librarian hereafter specified, shall be a county charge upon said county of Chemung.

The librarian of said library shall be appointed by said board, and shall hold office during the pleasure of said board. The salary of said librarian shall be paid quarterly on the

first days of January, April, July and October in each year and the amount thereof shall be fixed in the month of October in each year for the following year by said board, but such salary shall not exceed six hundred dollars in any year, and the same shall be paid by the treasurer of the county of Chemung out of the moneys raised in said county for court expenses, upon the certificate of the resident justice of the supreme court, if there be one, and if not, upon the certificate of any justice of the supreme court in the district. Said librarian shall be subject to the directions of said board and shall be governed by such rules as it shall from time to time make.

Formerly L. 1895, ch. 231, §§ 1-3; § 3, as am'd by L. 1905, ch. 119, § 1.

**§ 1068. David L. Follett memorial library at Norwich.** The supreme court library at Norwich, known as "The David L. Follett Memorial Library" shall be under the care and management of a board of trustees which board shall consist of five members who shall be appointed by the governor from among the members of the Chenango county bar who shall have practiced law for at least ten years. At the expiration of the terms of the trustees now in office the governor shall appoint their successors, each of whom shall serve for five years and until his successor is appointed. The said board of trustees shall have power to receive by gift or devise, any property conveyed for the purpose of a law library and hold and manage the same and may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover such penalties and may maintain actions for any injury to said library or its property. They may procure proper furniture for said library; hire suitable rooms; provide fuel and lights, and defray all the incidental expenses of the care and management of said library, including the proper insurance thereof. The amounts required therefor shall be paid by the treasurer of the county of Chenango, upon the certificate of a resident justice of the supreme court, if there be one, and if not, upon the certificate of any justice of the supreme court of the sixth judicial district, out of the moneys raised in said county for court expenses, which sums as well as the salary of the librarian hereinafter specified, shall be a county charge upon said county of Chenango. All appropriations made for said library shall be paid by the treasurer of the state to said trustees, to be by them or by a majority of them disbursed in the purchase of books for said library and for the necessary rebinding of the same.

The librarian of the said library shall be appointed by said board, and shall hold office during the pleasure of said board. The salary of said librarian shall be paid quarterly on the first days of January, April, July and October in each year and the amount thereof shall be fixed in the month of October in each year for the following year by said board, but such salary shall not exceed five hundred dollars in any year, and the same shall be paid by the treasurer of the county of Chenango out of the moneys raised in said county for court expenses upon the certificate of the resident justice of the supreme court, if there be one; and if not upon the certificate of any justice of the supreme court in said district. Said librarian shall be subject to the direction of the said board and shall be governed by such rules as it shall from time to time establish and ordain.

Formerly L. 1902, ch. 32, §§ 1-3.

**§ 1069. Supreme court library at Buffalo.** The supreme court library at Buffalo shall be under the care and management of the present trustees and four counselors-at-law, residents of the city of Buffalo, of at least ten years' standing at the bar, to be appointed by the appellate division of the supreme court, fourth department, and their successors in office; who shall be known as trustees of the law library of the eighth judicial district. In case of a vacancy in said board of trustees it shall be filled at a term of the appellate division of the supreme court of the fourth judicial department, by the judges thereof, subject, however, to such orders, rules and regulations touching the same as may be made from time to time by a majority of the justices of the supreme court residing in said district. All appropriations made for said library shall be paid to the said trustees, to be by them disbursed in the purchase of books for said library. The said trustees may make rules and regulations for the management and protection of said library, and prescribe penalties for the violation thereof; and may sue for and recover such penalties, and may maintain actions for injuries to said library; they may procure proper furniture for said library, hire suitable rooms, employ a librarian, provide fuel and lights, and defray all the incidental expenses of the care and management of said library; they shall yearly ascertain the amount necessary for the aforesaid purposes and certify it to the board of supervisors of Erie county, who shall pay the same. They shall yearly make a report to the regents of the university of the state of said library.

Formerly L. 1863, ch. 401, § 2, as am'd by L. 1871, ch. 747, § 1, and L. 1893, ch. 706, § 1.

**§ 1070. Supreme court library at White Plains.**

The supreme court library at White Plains shall be under the care and management of a board of trustees, which board shall consist of five members, who shall be appointed by the governor, from among the members of the Westchester county bar, who have practiced law for at least ten years. At the expiration of the terms of the members of said board of trustees now in office the governor shall appoint successors to said trustees, who shall serve for five years and until their successors have been appointed. The said board of trustees shall have power to receive by gift, devise or bequest any property given or conveyed for the purpose of a law library, and hold and manage the same, and may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover such penalties and may maintain actions for any injury to said library or its property. They may procure proper furniture for said library; hire suitable rooms, provide fuel and lights and defray all the incidental expenses of the care and management of said library including the proper insurance thereof. The amounts required therefor shall be paid by the treasurer of the county of Westchester, upon the certificate of a resident justice of the supreme court, if there be one, and if not, upon the certificate of any justice of the supreme court of the ninth judicial district, out of the moneys raised in said county for court expenses, which sums, as well as the salary of the librarian hereinafter specified, shall be a county charge upon said county of Westchester. All appropriations made by the state for said library for purposes not hereinbefore otherwise provided for shall be paid by the treasurer of the state, upon the warrant of the comptroller, to said trustees to be by them, or a majority of them, disbursed in the purchase of books for said library and for maintenance and supplies. The librarian of said library, who shall be a regularly admitted attorney and counselor-at-law who has practiced law for at least five years, shall be appointed by said board of trustees and shall hold office during the pleasure of said board. The amount of the salary of said librarian shall be fixed by said board of trustees, and shall be paid in monthly instalments by the treasurer of the county of Westchester out of the moneys raised in said county for court expenses, upon the certificate of a resident justice of the supreme court, if there be one, and if not, upon the certificate of any justice of the supreme court of the ninth judicial district. Said librarian shall be subject to the

direction of the said board of trustees and shall be governed by such rules as it shall from time to time establish and ordain.

Formerly L. 1908, ch. 304, §§ 2, 3.

**§ 1071. Supreme court library at Troy.** The supreme court library at Troy shall be under the care and management of a board of trustees, which board shall consist of three members, who shall be appointed by the governor from among the members of the Rensselaer county bar, who shall have practiced law in said county for at least ten years. At the expiration of the terms of the members of said board of trustees now in office the governor shall appoint successors to said trustees who shall serve for three years and until their successors have been appointed. The said board of trustees shall have power to receive, by gift or devise, any property conveyed for the purpose of a law library and hold and manage the same and may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover such penalties and may maintain actions for any injury to said library or its property. They may procure proper furniture for said library; and defray all the incidental expenses of the care and management of said library, including insurance thereof and telephone service. The amounts required therefor shall be paid by the treasurer of the county of Rensselaer, upon the certificate of a resident justice of the supreme court, if there be one, and if not upon the certificate of any justice of the supreme court of the third judicial district, out of the moneys raised in said county for court expenses, which sums as well as the salary of the librarian hereinafter specified, shall be a county charge upon said county of Rensselaer. All appropriations made for said library shall be paid by the treasurer of the state to said trustees to be by them or by a majority of them disbursed in the purchase of books for said library and for the necessary rebinding of the same. The board of supervisors of Rensselaer county shall provide within the court house in the city of Troy, suitable rooms for said library, and shall provide heat and light therefor. The librarian of the supreme court library at Troy shall be appointed by said board, and shall hold office during the pleasure of said board. The salary of said librarian shall be paid quarterly on the first days of January, April, July and October in each year and the amount thereof shall be fixed in the month of October in each year for the following year by said board, and the same shall be paid by the treasurer of the county of Rensselaer out of the moneys raised in said county for court

expenses upon the certificate of the resident justice of the supreme court, if there be one; and if not upon the certificate of any justice of the supreme court in said district. Said librarian shall be governed by such rules as it shall from time to time establish and ordain.

Formerly L. 1908, ch. 79, §§ 2, 3.

## ARTICLE 43

### University of the State of New York

- Section 1080. Corporate name and objects.  
 1081. Regents.  
 1082. Officers.  
 1083. Meetings and absences.  
 1084. Quorum.  
 1085. Authority of regents to take testimony.  
 1086. By-laws, ordinances and rules.  
 1087. General examinations, credentials and degrees.  
 1088. Academic examinations.  
 1089. Admission and fees.  
 1090. Extension of educational facilities.  
 1091. Departments and their government.  
 1092. State museum; how constituted.  
 1093. Collections made by the staff.  
 1094. Indian collection.  
 1095. Institutions in the university.  
 1096. Visitation and reports.  
 1097. Charters.  
 1098. Provisional charters.  
 1099. Conditions of incorporation.  
 1100. Change of name or charter.  
 1101. Dissolution and rechartering.  
 1102. Dissolution of incorporated academy by stockholders.  
 1103. Suspension of operations.  
 1104. Prohibitions.  
 1105. Powers of trustees of institutions in the university.  
 1106. Colleges may construct water-works and sewer systems.

**§ 1080. Corporate name and objects.** The corporation created in seventeen hundred and eighty-four under the name of Regents of the university of the state of New York shall continue and be known as university of the state of New York.

Its objects shall be to encourage and promote higher and secondary education, to visit and inspect its several institutions and departments, to distribute to or expend or administer for them such property and funds as the state may appropriate therefor or as the university may own or hold in trust or otherwise, and to perform such other duties as may be intrusted to it. It shall also have power to establish such rules and regulations as are necessary to carry into effect the statutes of this state relating to education, and, subject to the provisions and limitations of this chapter, shall also possess all the powers exercised by the state board of regents on the seventh day of March, nineteen hundred and four.

Nothing in this chapter shall be construed to affect the powers of the board of regents in relation to colleges, universities, professional and technical schools, libraries, other than public school libraries, museums, university extension courses and similar agencies.

Formerly L. 1892, ch. 378, § 3, and L. 1894, ch. 40, § 4.

**§ 1081. Regents.** On and after the first day of April, nineteen hundred and nine, the university shall be governed and all its corporate powers exercised by a board of regents whose members shall at all times be three more than the then existing judicial districts of the state. The regents now in office are continued as such to the end of their respective terms. The regents now in office and those hereafter elected shall hold, in the order of their election, for such times that the term of one regent will expire in each year on the first day of April, and his successor shall be chosen in the second week of the preceding February, on or before the fourteenth day of such month. As the term of each regent shall expire his successor shall be elected by the legislature in the second week of February in each year. Such election shall be in the manner provided by law for the election of senators in congress. All vacancies, either for full or unexpired terms, shall be so filled that there shall always be in the membership of the board of regents at least one resident of each of the judicial districts. A vacancy in the office of regent for other cause than expiration of term of service shall be filled for the unexpired term by an election at the session of the legislature immediately following such vacancy, unless the legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by such legislature. There shall be no "ex-officio" members of the board of regents. No person shall be at the same time a regent of the university and a trustee, president, principal or any other officer of an institution belonging to the university.

Formerly L. 1892, ch. 378, § 4, and L. 1904, ch. 40, §§ 1, 2.



**§ 1082. Officers.** The elective officers of the university shall be a chancellor and a vice-chancellor who shall serve without salary, and such other officers as are deemed necessary by the regents, all of whom shall be chosen by ballot by the regents and shall hold office during their pleasure; but no election, removal or change of salary of an elective officer shall be made by less than six votes in favor thereof. Each regent and each elective officer shall, before entering on his duties, take and file with the secretary of state the oath of office required of state officers.

The chancellor shall preside at all convocations and at all meetings of the regents, confer all degrees which they shall authorize, and fix the time and place of all special meetings. In his absence or inability to act, the vice-chancellor, or if he be also absent, the senior regent present, shall perform all the duties and have all the powers of the chancellor.

Formerly L. 1892, ch. 378, § 5. part.

**§ 1083. Meetings and absences.** In addition to the annual meetings for which the time and place shall be fixed by ordinance of the regents, the chancellor shall call a meeting as often as the business of the university shall require, or on written request of any five regents; and at least ten days' notice of every meeting shall be mailed to the usual address of each regent. If any regent shall fail to attend three consecutive meetings, without written excuse accepted as satisfactory by the regents not later than the third consecutive meeting from which he has been absent, he shall be deemed to have resigned, and the regents shall promptly report the vacancy to the legislature, which shall fill it as provided in section ten hundred and eighty-one.

Formerly L. 1892, ch. 378, § 6.

**§ 1084. Quorum.** Six regents attending shall be a quorum for the transaction of business.

Formerly L. 1892, ch. 378, § 7, as am'd by L. 1905, ch. 161, § 1.

**§ 1085. Authority of regents to take testimony.** The regents, or any committee thereof, may take testimony or hear proofs relating to their official duties, or in any matter which they may lawfully investigate.

Formerly L. 1892, ch. 378, § 8.

**§ 1086. By-laws, ordinances and rules.** The regents may, as they deem advisable in conformity to law, make, alter, suspend or repeal any by-laws, ordinances, rules and resolutions for the accomplishment of the trusts reposed in them, but no such

by-law, ordinance or rule shall modify in any degree the freedom of the governing body of any seminary for the training of priests or clergymen to determine and regulate the entire course of religious, doctrinal or theological instruction to be given in such institution. No by-law, ordinance or rule by which more than a majority vote shall be required for any specified action by the regents shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

Formerly L. 1892, ch. 378, § 9, as am'd by L. 1895, ch. 577, § 1.

**§ 1087. General examinations, credentials and degrees.** The regents may confer by diploma under their seal such honorary degrees as they may deem proper, and may establish examinations as to attainments in learning, and may award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

Formerly L. 1892, ch. 378, § 11.

**§ 1088. Academic examinations.** The regents shall establish in the academies of the university, examinations in studies furnishing a suitable standard of graduation from academies and of admission to colleges, and certificates or diplomas shall be conferred by the regents on students who satisfactorily pass such examinations.

Formerly L. 1892, ch. 378, § 12.

**§ 1089. Admission and fees.** Any person shall be admitted to these examinations who shall conform to the rules and pay the fees prescribed by the regents, and said fees shall not exceed one dollar for each academic branch, or five dollars for each higher branch in which the candidate is examined; and all fees received may be used by the regents for expenses of examinations.

Formerly L. 1892, ch. 378, § 13.

**§ 1090. Extension of educational facilities.** The regents may co-operate with other agencies in bringing within the reach of the people at large increased educational opportunities and facilities, by stimulating interest, recommending methods, designating suitable teachers and lecturers, lending necessary books and apparatus, conducting examinations and granting credentials and otherwise aiding such work. No money appropriated by the state for this work shall be expended in paying for services or expenses of teachers or lecturers.

Formerly L. 1892, ch. 378, § 14.

**§ 1091. Departments and their government.** The state library and state museum shall be departments of the university, and the regents may establish such other departments as they deem necessary to discharge the duties imposed on them by law. All university departments shall be under the exclusive control of the regents, who shall have all powers of trustees thereof, including authority to appoint all needed officers and employees; to fix their titles, duties, salaries and terms of service; to make all needed regulations; and to buy, sell, exchange or receive by will, gift or on deposit, articles or collections properly pertaining thereto; to maintain lectures connected with higher education in this state, and to lend to or deposit permanently with other institutions, books, specimens or other articles in their custody, which, because of being duplicates, or for other reasons, will in the judgment of the regents, be more useful in said institutions than if retained in the original collections at Albany.

Formerly L. 1892, ch. 378, § 10.

**§ 1092. State museum; how constituted.** All scientific specimens and collections, works of art, objects of historic interest and similar property appropriate to a general museum, if owned by the state and not placed in other custody by a specific law, shall constitute the state museum, and one of its officers shall annually inspect all such property not kept in the state museum rooms, and the annual report of the museum to the legislature shall include summaries of such property, with its location, and any needed recommendations as to its safety or usefulness. The state museum shall include the work of the state geologist and paleontologist, the state botanist and the state entomologist, who, with their assistants, shall be included in the scientific staff of the state museum.

Formerly L. 1892, ch. 378, § 22, as am'd by L. 1893, ch. 488, § 1, and L. 1896, ch. 493, § 1.

**§ 1093. Collections made by the staff.** Any scientific collection made by a member of the museum staff during his term of office shall, unless otherwise authorized by resolution of the regents, belong to the state and form part of the state museum.

Formerly L. 1892, ch. 378, § 23.

**§ 1094. Indian collection.** There shall be made, as the Indian section of the state museum, as complete a collection as practicable of the historical, ethnographic and other records and relics of the Indians of the state of New York, including implements or other articles pertaining to their domestic life, agriculture, the chase, war, religion, burial and other rites or customs,

or otherwise connected with the Indians of New York. The trustees of the state museum shall appoint on its staff a competent curator, without salary, to make and arrange this Indian collection.

Formerly L. 1896, ch. 586, §§ 1, 2, part.

**§ 1095. Institutions in the university.** The institutions of the university shall include all institutions of higher education which are now or may hereafter be incorporated in this state, and such other libraries, museums or other institutions for higher education as may, in conformity with the ordinances of the regents, after official inspection, be admitted to or incorporated by the university. The regents may exclude from such membership any institution failing to comply with law or with any ordinance or rule of the university.

Formerly L. 1892, ch. 378, § 24.

**§ 1096. Visitation and reports.** The regents or their committees or officers shall visit, examine into and inspect the condition and operations of every institution and department in the university, and require of each an annual report verified by oath of its presiding officer, and giving information concerning trustees, faculty, students, instruction, equipment, methods and operations, with such other information and in such form as may be prescribed by the regents who shall annually report to the legislature the condition of the university and of each of its institutions and departments, with any further information or recommendations which they shall deem it desirable to submit; and such parts of their report as they shall deem necessary for use in advance of the annual volume, may be printed by the state printer as bulletins. For refusal or continued neglect on the part of any institution in the university to make the report required by this section, or for violation of any law, the regents may suspend the charter or any of the rights and privileges of such institution.

Formerly L. 1892, ch. 378, § 25.

**§ 1097. Charters.** The regents may, by an instrument under their seal and recorded in their office, incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history or other department of knowledge, under such name, with such number of trustees or other managers, and with such powers, privileges and duties, and subject to such limitations and restrictions in all respects as the regents may prescribe in conformity to law.

Formerly L. 1892, ch. 378, § 27, as am'd by L. 1895, ch. 859, § 2.

**§ 1098. Provisional charters.** On evidence satisfactory to the regents that the conditions for an absolute charter will be met within a prescribed time, they may grant a provisional charter which shall be replaced by an absolute charter when the conditions have been fully met; otherwise, after the specified time, on notice from the regents to this effect, the provisional charter shall terminate and become void and shall be surrendered to the regents. No such provisional charter shall give power to confer degrees.

Formerly L. 1892, ch. 378, § 28.

**§ 1099. Conditions of incorporation.** No institution shall be given power to confer degrees in this state unless it shall have resources of at least five hundred thousand dollars; and no institution for higher education shall be incorporated without suitable provision, approved by the regents, for buildings, furniture, educational equipment and proper maintenance. No institution shall institute or have any faculty or department of higher education in any place or be given power to confer any degree not specifically authorized by its charter; and no institution of higher education shall be incorporated under the provisions of any general act authorizing the formation of a corporation without grant of a special charter on individual application, and no corporation shall, under authority of any general act, extend its business to include establishing or carrying on any such institution.

Formerly L. 1892, ch. 378, § 32.

**§ 1100. Change of name or charter.** The regents may, at any time, for sufficient cause by an instrument under their seal and recorded in their office, change the name, or alter, suspend or revoke the charter or incorporation of any institution which they might incorporate under section ten hundred and ninety-seven, if subject to their visitation or chartered or incorporated by the regents or under a general law; provided that, unless on unanimous request of the trustees of the institution, no name shall be changed and no charter shall be altered, nor shall any rights or privileges thereunder be suspended or repealed by the regents, till they have mailed to the usual address of every trustee of the institution concerned at least thirty days' notice of a hearing when any objections to the proposed change will be considered, and till ordered by vote at a meeting of the regents for which the notices have specified that action is to be taken on the proposed change.

Formerly L. 1892, ch. 378, § 29, as am'd by L. 1895, ch. 859, § 3.

**§ 1101. Dissolution and rechartering.** Under like restrictions the regents may dissolve any such educational corporation, whether with or without a capital stock, and whether incorporated by the regents or under a general or by a special law, and make such disposition of the property of such corporation remaining after payment of its debts and liabilities as the regents shall deem just and equitable and best promoting public interests. The regents may also, after a similar hearing, issue to any such educational corporation a new charter which shall take the place in all respects of that under which it has been operating. In the case of any corporation whose dissolution is contemplated or has been decreed by the regents, upon their application and nomination the court shall, and upon the application of the trustees of such corporation, with notice to the regents, the court, in its discretion, may appoint a receiver of the property and liquidate the business affairs of the corporation under the provisions, so far as applicable, of articles five, six, seven and twelve of the general corporations law; and all property of the corporation, or proceeds thereof, that shall remain after the payment, under such liquidation, of its debts and liabilities, shall be paid and transferred to the regents and be subject to their disposition the same as if they had directly conducted such liquidation.

Formerly L. 1892. ch. 378, § 30, as am'd by L. 1903, ch. 289, § 1.

**§ 1102. Dissolution of incorporated academy by stockholders.** 1. Meeting to consider application for dissolution, when to be called. The trustees of any academy incorporated under the laws of this state and having a capital stock, may, and upon the written application of any person owning or lawfully holding one-third of the said capital stock, must call a general meeting of the stockholders of the said academy, as hereinafter provided, for the purpose of determining whether or not such incorporated academy shall surrender its charter and be dissolved and its property distributed among the stockholders thereof.

2. Notice thereof, how published. The notice for such general meeting must state the object thereof and be subscribed by the chairman or other acting presiding officer and the secretary or acting secretary of the said corporation or board of trustees; it shall be published once a week for three successive weeks prior to such meeting in a daily or weekly newspaper published in the place where the said academy is located; or if there be no such paper, then in a daily or weekly paper published within the county, if there be one, or, if not, in an adjoining county to that in which such academy is located.

3. Vote requisite for surrender of charter and dissolution. Whenever, at a meeting of the stockholders called as hereinbefore provided, any person or persons holding or qualified to vote upon a majority of the capital stock of such incorporated academy shall vote to surrender the charter thereof and to dissolve the corporation, the trustees of such academy, or a majority of them, must make and sign a certificate of such action, cause the same to be properly attested by the officers of the corporation and file the same, together with a copy of the published notice for the meeting at which such action was taken, and due proof of the publication thereof, in the office of the board of regents of the university of the state of New York and thereupon, if the said proceedings shall have been regularly conducted as above prescribed, the charter of said corporation shall be deemed to be surrendered and the said corporation dissolved.

4. Powers of trustees of academies upon dissolution. Upon the dissolution of such incorporated academy, as herein provided, the trustees thereof shall forthwith become and be trustees of the creditors and stockholders of the corporation dissolved. They shall have full power to settle the affairs of the said corporation; to collect and pay the outstanding debts; to sue for and recover debts and property thereof by the name of the trustees of such corporation; to sell and dispose of the property thereof, at public or private sale, and to divide among the stockholders the moneys or other property that shall remain after the payment of debts and necessary expenses.

5. Notice to creditors to present claims, how published. The said trustees may, after the dissolution of the said corporation, insert in a newspaper published in the place where the said academy is located, or if there be none such then in a newspaper published within the county, if there be one, or, if not, in an adjoining county, a notice once in each week for three successive months, requiring all persons having claims against the said corporation dissolved to present the same with proof thereof to the said trustees, at the place designated in such notice, on or before a day therein named which shall be not less than three months from the first publication thereof. In case any action shall be brought upon any such claim which shall not have been presented to the said trustees within three months from the first publication of such notice, the said trustees shall not be chargeable for any assets, moneys or proceeds of the said corporation dissolved, which they may have paid in satisfaction of other claims against the said corporation, or in making distribution to the stockholders thereof, before the commencement of such action.

6. Surrender of stock scrip, upon distribution to shareholders. Upon the distribution by the said trustees of assets or property, or the proceeds thereof, of the dissolved corporation among its stockholders the said trustees may require the certificates of ownership of capital stock, if such have been issued, standing in the name of any stockholder claiming a distributive share, or under whom such share is claimed, to be surrendered for cancellation by such stockholder or person claiming the said share; in the event of the non-production of any such certificate, the said trustees may require satisfactory proof of the loss thereof, or of any other cause for such non-production, together with such security as they may prescribe, before payment of the distributive share to which the person claiming upon such share of stock may appear to be entitled.

7. Notice of distribution, to absent and unknown shareholders. In case the said trustees upon such distribution by them of assets or property, or the proceeds thereof, of the dissolved corporation among its stockholders, shall be unable to find any of the said stockholders or the persons lawfully owning or entitled to any portion of the said capital stock, they shall give notice in the manner hereinabove provided for calling the general meeting of stockholders, of such distribution, to the persons in whose names such stock shall stand upon the books of the said corporation, requiring them to appear at a time and place designated, to receive the portion of such assets or property to which they may be entitled; in case of the failure of any such persons to so appear, it shall be lawful for the said trustees to pay over and deliver to the county treasurer of the county wherein such academy was located, or to any trust company or other corporation located within such county and authorized to receive moneys on deposit under order or judgment of a court of record, the proportion of the assets, property or proceeds aforesaid which such non-appearing stock bears to the whole stock; the said trustees shall also deliver therewith a list of the persons entitled to receive the same, together with the separate amounts to which they shall be severally entitled.

8. Liability of trustees, when to cease. Upon the payment and discharge of the debts and obligations of the corporation dissolved, as hereinbefore provided, and the distribution of its assets, property and proceeds among the stockholders thereof, and due provision made, as hereinabove prescribed, for the interests of non-appearing stockholders and such as can not be found, the said trustees shall become and be relieved and discharged from fur-



ther duty, liability and responsibility by reason of their relation to the said corporation, or towards the stockholders thereof.

9. Duties and liabilities of custodians. Any county treasurer, trust company or other corporation to whom assets, property or proceeds shall be delivered as herein provided, shall hold the same in trust for the persons designated and entitled to receive it; and upon receiving satisfactory proof of the right and title thereto, or upon the order of any court of record competent to adjudicate thereupon, shall pay over and deliver to any persons entitled to receive the same the portion of such proceeds, property or assets to which they shall be entitled.

Formerly L. 1889, ch. 25, §§ 1-9.

**§ 1103. Suspension of operations.** If any institution in the university shall discontinue its educational operations without cause satisfactory to the regents, it shall surrender its charter to them, subject, however, to restoration whenever arrangements satisfactory to the regents are made for resuming its work.

Formerly L. 1892, ch. 378, § 31.

**§ 1104. Prohibitions.** No individual, association or corporation not holding university or college degree-conferring powers by special charter from the legislature of this state or from the regents, shall confer any degrees, or transact business under or in any way assume the name university or college, till it shall have received from the regents, under their seal, written permission to use such name, and no such permission shall be granted by the regents, except on favorable report after personal inspection of the institution by an officer of the university. No person shall buy, sell or fraudulently or illegally make or alter, give, issue or obtain any diploma, certificate or other instrument purporting to confer any literary, scientific, professional or other degree, or to constitute any license, or to certify to the completion in whole or in part of any course of study in any university, college, academy or other educational institution. No diploma or degree shall be conferred in this state except by a regularly organized institution of learning registered by the regents as not violating any requirement of law or of the university ordinances, nor shall any person with intent to deceive, falsely represent himself to have received any such degree or credential, nor shall any person append to his name any letters in the same form registered by the regents as entitled to the protection accorded to university degrees, unless he shall have received from a duly authorized institution the degree for which the letters are registered. Counterfeiting or falsely or without authority making or altering in a

material respect any such credential issued under seal shall be a felony, and personating another by attempting to take an examination in his name or procuring any person thus falsely to personate another, or otherwise attempting to secure the record of having passed such examination in violation of the university ordinances, or any other violation of this section shall be a misdemeanor; and any person who aids or abets another, or advertises or offers himself to violate the provisions of this section, shall be liable to the same penalties.

Formerly L. 1892, ch. 378, § 33, as am'd by L. 1895, ch. 859, § 4.

**§ 1105. Powers of trustees of institutions in the university.** The trustees of every corporation created for educational purposes and subject to visitation by the regents, unless otherwise provided by law or by its charter, may:

1. Number and quorum. Fix the number of trustees, which shall not exceed twenty-five, nor be less than five. If any institution has more than five trustees, the body that elects, by a two-thirds vote after notice of the proposed action in the call for a meeting, may reduce the number to not less than five by abolishing the office of any trustee which is vacant and filing in the regents' office a certified copy of the action. A majority of the whole number shall be a quorum.

2. Executive committee. Elect an executive committee of not less than seven, who, in intervals between meetings of the trustees, may transact such business of the corporation as the trustees may authorize, except to grant degrees or to make removals from office.

3. Meetings and seniority. Meet on their own adjournment or when required by their by-laws, and as often as they shall be summoned by their chairman, or in his absence by the senior trustee, on written request of three trustees. Seniority shall be according to the order in which the trustees are named in the charter or subsequently elected. Notice of the time and place of every meeting shall be mailed not less than five nor more than ten days before the meeting to the usual address of every trustee.

4. Vacancies and elections. Fill any vacancy occurring in the office of any trustee by electing another for the unexpired term. The office of any trustee shall become vacant on his death, resignation, refusal to act, removal from office, expiration of his term, or any other cause specified in the charter. If any trustee shall fail to attend three consecutive meetings without written excuse accepted as satisfactory by the trustees not later than the third consecutive meeting from which he has been absent, he shall be

deemed to have resigned, and the vacancy shall be filled. Any vacancy in the office of trustee continuing for more than one year, or any vacancy reducing the number of trustees to less than two-thirds of the full number may be filled by the regents. No person shall be ineligible as a trustee by reason of sex.

5. Property holding. Take and hold by gift, grant, devise or bequest in their own right or in trust for any purpose comprised in the objects of the corporation, such additional real and personal property beyond such as shall be authorized by their charter or by special or general statute, as the regents shall authorize within one year after the delivery of the instrument or probate of the will, giving, granting, devising or bequeathing such property, and such authority given by the regents shall make any such gift, grant, devise or bequest operative and valid in law. Any grant, devise or bequest made for the benefit of any institution in or registered by the university shall be equally valid whether made in the corporate name or to the trustees of the corporation and the powers given to the trustees by this section shall be construed to be the powers of the corporation exercised through its trustees.

6. Control of property. Buy, sell, mortgage, let and otherwise use and dispose of its property as they shall deem for the best interests of the institution; and also to lend or deposit, or to receive as a gift, or on loan or deposit, literary, scientific or other articles, collections, or property pertaining to their work; and such gifts, loans or deposits may be made to or with the university or any of its institutions by any person, or by legal vote of any board of trustees, corporation, association or school district, and any such transfer of property, if approved by the regents, shall during its continuance, transfer responsibility therefor to the institution receiving it, which shall also be entitled to receive any money, books or other property from the state or other sources to which said corporation, association or district would have been entitled but for such transfer.

7. Officers and employees. Appoint and fix the salaries of such officers and employees as they shall deem necessary, who, unless employed under special contract, shall hold their offices during the pleasure of the trustees; but no trustee shall receive compensation as such.

8. Removals and suspensions. Remove or suspend from office by vote of a majority of the entire board any trustee, officer or employee engaged under special contract, on examination and due proof of the truth of a written complaint by any trustee, of misconduct, incapacity or neglect of duty; provided, that at least

one week's previous notice of the proposed action shall have been given to the accused and to each trustee.

9. Degrees and credentials. Grant such degrees and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates and diplomas under their seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any institution of learning.

10. Rules. Make all by-laws, ordinances and rules necessary and proper for the purposes of the institution and not inconsistent with law or any ordinance or rule of the university; but no ordinance or rule by which more than a majority vote shall be required for any specified action by the trustees shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

Formerly L. 1892, ch. 378, § 34, as am'd by L. 1901, ch. 592, § 1.

**§ 1106. Colleges may construct water-works and sewer systems.** 1. Every incorporated college in this state is duly authorized and empowered to construct and maintain a system of water-works for the purpose of supplying its college buildings and premises with pure and wholesome water for domestic, sanitary and fire purposes, and for the preservation of the health of its students, faculty and employees, and for the preservation of the public health of the town, village or city in or near which such college is located, and the construction and maintenance of such water-works is declared to be a public use. Such water-works, as often as necessary, may be enlarged or improved.

2. Any such college shall have the right to acquire real estate, or any interest therein, necessary or proper for such water-works, and the right to lay, relay, repair and maintain conduit and water pipes, with connections and fixtures, on, through, and over the lands of others; the right to intercept and divert the flow of waters from the lands of riparian owners, and from persons owning and interested in any waters; and the right to prevent the flow or drainage of noxious, or impure, or unwholesome matter from the lands of others into its reservoirs, or sources of supply. But no such college shall ever have power to take or use water from any of the lands of this state, or any land, reservoir, or feeders, or any streams which have been taken by the state for the purpose of supplying the canals with water. The consent of an incorporated village or city must be obtained to lay any such pipes in or through its streets, and such consent may be accompanied by such reasonable conditions or restrictions as are proper.

3. Such college may cause such examinations and surveys for its proposed water-works to be made as may be necessary to determine the proper location thereof, and for such purpose, by its officers, agents and servants, may enter upon any lands or waters in the vicinity for the purpose of making such examinations and surveys, subject to liability for all damage done. When surveys or examinations are made or concluded, a map shall be made of the lands or interests to be taken or entered upon, and on which the land or interest of each owner or occupant shall be designated, and all streets and roads in which it is proposed to lay conduit pipes, with the proposed line thereof, which map shall be dated and signed by the engineer making the same; and said map shall be filed and kept in the college library for examination and reference, and a duplicate thereof shall be filed in the clerk's office in each county wherein any of such lands or interests proposed to be taken are located. Such examinations and surveys may be ordered and directed by the president, or acting president, and a majority of the faculty of such college. A majority of the trustees shall determine upon the construction of such water-works and the plans thereof, and order contracts therefor to be made by such officers of the college as may be designated.

4. If any such college shall be unable to agree upon such terms of purchase of any such property, right or easements, before or after plans shall be determined upon, it may, after such plans have been adopted, acquire the same by condemnation, according to the provisions of the condemnation law.

5. When any such college has constructed and completed water-works, as above provided, it may, by a majority of its trustees, determine upon and construct a sewer system; and may connect the same with the sewer system of the village or city in or near which said college is situated, if such connection is practicable. Examination, surveys and a map may be made as above provided. Lands and easements may be acquired by purchase, as above provided, and in case such acquisition can not be made by purchase then they may be acquired by condemnation, according to the provisions of the condemnation law.

Formerly L. 1895, ch. 630, §§ 1-8.

## ARTICLE 44

### Cornell University

Section 1120. Cornell university continued.

1121. Trustees; election of trustees.

1122. Extent of farm and grounds; special constables.

- Section 1123. Object and powers of the corporation.  
 1124. Extent to which property may be held.  
 1125. Trustees shall make reports; university subject to visitation of regents.  
 1126. Restrictions on alienation of property.  
 1127. State scholarships in Cornell university.  
 1128. New York state veterinary college.  
 1129. New York state college of agriculture.

**§ 1120. Cornell university continued.** The corporation known as Cornell university, located at Ithaca, is continued with all the rights, and subject to all the liabilities contained in the act of incorporation, being laws of eighteen hundred and sixty-five, chapter five hundred and eighty-five, as amended.

New.

**§ 1121. Trustees; election of trustees.** 1. The board of trustees of said Cornell university shall hereafter be made up and constituted as follows: The governor, the lieutenant-governor, the speaker of the house of assembly, the commissioner of education, the president of the state agricultural society, the commissioner of agriculture, the librarian of the Cornell library, and the president of the said university, shall be trustees thereof ex officio, and the eldest lineal male descendant of Ezra Cornell shall be a trustee thereof during his life. There shall also be thirty-one elective trustees, twenty of whom shall be elected by the board of trustees, and ten by the alumni of said university and one each year by the executive committee of the New York state grange to be elected at the time of the annual meeting of said grange, such trustee so elected to be elected for a term of one year, his term of office to begin at the first commencement subsequent to his election; but at no time shall a majority of the board be of any one religious sect or of no religious sect.

2. The board of trustees shall elect each year four trustees, and as many more as may be necessary to fill vacancies, among members elected by them caused by resignation or death. The alumni of said university shall meet annually in Ithaca, on the day before commencement, and at the meeting of the alumni at each annual commencement said alumni shall elect two trustees, and as many more as may be necessary to fill vacancies arising from resignations or deaths among the number previously elected by them. Except as hereinbefore otherwise provided the term of office of each elective trustee shall be five years from the annual commencement at which

he is elected; but if elected by the board of trustees at a meeting thereof during the academic year, his term shall then be five years from the commencement immediately preceding his election; but every trustee shall hold over until his successor is elected.

3. The election of trustees by the board shall be by ballot, and fifteen ballots shall concur before any one is elected; and twelve shall constitute a quorum for the transaction of business. Who shall be alumni of said university shall be prescribed by its board of trustees. The election of trustees by the alumni shall be by ballot, and shall be conducted in the following manner and under the following provisions: A register of the signature and address of each of the said alumni of the said university shall be kept by the treasurer of the said university at his business office. Any ten or more alumni may file with the treasurer, on or before the first day of April in each year, written nominations of the trustees to be elected by the alumni at the next commencement. Forthwith after such first day of April a list of such candidates shall be mailed by said treasurer to each of the alumni at his address. Each alumnus may vote by transmitted ballot for trustees to be elected by the alumni at any commencement, in accordance with such regulations as to the method and time of voting as may be prescribed by the alumni and approved by the trustees of the university or its executive committee. The candidates to the extent of the number of places to be filled having the highest number of votes upon the first ballot shall be declared elected, provided that each of said candidates has received the votes of at least one-third of all the alumni voting at said election; but if there shall be a failure to fill all or one or more of the vacancies, caused by expiration of term or otherwise, by reason of the fact that one or more candidates having the highest number of votes as above fail to receive the votes of at least one-third of the alumni voting, then and in that event such vacancies shall be filled by the alumni personally present at said meeting, the election being limited to candidates not elected on the first ballot, if there is a sufficient number thereof, having the highest pluralities, not exceeding two candidates for each place thus to be filled.

Formerly L. 1865, ch. 585, § 2, as am'd by L. 1867, ch. 763, § 1; L. 1895, ch. 87, § 1; L. 1896, ch. 238, § 1; L. 1905, ch. 97, § 1; L. 1906, ch. 1, § 1.

**§ 1122. Extent of farm and grounds; special constables.** The farm and grounds occupied by said corporation, whereupon its buildings are erected, or shall be erected in such manner and to such extent as the trustees may from time to time direct and provide for, shall consist of not less than two hun-

dred acres. For the protection of the grounds, farm buildings and property of the university, the supervisor of the town of Ithaca may appoint, upon the recommendation of the board of trustees of said Cornell university, not more than three suitable persons, as special constables, who shall have and exercise within the boundaries of such university grounds, the powers and duties of constables of towns, and whose compensation shall be regulated and paid by said board of trustees of the university.

Formerly L. 1865, ch. 585, § 3, as am'd by L. 1882, ch. 147, § 1.

**§ 1123. Object and powers of the corporation.** The leading object of said corporation shall be to teach such branches of learning as are related to agriculture and the mechanic arts, including military tactics; in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life. But such other branches of science and knowledge may be embraced in the plan of instruction and investigation pertaining to the university as the trustees may deem useful and proper. Said university is authorized to establish faculties, departments and branches and carry on its work at any places in this state and to confer any and all literary, scientific, technical and professional degrees, and in testimony thereof award certificates and diplomas. Persons of every religious denomination, or of no religious denomination, shall be equally eligible to all offices and appointments.

Formerly L. 1865, ch. 585, § 4, as am'd by L. 1898, ch. 223, § 1.

**§ 1124. Extent to which property may be held.** The said corporation may take and hold real and personal property to such an amount as may be or become necessary for the proper conduct and support of the several departments of education heretofore established or hereafter to be established by its board of trustees, and such property real and personal as has been, or may hereafter be given to said corporation by gift, grant, devise or bequest in trust or otherwise, for the use and purposes permitted by its charter, and in cases of trusts so created, the several trust estates shall be kept distinct, and the interest or income shall be faithfully applied to the purposes of such trust, in accordance with the provisions of the act or instrument by which the respective trusts were created.

Formerly L. 1865, ch. 585, § 5, as am'd by L. 1882, ch. 147, § 2.

**§ 1125. Trustees shall make reports; university subject to visitation of regents.** The trustees of said university shall make all the reports and perform such other acts



as may be necessary to conform to the act of congress entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts" approved July second, eighteen hundred and sixty-two. The said university shall be subject to visitation of the regents of the university of the state of New York.

Formerly L. 1865, ch. 585, § 7, as am'd by L. 1867, ch. 763, § 2.

**§ 1126. Restrictions on alienation of property.**

The said university grounds, farm, work-shops, fixtures, machinery, apparatus, cabinets and library, shall not be incumbered, aliened or otherwise disposed of by the said trustees, or by any other person, except on terms such as the legislature of the state of New York shall have approved, and any act of the said trustees, or that of any other person which shall have that effect, shall be void.

Formerly L. 1865, ch. 585, § 8.

**§ 1127. State scholarships in Cornell university.**

The several departments of study in Cornell university shall be open to applicants for admission thereto at the lowest rates of expense consistent with its welfare and efficiency, and without distinction as to rank, class, previous occupation or locality. But, with a view to equalize its advantages to all parts of the state, the institution shall receive students to the number of one each year from each assembly district in this state, to be selected as hereinafter provided, and shall give them instruction in any or in all the prescribed branches of study in any department of said institution, free of any tuition fee or of any incidental charges to be paid to said university, unless such incidental charges shall have been made to compensate for materials consumed by said students or for damages needlessly or purposely done by them to the property of said university. The said free instruction shall, moreover, be accorded to said students in consideration of their superior ability, and as a reward for superior scholarship in the academies and public schools of this state. Said students shall be selected as the legislature may from time to time direct, and until otherwise ordered as follows:

1. A competitive examination, under the direction of the education department, shall be held at the county court-house in each county of the state, upon the first Saturday in June, in each year, by the city superintendents and the school commissioners of the county.

2. None but pupils of at least sixteen years of age and of six months' standing in the common schools or academies of the state,

during the year immediately preceding the examination, shall be eligible.

3. Such examination shall be upon such subjects as may be designated by the president of the university. Question papers prepared by the education department shall be used, and the examination papers handed in by the different candidates shall be retained by the examiners and forwarded to the education department.

4. The examiners shall, within ten days after such examination, make and file in the education department a certificate, in which they shall name all the candidates examined and specify the order of their excellence, and such candidates shall, in the order of their excellence, become entitled to the scholarships belonging to their respective counties.

5. In case any candidate who may become entitled to a scholarship shall fail to claim the same, or shall fail to pass the entrance examination at such university, or shall die, resign, absent himself without leave, be expelled or, for any other reason, shall abandon his right to or vacate such scholarship either before or after entering thereupon, then the candidate certified to be next entitled in the same county shall become entitled to the same. In case any scholarship belonging to any county shall not be claimed by any candidate resident in that county, the commissioner of education may fill the same by appointing thereto some candidate first entitled to a vacancy in some other county, after notice has been served on the superintendent or commissioners of schools of said county. In any such case, the president of the university shall at once notify the commissioner of education and that officer shall immediately notify the candidate next entitled to the vacant scholarship of his right to the same.

6. Any state student who shall make it appear to the satisfaction of the president of the university that he requires leave of absence, for the purpose of earning funds with which to defray his living expenses while in attendance, may, in the discretion of the president, be granted such leave of absence, and may be allowed a period not exceeding six years from the commencement thereof for the completion of his course at said university.

7. In certifying the qualifications of the candidates, preference shall be given, where other qualifications are equal, to the children of those who have died in the military or naval service of the United States.

8. Notices of the time and place of the examinations shall be given in all the schools having pupils eligible thereto, prior to the first day of January in each year, and shall be published once

a week, for three weeks, in at least two newspapers in each county immediately prior to the holding of such examinations. The cost of publishing such notices and the necessary expenses of such examination shall be a charge upon each county, respectively, and shall be audited and paid by the board of supervisors thereof.

9. The commissioner of education shall attend to the giving and publishing of the notices hereinbefore provided for. He may, in his discretion, direct that the examination in any county may be held at some other time and place than that above specified, in which case it shall be held as directed by him. He shall keep full records in his department of the reports of the different examiners, showing the age, post-office address and standing of each candidate, and shall notify candidates of their rights under this chapter. He shall determine any controversies which may arise under the provisions of this chapter. He is hereby charged with the general supervision and direction of all matters in connection with the filling of such scholarships. Students enjoying the privileges of free scholarships shall, in common with the other students of said university, be subject to all the examinations, rules and requirements of the board of trustees or faculty of said university, except as herein provided.

Formerly L. 1894, ch. 556, tit. 12, § 1.

**§ 1128. New York state veterinary college.** 1. The state veterinary college, established by chapter one hundred and fifty-three of the laws of eighteen hundred and ninety-four, shall continue to be known as the New York state veterinary college. The object of said veterinary college shall be: To conduct investigations as to the nature, prevention and cure of all diseases of animals, including such as are communicable to man and such as cause epizootics among live stock; to investigate the economical questions which will contribute to the more profitable breeding, rearing and utilization of animals; to produce reliable standard preparations of toxins, antitoxins and other products to be used in the diagnosis, prevention and cure of diseases and in the conducting of sanitary work by approved modern methods; and to give instruction in the normal structure and function of the animal body, in the pathology, prevention and treatment of animal diseases, and in all matters pertaining to sanitary science as applied to live stock and correlatively to the Luman family.

2. All buildings, furniture, apparatus and other property heretofore or hereafter erected or furnished by the state for such veterinary college shall be and remain the property of

the state. The Cornell university shall have the custody and control of said property, and shall, with whatever state moneys may be received for the purpose, administer the said veterinary college, with authority to appoint investigators, teachers and other officers, to lay out lines of investigation, to prescribe the requirements for admission and the course of study and with such other power and authority as may be necessary and proper for the due administration of such veterinary college.

3. Said university shall receive no income, profit or compensation therefor, but all moneys received from state appropriations for the said veterinary college or derived from other sources in the course of the administration thereof, shall be kept by said university in a separate fund from the moneys of the university, and shall be used exclusively for said New York state veterinary college. Such moneys as may be appropriated to be paid to the Cornell university by the state in any year, to be expended by said university in the administration of said veterinary college, shall be payable to the treasurer of Cornell university in three equal payments to be made on the first day of October, the first day of January, and the first day of April in such year, and within thirty days after the expiration of the period for which each instalment is received the said university shall furnish the comptroller of the state of New York satisfactory vouchers for the expenditure of such instalment.

4. The said university shall expend such moneys and use such property of the state in administering said veterinary college, and shall report to the governor during the month of January in each year, a detailed statement of such expenditures and of the general operations of the said veterinary college.

5. No tuition fee shall be required of a student pursuing the regular veterinary course, who for a year or more immediately preceding his admission to said veterinary college shall have been a resident of this state. The tuition fees charged to other students and all other fees and charges in said veterinary college shall be fixed by Cornell university, and the moneys so received shall be expended for the current expenses of the said veterinary college.

Formerly L. 1897, ch. 689, § 1.

**§ 1129. New York state college of agriculture.**

The state college of agriculture, established by chapter six hundred and fifty-five of the laws of nineteen hundred and four, shall continue to be known as the New York state college of agriculture at Cornell university. The object of said college of

agriculture shall be to improve the agricultural methods of the state; to develop the agricultural resources of the state in the production of crops of all kinds, in the rearing and breeding of live-stock, in the manufacture of dairy and other products, in determining better methods of handling and marketing such products, and in other ways; and to increase intelligence and elevate the standards of living in the rural districts. For the attainment of these objects the college is authorized to give instruction in the sciences, arts and practices relating thereto, in such courses and in such manner as shall best serve the interests of the state; to conduct extension work in disseminating agricultural knowledge throughout the state by means of experiments and demonstrations on farms and gardens, investigations of the economic and social status of agriculture, lectures, publication of bulletins and reports, and in such other ways as may be deemed advisable in the furtherance of the aforesaid objects; to make researches in the physical, chemical, biological and other problems of agriculture, the application of such investigations to the agriculture of New York, and the publication of the results thereof. All buildings, furniture, apparatus and other property heretofore or hereafter erected or furnished by the state for such college of agriculture shall be and remain the property of the state. The Cornell university shall have the custody and control of said property, and shall, with whatever state moneys may be received for the purpose, administer the said college of agriculture, with authority to appoint investigators, teachers and other officers and employees, to lay out lines of investigation, to prescribe the requirements for admission and the course of study and with such other power and authority as may be necessary and proper for the due administration of such college of agriculture. Said university shall receive no income, profit or compensation therefor, but all moneys received from state appropriations for the said college of agriculture or derived from other sources in the course of the administration thereof, shall be credited by said university to a separate fund, and shall be used exclusively for said New York state college of agriculture. Such moneys as may be appropriated to be paid to the Cornell university by the state in any year, to be expended by said university in the administration of said college of agriculture, shall be payable to the treasurer of Cornell university in three equal payments to be made on the first day of October, the first day of January, and the first day of April in such year, and within sixty days after the expiration of the period for which each instalment is received the said university shall furnish the comp-

troller vouchers approved by the commissioner of agriculture for the expenditures of such instalment. The said university shall expend such moneys and use such property of the state in administering said college of agriculture as above provided, and shall report to the commissioner of agriculture in each year on or before the first day of December, a detailed statement of such expenditures and of the general operations of the said college of agriculture for the year ending the thirtieth day of September then next preceding. Fees and charges in said college of agriculture shall be fixed by Cornell university, and the moneys received from these sources and from the sales of products shall be credited to a separate fund and shall be used for the current expenses of the said college of agriculture.

Formerly L. 1906, ch. 218, § 1.

## ARTICLE 45

### State School of Agriculture at St. Lawrence University

Section 1140. Corporate name.

1141. Objects and purposes of school.

1142. Supervision and control of school.

**§ 1140. Corporate name.** The school of agriculture established by chapter six hundred and eighty-two of the laws of nineteen hundred and six shall continue to be known as the New York state school of agriculture of Saint Lawrence university.  
New.

**§ 1141. Objects and purposes of school.** Such school shall have for its objects and purposes:

1. The elementary and practical instruction of pupils attending such school in agriculture and allied subjects.

2. The giving of instruction by means of schools, lectures and other university extension methods for the promotion of agricultural knowledge.

3. The conducting of investigations and experiments for the purpose of ascertaining the best method of fertilization of fields, gardens and plantations and the best modes of tillage and farm management and improvement of live-stock.

4. The printing of leaflets and the dissemination of agricultural knowledge by means of lectures and otherwise; the printing and free distribution of the results of such investigations and experiments, and the publication of bulletins containing such

Arts. 45, 46

State School of Agriculture.

§§ 1142, 1160, 1161

information as may be deemed desirable and profitable in promoting the agricultural interests of the state, such work to be conducted so far as practicable in harmony with the college of agriculture at Cornell university.

Formerly L. 1906, ch. 682, § 3, as am'd by L. 1908, ch. 202, § 1.

**§ 1142. Supervision and control of school.** The board of trustees of Saint Lawrence university shall have the general care, supervision and control of such school, and of all its affairs, and to carry out its objects and purposes shall:

1. Employ and at pleasure remove teachers, experts, chemists and all necessary clerks and assistants.

2. Adopt rules not inconsistent with law controlling the affairs of such school.

3. Prescribe the course of instruction and the methods of investigation and experiments to be followed in such school, and the degrees to be conferred on graduation therefrom.

Formerly L. 1906, ch. 682, § 4.

## ARTICLE 46

### State School of Agriculture at Alfred University

Section 1160. Corporate name.

1161. Objects and purposes of school.

1162. Supervision and maintenance of school.

**§ 1160. Corporate name.** The school of agriculture established by chapter two hundred of the laws of nineteen hundred and eight shall continue to be known as The New York state school of agriculture at Alfred university.

New.

**§ 1161. Objects and purposes of school.** The objects of the New York state school of agriculture at Alfred university shall be to give elementary and practical instruction in agriculture and kindred subjects; to conduct, for the improvement of such instruction, investigations and experiments in agricultural methods and resources in western New York, and in means and methods for the care and improvement of live stock; to stimulate agricultural pursuits, and to increase knowledge by which such industry may be successfully carried on; such work shall be co-ordinated so far as practicable with that at the New York state college of agriculture at Cornell university; and furnish both a practical training for the pursuit of agriculture, and comple-

mental training, preliminary to advanced courses in said state college of agriculture at Cornell university.

Formerly L. 1908, ch. 200, § 3 part.

**§ 1162. Supervision and maintenance of school.**

Alfred university shall have the custody and control of the property of said New York state school of agriculture, and shall, with whatever moneys may be received for the purpose, administer the said school of agriculture, with authority to appoint teachers, investigators, and other officers and employees, to prescribe the requirements for admission, and the courses of study to be pursued, and with such other power and authority as will secure necessary and adequate administration of such school. And in order to secure unity and harmony in education in agriculture in the state of New York, the state commissioner of agriculture, the director of the New York state college of agriculture at Cornell university, and a person to be annually elected or appointed by the state grange, shall be ex officio members of the board of managers to be appointed annually by the trustees of Alfred university, to have immediate management of the said state school of agriculture. Alfred university shall receive no income, profit or compensation therefor, but all moneys received from appropriations for the said school of agriculture shall be credited by said university to a separate fund, and shall be used exclusively for said New York state school of agriculture. Such moneys as may be appropriated by the state to Alfred university, for said state school of agriculture, shall be payable to the treasurer of Alfred university upon vouchers furnished to the comptroller. The said university shall expend such moneys and use such property of the state in administering said school of agriculture as above provided, and shall report to the commissioner of agriculture annually, on or before the first day of December, a detailed statement of such expenditures and of the general operations of the said school of agriculture for the year ending the thirtieth day of September then next preceding; and a copy of such report shall be transmitted to the legislature. Students bona fide residents of the state of New York for one year preceding the date of their admission shall be entitled to free tuition. Other fees and charges if any in the said school of agriculture, and any moneys received from tuitions paid by students not residents of the state of New York, and from the sales of products shall be reported and forwarded monthly to the state treasurer as required by the state finance law, and may be reappropriated toward the maintenance of said school of agriculture.

Formerly L. 1908, ch. 200, § 3 part.



**ARTICLE 47****State School of Agriculture at Morrisville**

Section 1180. Corporate name.

1181. Objects and purposes of school.

1182. Management and control of school.

1183. Powers and duties of board of trustees.

**§ 1180. Corporate name.** The school of agriculture established by chapter two hundred one of the laws of nineteen hundred and eight shall continue to be known as the New York state school of agriculture at Morrisville.

New.

**§ 1181. Objects and purposes of school.** Such school shall have for its objects and purposes:

1. The elementary and practical instruction of pupils attending such school in agriculture and all allied subjects, including domestic science.

2. The giving of instruction in agriculture and agricultural science preparatory to the more advanced courses in the state college of agriculture at Cornell to which end the work shall be conformed as far as practicable with that of the last named institution and also the giving of elementary and practical instruction for the carrying on of agricultural pursuits to such as do not desire the more advanced course.

3. The conducting of investigations and experiments in central New York for the purpose of ascertaining the best methods of fertilizing fields, gardens and plantations and the best modes of tillage and farm management and the care and improvement of live stock.

Formerly L. 1908, ch. 201, § 2.

**§ 1182. Management and control of school.** The care, management and control of said school, property and premises shall be exercised by a board of seven trustees. The state commissioner of agriculture and the director of the New York state agricultural school at Cornell University, shall, ex officio, be members of the board of trustees. The other five trustees shall be appointed by the governor by and with the consent of the senate. At least two of such trustees shall be residents of the county of Madison. One of such trustees shall be a person recommended by the state grange, if such recommendation be made. Two of such appointed trustees shall be appointed for a term of

§ 1183 Laws Repealed; Saving Clause; When to Take Effect. Arts. 47, 48

two years each and three for a term of four years each. Upon the expiration of the terms of office of such appointed trustees their successors shall be appointed for a term of four years each. Such trustees shall serve for the terms for which they are respectively appointed and until their successors have been appointed and qualified. In case of any vacancy in the office of any trustee his successor shall be appointed for the unexpired term for which he was appointed. Such trustees shall serve without compensation.

Formerly L. 1908, ch. 201, § 3.

**§ 1183. Powers and duties of board of trustees.**

The board of trustees so appointed by the governor shall have the general care, supervision and control of such school and all its affairs and to carry out its objects and purposes:

1. Employ and remove teachers, experts, chemists and all necessary clerks and assistants.
2. Adopt rules not inconsistent with the law controlling the affairs of such school.
3. Prescribe the course of instruction and the methods of investigation and experiments to be followed in such school.

The board of trustees shall report to the commissioner of agriculture annually, on or before the first day of December, a detailed statement of such expenditures and of the general operations of the said school of agriculture for the year ending the thirtieth day of September then next preceding, and a copy of such report shall be transmitted to the legislature. Students bona fide residents of the state of New York for one year preceding the date of their admission shall be entitled to free tuition. Other fees and charges, if any, in the said school of agriculture, and any moneys received from tuition paid by students not residents of the state of New York, and from the sale of products, shall be reported and forwarded monthly to the state treasurer as required by the state finance law, and may be reappropriated toward the maintenance of said school of agriculture.

Formerly L. 1908, ch. 201, §§ 4, 7.

**ARTICLE 48**

**Laws Repealed; Saving Clause; When to  
Take Effect**

- Section 2000. Laws repealed.  
2001. Saving clause.  
2002. When to take effect.

Art. 48 Laws Repealed; Saving Clause; When to Take Effect. §§ 2000-2002

**§ 2000. Laws repealed.** Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

New.

**§ 2001. Saving clause.** Nothing herein contained shall be construed to impair or in any manner, affect or change any special law touching the schools or school system of any city or incorporated village unless the same is so stated.

Formerly L. 1894, ch. 550, tit. 15, § 49 part.

**§ 2002. When to take effect.** This chapter shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Revised Statutes....	Part 1, chapter 9, title 8 .....	All
Revised Statutes....	Part 1, chapter 15, title 1 .....	All
Revised Statutes....	Part 1, chapter 15, title 2 .....	All
Revised Statutes....	Part 1, chapter 15, title 3 .....	All
Revised Statutes....	Part 1, chapter 15, title 4 .....	All
Revised Statutes....	Part 1, chapter 15, title 5 .....	All
Laws of	Chapter	Section
1784.....	51.....	All (7th Sess.)
1784.....	15.....	All (8th Sess.)
1787.....	82.....	All
1791.....	45.....	All
1795.....	75.....	All
1796.....	49.....	All
1797.....	34.....	All
1798.....	48.....	All
1801.....	189.....	3
1801.....	195.....	28
1802.....	30.....	All
1807.....	135.....	All
1808.....	218.....	All
1809.....	156.....	4
1810.....	85.....	10
1811.....	246.....	53, 54
1812.....	131.....	All
1812.....	242.....	All
1813.....	52.....	All
1813.....	100.....	All
R. L. 1813...	59.....	All

§ 2000	Laws Repealed.	Art. 48
Laws of	Chapter	Section
R. L. 1813...	82.....	17
1814.....	27.....	All
1814.....	192.....	All
1815.....	207.....	All
1815.....	252.....	All
1816.....	202.....	All
1817.....	89.....	All
1818.....	276.....	All
1819.....	161.....	All
1819.....	164.....	All
1819.....	239.....	All
1820.....	224.....	All
1821.....	48.....	All
1821.....	61.....	All
1821.....	73.....	All
1821.....	240.....	2
1822.....	234.....	All
1822.....	256.....	All
1823.....	189.....	All
1823.....	193.....	All
1823.....	269.....	27
1824.....	131.....	All
1824.....	239.....	22
1824.....	276.....	9
1825.....	166.....	1-3, 5
1825.....	203.....	All
1826.....	30.....	All
1827.....	97.....	2-4
1827.....	293.....	All
1828.....	21.....	1, ¶¶ 227, 267, 282, 411, 418, 442, 500, 524 (2d meet.)
1829.....	287.....	2-9
1829.....	376.....	5
1830.....	170.....	All
1830.....	219.....	All
1830.....	240.....	16, pt. affecting R. S., Pt. 1, Ch. 15, Tit. 2, Art. 1, § 3
1830.....	284.....	2
1830.....	320.....	5-7
1831.....	44.....	All
1831.....	142.....	All
1831.....	206.....	All



§ 2000	Laws Repealed.	Art. 48
Laws of	Chapter	Section
1845.....	14.....	2
1845.....	85.....	All
1845.....	179.....	All
1846.....	45.....	All
1846.....	66.....	All
1846.....	132.....	All
1846.....	186.....	All
1846.....	323.....	All
1847.....	50.....	All
1847.....	172.....	All
1847.....	190.....	All
1847.....	208.....	3
1847.....	211.....	All
1847.....	212.....	All
1847.....	273.....	All
1847.....	358.....	All
1847.....	361.....	All
1847.....	388.....	All
1847.....	443.....	All
1847.....	480.....	All
1847.....	485.....	All
1848.....	262.....	2-4
1848.....	318.....	All
1849.....	140.....	All
1849.....	175.....	All
1849.....	266.....	All
1849.....	300.....	All
1849.....	382.....	1-12, 14-16
1849.....	388.....	All
1849.....	404.....	All
1850.....	7.....	All
1850.....	51.....	1
1850.....	89.....	All
1850.....	184.....	All
1850.....	261.....	All
1850.....	360.....	All
1850.....	378.....	All
1851.....	151.....	All
1851.....	425.....	All
1851.....	449.....	All
1851.....	500.....	All
1851.....	544.....	All

Art. 48	Laws Repealed.	§ 2000
<b>Laws of</b>	<b>Chapter</b>	<b>Section</b>
1852.....	97.....	All
1852.....	333.....	2-4
1852.....	366.....	All
1853.....	78.....	All
1853.....	115.....	All
1853.....	184.....	All
1853.....	185.....	All
1853.....	402.....	All
1853.....	433.....	All
1853.....	491.....	All
1854.....	80.....	All
1854.....	97.....	All
1854.....	167.....	All
1854.....	228.....	All
1854.....	272.....	1-3
1855.....	18.....	All
1855.....	50.....	All
1855.....	91.....	All
1855.....	178.....	All
1855.....	410.....	All
1855.....	471.....	1-3
1855.....	539.....	1, pt. relating to indigent blind
1856.....	51.....	All
1856.....	71.....	All
1856.....	168.....	All
1856.....	179.....	All
1856.....	180.....	All
1856.....	186.....	All
1857.....	51.....	3, 4
1857.....	527.....	All
1858.....	151.....	All
1858.....	290.....	All
1859.....	230.....	All
1859.....	278.....	All
1859.....	395.....	All
1859.....	426.....	All
1860.....	314.....	All
1860.....	402.....	All
1860.....	456.....	All
1862.....	351.....	All
1862.....	384.....	All

§ 2000	Laws Repealed.	Art. 48
Laws of	Chapter	Section
1862.....	450.....	All
1863.....	325.....	All
1863.....	378.....	All
1863.....	401.....	All
1863.....	418.....	All
1863.....	463.....	All
1864.....	386.....	All
1864.....	555.....	All
1864.....	556.....	All
1864.....	583.....	All
1865.....	445.....	All
1865.....	585.....	All
1865.....	587.....	All
1865.....	647.....	All
1865.....	722.....	All
1866.....	78.....	All
1866.....	466.....	All
1866.....	520.....	All
1866.....	708.....	All
1866.....	800.....	All
1866.....	882.....	All
1867.....	84.....	All
1867.....	406.....	All
1867.....	583.....	All
1867.....	725.....	All
1867.....	744.....	All
1867.....	763.....	All
1867.....	819.....	All
1869.....	18.....	All
1870.....	60.....	All
1870.....	166.....	All
1870.....	180.....	All
1870.....	492.....	2, commencing "The local boards" and ending "the respective schools"
1870.....	557.....	All
1870.....	565.....	All
1871.....	166.....	All
1871.....	329.....	All
1871.....	359.....	All
1871.....	548.....	All



---

Art. 48 Laws Repealed. § 2000

---

Laws of	Chapter	Section
1871.....	711.....	All
1871.....	746.....	All
1871.....	747.....	All
1872.....	392.....	All
1872.....	616.....	All
1872.....	654.....	All
1872.....	670.....	All
1873.....	463.....	All
1873.....	642.....	4-11
1874.....	45.....	All
1874.....	253.....	All
1874.....	421.....	All
1874.....	514.....	All
1875.....	176.....	All
1875.....	213.....	All
1875.....	322.....	All
1875.....	372.....	All
1875.....	567.....	All
1876.....	50.....	All
1876.....	132.....	All
1876.....	318.....	All
1876.....	372.....	All
1876.....	374.....	All
1877.....	33.....	All
1877.....	94.....	All
1877.....	161.....	All
1877.....	163.....	All
1877.....	219.....	All
1877.....	413.....	All
1877.....	425.....	1-6
1878.....	173.....	All
1878.....	174.....	All
1878.....	248.....	All
1879.....	134.....	All
1879.....	264.....	All
1879.....	289.....	All
1879.....	396.....	All
1879.....	405.....	All
1880.....	9.....	All
1880.....	27.....	All
1880.....	210.....	All

§ 2000 .	Laws Repealed.	Art. 48
Laws of	Chapter	Section
1880.....	348.....	All
1880.....	355.....	All
1880.....	400.....	3
1880.....	455.....	All
1880.....	514.....	All
1880.....	527.....	All
1880... ..	549.....	1, so far as amendatory of L. 1879, Ch. 272
1881.....	120.....	All
1881.....	223.....	All
1881.....	281.....	All
1881.....	377.....	All
1881.....	492.....	All
1881.....	528.....	All
1881.....	632.....	All
1881.....	675.....	All
1882.....	51.....	All
1882.....	115.....	All
1882.....	116.....	All
1882.....	147.....	All
1882.....	318.....	All
1882.....	319.....	All
1882.....	333.....	All
1882.....	381.....	All
1883.....	75.....	All
1883.....	172.....	All
1883.....	250.....	All
1883.....	270.....	All
1883.....	275.....	All
1883.....	294.....	All
1883.....	328.....	All
1883.....	355.....	2-4
1883.....	413.....	All
1883.....	414.....	All
1883.....	423.....	All
1884.....	30.....	All
1884.....	49.....	All
1884.....	89.....	All
1884.....	179.....	All
1884.....	248.....	All
1884.....	413.....	All
1884.....	427.....	All



§ 2000	Laws Repealed.	Art. 48
Laws of	Chapter	Section
1889.....	90.....	All
1889.....	137.....	All
1889.....	139.....	All
1889.....	142.....	All
1889.....	245.....	All
1889.....	328.....	All
1889.....	333.....	All
1889.....	517.....	All
1889.....	529.....	All
1890.....	73.....	All
1890.....	74.....	All
1890.....	170.....	All
1890.....	175.....	All
1890.....	197.....	All
1890.....	352.....	All
1890.....	431.....	All
1890.....	469.....	All
1890.....	524.....	All
1890.....	526.....	All
1890.....	534.....	All
1890.....	548.....	All
1891.....	303.....	All
1891.....	329.....	All
1891.....	377.....	All
1892.....	36.....	All
1892.....	152.....	All
1892.....	214.....	All
1892.....	280.....	All
1892.....	352.....	All
1892.....	378.....	All
1892.....	573.....	All
1893.....	6.....	All
1893.....	58.....	All
1893.....	63.....	All
1893.....	484.....	All
1893.....	485.....	All
1893.....	488.....	All
1893.....	500.....	All
1893.....	636.....	All
1893.....	706.....	All
1894.....	127.....	All

EDUCATION LAW

Art. 48

Laws Repealed.

§ 2000

Laws of	Chapter	Section
1894.....	229.....	All
1894.....	443.....	All
1894.....	488.....	All
1894.....	556.....	All
1894.....	671.....	All
1895.....	87.....	All
1895.....	222.....	All
1895.....	223.....	All
1895.....	231.....	All
1895.....	232.....	All
1895.....	273.....	All
1895.....	274.....	All
1895.....	337.....	All
1895.....	341.....	2
1895.....	362.....	1, 2
1895.....	546.....	All
1895.....	550.....	All
1895.....	553.....	10
1895.....	563.....	All
1895.....	577.....	All
1895.....	630.....	All
1895.....	767.....	All
1895.....	768.....	All
1895.....	769.....	All
1895.....	853.....	All
1895.....	859.....	All, except pt. amending L. 1892, Ch. 378, § 19, last two sentences
1895.....	988.....	All
1895.....	1031.....	All
1895.....	1041.....	All
1896.....	71.....	All
1896.....	156.....	All
1896.....	165.....	All
1896.....	177.....	All
1896.....	196.....	All
1896.....	238.....	All
1896.....	264.....	All
1896.....	434.....	All
1896.....	467.....	All
1896.....	493.....	All

§ 2000	Laws Repealed.	Art. 48
Laws of	Chapter	Section
1896.....	575.....	All
1896.....	586.....	All
1896.....	606.....	All
1896.....	646.....	All
1896.....	901.....	All
1897.....	97.....	All
1897.....	185.....	All
1897.....	195.....	All
1897.....	224.....	All
1897.....	293.....	All
1897.....	294.....	All
1897.....	466.....	All
1897.....	482.....	All
1897.....	495.....	All
1897.....	512.....	All
1897.....	689.....	All
1898.....	122.....	All
1898.....	223.....	All
1898.....	481.....	All
1898.....	649.....	All
1899.....	440.....	All
1899.....	489.....	All
1899.....	540.....	All
1900.....	22.....	All
1900.....	258.....	All
1900.....	301.....	All
1900.....	481.....	All
1900.....	490.....	3
1900.....	492.....	All
1901.....	85.....	1
1901.....	201.....	All
1901.....	343.....	All
1901.....	480.....	All
1901.....	492.....	All
1901.....	498.....	All
1901.....	592.....	All
1901.....	644.....	1, part beginning "All persons" and ending "proper regula- tions"
1902.....	16.....	All
1902.....	32.....	All

# EDUCATION LAW

333  
1900

Art. 48	Laws Repealed.		1900
Laws of	Chapter	Section	
1902.....	185.....	All	
1902.....	316.....	All	
1902.....	325.....	All	
1902.....	393.....	All	
1903.....	62.....	All	
1903.....	112.....	All	
1903.....	125.....	All	
1903.....	175.....	All	
1903.....	223.....	All	
1903.....	233.....	All	
1903.....	265.....	All	
1903.....	289.....	All	
1903.....	459.....	All	
1903.....	463.....	All	
1903.....	489.....	All	
1903.....	576.....	All	
1904.....	37.....	All	
1904.....	40.....	All	
1904.....	166.....	All	
1904.....	254.....	All	
1904.....	281.....	All	
1904.....	305.....	All	
1904.....	322.....	All	
1904.....	390.....	All	
1904.....	424.....	All	
1904.....	427.....	All	
1904.....	677.....	All	
1905.....	97.....	All	
1905.....	119.....	All	
1905.....	154.....	All	
1905.....	161.....	All	
1905.....	252.....	All	
1905.....	258.....	All	
1905.....	280.....	All	
1905.....	311.....	All	
1905.....	562.....	All	
1905.....	563.....	All	
1906.....	1.....	All	
1906.....	58.....	All	
1906.....	64.....	All	
1906.....	150.....	All	
1906.....	200.....	All	

§ 2000	Laws Repealed.	Art. 48
Laws of	Chapter	Section
1906.....	218.....	All
1906.....	682.....	3, 4
1906.....	698.....	All
1907.....	103.....	All
1907.....	184.....	All
1907.....	186.....	All
1907.....	496.....	4
1907.....	585.....	All
1907.....	606.....	All
1907.....	608.....	All
1907.....	609.....	All
1908.....	79.....	All
1908.....	200.....	3
1908.....	201.....	2-4, 7
1908.....	202.....	All
1908.....	249.....	All
1908.....	263.....	1-5; 6, first sentence; 7
1908.....	304.....	All
1908.....	365.....	All
1908.....	476.....	All
1908.....	482.....	All
1908.....	499.....	All
1909.....	1*.....	All

\* Repealed by L. 1909, ch. 240, § 108.

μ







Stanford Law Library



3 6105 064 097 756

