33057

LAWS—NEW JERSEY

1898.

ACTS

OF THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

OF THE

STATE OF NEW JERSEY,

AND

Fifty-fourth Under the New Constitution.

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The following laws, passed by the One Hundred and Twenty-second Legislature, are published in accordance with "An act for the publication of the laws," passed June 13th, 1895, and a "A supplement to the act entitled 'An act relative to statutes,'" approved March twenty-seventh, eighteen hundred and seventy-four, which supplement was approved February 4th, 1896.

The proclamations by the Governor follow. An index of all the laws, compiled in accordance with the act of 1895, complete the work.

GEORGE WURTS,
Secretary of State.

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OF THE

One Hundred and Twenty-second Legislature

OF NEW JERSEY.

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	ROBERT G. HOUSTON.
WARREN	ALFRED L. FLUMMERFELT,
	WILLIAM K. BOWERS.

LAWS

ACTS

PASSED BY THE

One Hundred and Twenty-second Legislature.

CHAPTER 1.

An Act defining the title of the person upon whom the powers, duties and emoluments of the office of governor shall devolve in case of the death, resignation, or removal from office of the governor, or in case of the impeachment of the governor, or in case of his absence from the state, or of his inability to discharge the duties of his office, or in case of a vacancy in the office of governor from any other cause, or in case of the death of the governor-elect before he is qualified into office.

BE IT ENACTED, *by the Senate and General Assembly of the State of New Jersey:*

1. That whenever by reason of the death, resignation or removal from office of the governor, or of the impeachment of the governor, or of his absence from the state, or of his inability to discharge the duties of his office, or of a vacancy in the office of governor from any other cause than those herein enumerated, or of the death of the governor-elect before he is qualified into office, the powers, duties and emoluments of the office

Official title, signature and attestation.

shall have devolved upon the president of the senate, or in case of his death, resignation or removal, then upon the speaker of the house of assembly for the time being, in accordance with Article V, paragraphs 12, 13 and 14 of the constitution of this state, the official title of the person administering the government of this state, for the time being, shall be "President of the Senate (or Speaker of the House of Assembly") Acting Governor of the State of New Jersey," and said title shall be used in all legislative, executive and judicial proceedings or documents in which it is necessary to describe by his title the person administering the government of this state for the time being, and the signature of the person administering the government for the time being shall be in the form following: "A. B. President of the Senate (or Speaker of the House of Assembly) Acting Governor," and the attestation to the signature of the person administering the government for the time being shall be in the form following: "By A. B., President of the Senate (or Speaker of the House of Assembly) Acting Governor."

2. This act shall take effect immediately.

Approved January 25, 1898.

JOHN W. GRIGGS,
Governor.
FOSTER M. VOORHEES,
President of the Senate.
DAVID O. WATKINS,
Speaker of the House of Assembly.

CHAPTER 2.

Supplement to an act entitled "An act prescribing certain oaths," Revision, approved April seventeenth, eighteen hundred and forty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The third section of an act entitled "An act prescribing certain oaths", Revision, approved April

seventeenth eighteen hundred and forty-six, be and the same is hereby amended so that the said section shall read as follows:

Section amended.

3. Every person who shall be elected governor of this state, shall, before he enters upon the execution of his said office, take and subscribe the following oath, to wit: I, ———, elected governor of the State of New Jersey, do solemnly promise and swear that I will diligently, faithfully and to the best of my knowledge, execute the said office in conformity with the powers delegated to me; and that I will to the utmost of my skill and ability, promote the peace and prosperity and maintain the lawful rights of the said state. So help me God.

Form of oath.

Whenever the powers, duties and emoluments of the office of governor shall devolve upon the president of the senate or upon the speaker of the house of assembly, in accordance with the provisions of Article V, paragraphs 12, 13 and 14, of the constitution of this state, the president of the senate or the speaker of the house of assembly, before assuming the powers, duties and emoluments of the office of governor, shall take and subscribe the following oath, to wit; I, ——— President of the Senate (or Speaker of the House of Assembly) upon whom has devolved the powers, duties and emoluments of the office of Governor of the State of New Jersey, do solemnly promise and swear, that I will diligently, faithfully and to the best of my knowledge, administer the government of said State in conformity with the powers delegated to me; and that I will to the utmost of my skill and ability, promote the peace and prosperity and maintain the lawful rights of the said state. So help me God.

2. This act shall take effect immediately.

Approved January 25, 1898.

CHAPTER 3.

An Act to provide for the appointment of commissions to revise the general statutes of this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Governor authorized to appoint commissions to revise general statutes.

1. The governor is hereby authorized to appoint one or more commissions to revise and codify the general statutes of this state, or such part or parts thereof as the governor shall direct; that each commission shall consist of three persons to serve without compensation; they shall organize by the election of a president and secretary, and may employ such clerical assistance as shall be necessary, at reasonable compensation, to be fixed by them and paid by the state when appropriated for that purpose.

Commission to prepare and submit bills to legislature.

2. Every commission shall perform the work assigned to them as speedily as practicable, and submit the bill or bills prepared, together with such suggestions as may be deemed expedient, to the legislature on or before the first day of its next session.

3. This act shall take effect immediately.

Approved February 15, 1898.

FOSTER M. VOORHEES,
President of the Senate Acting Governor.
WILLIAM H. SKIRM,
President pro tem. of the Senate.
DAVID O. WATKINS,
Speaker of the House of Assembly.

CHAPTER 4.

A Supplement to an act entitled "An act constituting district courts in certain cities of this state," approved March ninth, one thousand eight hundred and seventy-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

Section to be amended.

1. Section two of an act entitled "An act constituting district courts in certain cities of this state," approved March ninth, one thousand eight hundred and seventy-seven, be and the same is hereby amended so as to read as follows:

District courts established.

2. One district court shall be established, in accordance with this act, in every city of this state of over twenty thousand inhabitants; but cities of one hundred thousand inhabitants or over shall be entitled to two district courts; *provided, always*, that no more than two district courts shall at any time be established in any city of this state; and one district court shall be established in every city of this state having twenty thousand inhabitants or less, which shall by resolution of city council adopt this act within three months from the date of the passage hereof.

Proviso.

Annual salary of judges.

2. The judge of each of said courts in cities of twenty thousand inhabitants, or less, shall receive an annual salary of twelve hundred dollars, and the clerk an annual salary of six hundred dollars, which said salaries shall be computed from the date of the appointment of said judge and clerk respectively, and be paid by the governing body of the city out of the treasury thereof.

Copy of resolution to be filed.

3. Upon the passage of the said resolution a certified copy thereof shall be filed in the office of the secretary of state.

4. This act shall take effect immediately.

Approved February 17, 1898.

CHAPTER 5.

An Act to incorporate a borough in the county of Hunterdon, to be called the borough of High Bridge.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Corporate name.

1. The inhabitants of that portion of the township of High Bridge, in the county of Hunterdon, hereinafter set forth, are hereby constituted and declared to be a body corporate in fact and in law by the name of the borough of High Bridge, and shall be governed by the general laws of this state relating to boroughs.

Boundaries.

2. The boundaries of said borough shall be as follows: beginning at a point in the south side of the public road leading from the village of High Bridge to Tunison's Corners, sixteen feet from centre of road and near the end of the line fence between the properties of Thomas Miller on the west and Peter Cregar on the east, marked by an iron stake numbered "1"; thence (1) south, three degrees east, two thousand four hundred and eighteen feet four inches, to a corner marked by an iron stake numbered "2," in the intersection of the fences marking the lines between the properties of Thomas Miller, Peter Cregar and Zephaniah Hoffman; thence (2) south, thirty-five degrees fifty minutes east, three thousand one hundred and ninety-three feet seven inches, to a corner marked by an iron stake numbered "3," in the southeast side of the public road leading from the village of High Bridge to the borough of Clinton, fifteen feet from centre of road, near fence separating lands belonging to the estate of John Alpaugh, deceased, from said public road; thence (3) south, sixty-six degrees twenty-one minutes east, two thousand four hundred and five feet three inches, to a corner marked by an iron stake numbered "4," in wood lot belonging to said estate of John Alpaugh, deceased, near lands belonging to Mary Sheehan; thence (4) north, seventy-three degrees east, six

thousand two hundred and forty-two feet six inches, to a corner marked by an iron stake numbered "5," in a field said to belong to Mrs. Sarah Ann Conover; thence (5) north, ten degrees twenty-four minutes west, four thousand six hundred and twenty-one feet, to a corner marked by an iron stake numbered "6," in a wood lot belonging to L. H. Taylor and others, said wood lot being on top of hill on the left bank of the south branch of the Raritan river; thence (6) north forty-eight degrees and nineteen minutes west, three thousand seven hundred and sixty-six feet, to a corner marked by an iron stake numbered "7," in the west side of public road leading north from the Silverthorn school-house, ten feet four inches from centre of road and near fence separating lands belonging to William H. Yawger from said public road; thence (7) south, eighty-four degrees and thirty-eight minutes west, five thousand eight hundred and twenty-four feet ten inches, to a corner marked by an iron stake numbered "8," thirty-five feet six inches southeast from centre of railroad tracks belonging to Central Railroad Company of New Jersey and just inside of the fence separating the said railroad from a field belonging to John H. VanSickle; thence (8) south, fifteen degrees and thirty minutes west, two thousand three hundred and seventy feet six inches, to the place of beginning.

3. This act shall take effect immediately.

Approved February 19, 1898.

CHAPTER 6.

An Act empowering executors and trustees to improve and develop unimproved land.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Chancellor may order executors or trustees to develop and improve lands.

1. When executors or trustees hold unimproved land in trust for beneficiaries under a will, or are vested with

a power of sale over such land, and it shall be made to appear to the chancellor upon bill of complaint or petition of such executors or trustees that it is for the interest of the beneficiaries that the land should be sold, and that it can be sold to better advantage if it be developed and improved by laying out and building streets through the same, and making other improvements appropriate and incident to its division into building lots, the chancellor may by order authorize the executors or trustees to develop and improve the land in such manner as he may approve, and to pay the cost thereof out of any funds held by them upon similar trust, or to borrow funds and secure the repayment of the same by mortgage on said land or otherwise.

2. This act shall take effect immediately.

Approved, February 19, 1898.

CHAPTER 7.

A Further Supplement to an "An act respecting conveyances" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Acknowledgments and proofs legalized.

1. That all acknowledgments and proofs of deeds, mortgages and other writings, and the certificates thereof, heretofore taken or made before or by any commissioner of deeds in and for this state whose term of office had expired or whose commission was void at the time of taking such acknowledgment or proof, and the record of such deeds, mortgages and other writings, are hereby confirmed and made valid and legal and effectual to the extent that the same would have been valid, legal and effectual if the term of office of the commissioner taking such acknowledgment or proof had not expired, nor his office been vacated, nor his commission become void as aforesaid.

2. This act shall be deemed a public act and shall take effect immediately.

Approved February 19, 1898.

CHAPTER 8.

A Supplement to the act entitled "An act to establish public parks in certain counties in this state, and to regulate the same," approved March fifth, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Board of freeholders authorized to issue bonds.

1. That to meet the further expenses to be incurred under the provisions of the act to which this is a supplement, for the acquisition, development and improvement of parks and parkways or boulevards, in any county in this state in which said act shall be in force, and in which the sum limited in said act shall have been appropriated, the board of chosen freeholders of the said county shall, from time to time, on the requisition of the said board of park commissioners, in the name and on the credit of the said county, borrow money by issuing the bonds of the said county to a sum not exceeding, in the aggregate, one million five hundred thousand dollars, over and above the sum provided in the act to which this is a supplement; such bonds to run for a term not exceeding fifty years, to bear interest at a rate not exceeding four per centum, payable semi-annually; such bonds shall not be sold or disposed of at less than their par value, and may be made payable at any place which the said board of chosen freeholders may determine, and they shall also determine the form of the bond; a sinking fund shall be established by the said board of chosen freeholders on the issuing of any such bonds sufficient, with the accumulations thereof, to extinguish the principal of the said bonds so issued, when due; the interest and principal of the bonds issued under the authority of this act shall be the debt or obligation of the county wherein they are issued, and the payment thereof shall be provided for by taxa-

Sinking fund established.

Principal and interest of bonds; how paid.

tion in the same manner that other debts and obligations of the county are provided for by taxation; the proceeds of the sale of said bonds, after deducting expenses for negotiating the same, and for engraving and all other expenses connected with their issue and sale, shall be paid over to the said park commission.

Repealer.

2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed and this act shall take effect immediately; *provided, however*, that no bonds shall be issued in any county pursuant to this act until the said act shall be accepted by the voters of said county by a majority of the votes cast for or against the same at the next election, whether general, municipal or special, on a day when the people of all the county qualified to vote are authorized to vote for local officers; and it shall be the duty of the county clerk at least ten days before any such election to give public notice by publication, in two or more newspapers published and circulating in said county, that such submission will be made, stating briefly the question to be submitted, as herein provided, and it shall be the duty of the said county clerk to provide ballots sufficient in quantity for the legal voters of the said county, not less than three to each legal voter as the number of voters appears by the last preceding election, and make distribution thereof, as far as practicable, in the manner provided by law for the distribution of other ballots at such election; every such ballot shall contain either the words "for further park bonds" or "against further park bonds" and an equal number of each kind of ballots shall be so printed and distributed; and the legal voters of said county may at such election decide upon acceptance or rejection of this act by the use of such ballots; such ballots shall be cast at such election separate and distinct from other ballots used at such election, and shall not, except as herein provided, be regulated by the laws regulating ballots used in the election of public officers; such ballots, however, shall be deposited, when offered, without being enclosed in an envelope, by any legal voter, in the ballot-boxes used at such election for the election of public officers; and all ballots so cast for or against this act shall be counted and the result thereof returned by the election officers holding such election

Act to be accepted by voters.

Duty of county clerk.

Ballot.

Ballots; how counted and result of election determined.

as herein provided, and the acceptance or rejection of this act shall be determined by the result of such election, and if there shall be found on a canvass of all the votes cast, to be made as herein provided, a majority of ballots in favor of this act, then this act, but not otherwise, shall take effect immediately in such county; the return and certificate of the result of the votes cast in every election district or voting precinct in such county for and against the acceptance of this act shall be filed forthwith after the close of the said election by the officers conducting the same, with the clerk of the county wherein such election is held, and it shall be the duty of such clerk to tabulate the said returns and canvass the votes so cast in all the election districts in said county and certify upon such tabulated statement the number of votes cast for the acceptance of this act, and the number of votes cast against the acceptance of this act, and he shall file such tabulated statement with his certificate thereon in his office, there to remain of record.

Approved February 21, 1898.

CHAPTER 9.

A Supplement to an act entitled "An Act concerning savings banks," approved April twenty-first, eighteen hundred and seventy-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

Number of managers may be reduced.

1. Any savings bank or savings institution of this state, whether chartered or incorporated under a general or a special act of the legislature of this state, may, from time to time, by resolution of its board of managers, reduce the number of its managers to any number not less than thirteen, of whom at least three-fourths shall reside in the county where said bank or institution is located.

2. This act shall take effect immediately.

Approved February 21, 1898.

CHAPTER 10.

Supplement to an act entitled "An act respecting conveyances," approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Term of office.

1. The commissioners of deeds appointed under the thirty-seventh section of the act to which this is a supplement shall be commissioned by the governor, and hold their offices for five years; but in case any commissioner shall remove out of the ward, borough, town, township, or city in which he shall reside at the time of his appointment, his commission shall thereupon become void; and further, all commissioners appointed as aforesaid may be removed from office by the governor for malconduct during the term for which they were appointed to said office.

Removal; commission void.

Authorized to receive fees.

2. The said commissioners and each and every one of them are hereby authorized to demand and receive the same fees as are or shall be allowed by law for like services to other persons for taking affidavits or the acknowledgment or proof of deeds.

Number of commissioners in wards, townships, etc.

3. It shall be lawful to appoint for any county in this state commissioners of deeds as follows: fifteen for each of the wards in the several cities of the first class in this state; five for each of the wards in the several cities of the second class in this state; three for each of the wards in the cities, towns and boroughs not included above, whenever said cities, towns and boroughs are divided into wards; and in all other cities, towns, boroughs and townships, one for every five hundred or fraction thereof of the population of such cities, towns, boroughs, and townships; *provided*, that every city, town, borough and township not divided into wards or polling districts shall be entitled to at least three commissioners of deeds.

Proviso.

4. That whenever any vacancy or vacancies shall occur in the office of commissioner of deeds appointed under this act or the supplements and amendments thereto, whether by expiration of time or failure of a joint meeting of the senate and general assembly, to appoint such commissioners of deeds, or by death, resignation, change of residence or otherwise, the governor of the state is hereby authorized to fill vacancies in such office arising as hereinbefore set forth, and the commissioners so appointed shall hold office until their successors shall be appointed by a joint meeting of the senate and general assembly. Vacancies; how and by whom filled

5. The supplements approved February sixteenth, one thousand eight hundred and ninety-one, and March seventeenth, one thousand eight hundred and ninety two, respectively (general statutes, sections ninety-three, ninety-four and ninety-seven of the act respecting conveyances), and all acts or parts of acts inconsistent with this act be and the same are hereby repealed; but the commissioners heretofore appointed thereunder shall continue in office for the term to which they were appointed, with the same rights, privileges and authority and subject to the same limitations as heretofore. Repealer.

6. This act shall take effect immediately.

Passed February 23, 1898.

CHAPTER 11.

A Supplement to an act entitled "An act to authorize the formation of railroad corporations and regulate the same," approved April second, one thousand eight hundred and seventy-three.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Whenever a railroad corporation of an adjoining state owning, operating or connecting with any railroad lying within this state, has heretofore executed a mort- On approval and confirmation of sale, purchasers to possess and operate railroads lying in this state.

gage upon its railroad, and in pursuance thereof a sale of the mortgaged premises has been heretofore adjudged and decreed by a court of competent jurisdiction or by a circuit court of the United States, in the state or states in which the greater part of the mortgaged premises are or shall be situated, and such sale accordingly has been heretofore made in such a state or states, and such judgment or decree and the sale thereunder have been heretofore approved and confirmed by the court of chancery of this state or by the circuit court of the United States in and for the district of New Jersey, the purchasers under such sale and their assigns shall own and be entitled to possess, enjoy and operate all of the railroads, with their appurtenances and the franchises and other property and rights lying in this state and comprised within such mortgage, with the same force and effect as if such sale had been duly made under a judgment or decree in a suit or proceedings originally begun and prosecuted to decree in the court of chancery of this state, or in the circuit court of the United States in and for the district of New Jersey.

After approval and confirmation, corporation invested with all rights, franchises, &c.

2. After such approval and confirmation, any railroad corporation duly created under the laws of the state in which the greater part of the mortgaged premises are situated and which shall have acquired or become possessed of the greater part of said mortgaged premises, may acquire, hold possess and operate the part of the mortgaged premises with their appurtenances, in this state, and the other property and rights covered by said mortgage, and shall have and possess all the rights, powers, privileges and franchises (subject to the duties and obligations attached thereto) theretofore possessed, in this state by the corporation executing the mortgage resulting in such judgment or decree of sale, and also all such as now are or hereafter may be conferred upon railroad corporations organized unde the general laws of this state.

Copy of charter, certificate of incorporation and decree of confirmation to be filed.

3. An exemplified copy of the charter, certificate of incorporation or articles of association under and by virtue of which such new corporation is created, and of the judgment or decree under which such entire line of railroad was sold, and a certified copy of such judgment or decree of confirmation and approval of the court of

or in this state, shall be filed in the office of the secretary of state for this state.

4. This act shall not apply to any corporation unless such corporation shall first, and as a condition precedent to the exercise of any power granted by this act or any other act of the legislature of this state, file in the office of the secretary of state an agreement, to be approved by the governor and the attorney-general, waiving all rights of exemption from taxation and from privileges and advantages arising from any law or contract (if any there be) establishing any special mode of taxation of any such corporation, and waiving all rights of removing actions, suits and other proceedings from the courts of this state to the courts of the United States on the ground of citizenship, and the further agreement to be bound by any general law of this state now in existence, or that may hereafter be passed, taxing such corporations as are now authorized to be taxed by the legislature of this state under any general law; and further agreeing that the exercise of any power granted by this act shall not in any way affect the rights of the state (if any there exist) to take the property of such corporation under any existing law of the state, and agreeing further, that all laws affecting such corporations shall be subject to alteration or repeal by the legislature. Act not to apply until agreement be filed in office of secretary of state.

5. This act shall take effect immediately.

Approved February 23, 1898.

CHAPTER 12.

A Supplement to an act entitled "An act for the establishment and government of a naval reserve in New Jersey," approved February twelfth, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section nine, a supplement to an act entitled "An act for the establishment and government of a naval Section repealed.

reserve of New Jersey," approved February twelfth, one thousand eight hundred and ninety-five, which supplement was approved February twentieth, one thousand eight hundred and ninety-five, be and the same is hereby repealed.

Commander-in-chief to make assignment of battalions.

2. The commander-in-chief is authorized to make assignment of the battalions of the naval reserve to the two brigades of the national guard, as in his judgment it may appear to be for the good of the state forces.

3. This act shall take effect immediately.

Approved February 23, 1898.

CHAPTER 13.

An Act to authorize cities to issue bonds for the construction and furnishing of public schools and the acquirement of lands therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Bonds may be issued to purchase lands and to erect public school buildings.

Amount.

1. The board of aldermen, common council or other board having charge and control of the finances of any city in this state, shall have power, under this act, to issue bonds to an amount not exceeding one hundred thousand dollars, for the purpose of purchasing lands and erecting thereon public school buildings, and furnishing the same, or for the purpose of erecting and furnishing public school buildings on lands owned by said city; said bonds shall be payable in not less than ten years, nor more than twenty years from the date of their issue, and shall bear interest at not more than five per centum per annum, payable half-yearly; they shall be signed by the mayor, countersigned by the city treasurer, or other chief financial officer of the said city, and attested by the city clerk under the seal of the city; they shall be sold at public or private sale for not less than par and accrued interest; said bonds may be registered or coupon, as said board may direct; *provided*,

Proviso.

that no bonds shall be issued in pursuance of this act after the expiration of six months from and after the approval hereof.

2. The board having charge of the finances in such city shall provide, by taxation, for the payment of the yearly interest on said bonds and for the payment of the principal thereof as they fall due.

Who to provide for payment of interest.

3. The buildings to be erected pursuant to this act shall be erected and furnished by the body in any such city having charge of and control of the public schools, and the money arising from the sale of said bonds shall be placed to the credit of said last-named body, to be expended for the purposes aforesaid.

Who to erect and furnish buildings.

4. This act shall take effect immediately.

Approved February 24, 1898.

CHAPTER 14.

An Act to annex to the townships of Lebanon and Clinton, in the county of Hunterdon, certain parts of the township of High Bridge, in said county.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All that part of the township of High Bridge, in the county of Hunterdon, situate, lying, and being north and west of the following line, to wit: beginning at the centre of wagon-bridge over the Spruce Run creek, near the residence of Thomas Miller; thence running southeasterly to the west corner of an old spring-house standing on the west side of the public road leading to Clinton; thence in a northerly direction to corner in the road leading from the village of High Bridge to Millers, being corner No. 1 of the proposed borough of High Bridge; thence following said borough lines to corner in lands of John H. Van Syckel; thence still along said borough line to a point in the public road north of the Silverthorn school-house, being corner No.

Boundary of portion of township of High Bridge annexed to township of Lebanon.

7 of the proposed borough; thence northeasterly and in a direct line to the boundary line between the townships of High Bridge and Tewksbury at a point where the original line between Clinton and Lebanon townships intersected with the Tewksbury line, be and the same is hereby annexed to and made a part of the township of Lebanon, in the county of Hunterdon.

Portion of township of High Bridge annexed to township of Clinton.

2. And all that part of the said township of High Bridge, in the county of Hunterdon, situate, lying and being on the south and east of the above mentioned and described line, except such part thereof as is situate within the boundary lines of the proposed borough of High Bridge, be and the same is hereby annexed to and made a part of the township of Clinton, and in the said county of Hunterdon.

3. This act shall take effect immediately.

Approved February 24, 1898.

CHAPTER 15.

An Act relating to newly-created municipalities.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Possessions and obligations of newly-created municipalities.

1. Whenever any township, village, borough, town, city or other municipality may be hereafter created or incorporated, it shall have and own all the property, assets and liens which at the time of its incorporation belonged to or were vested in any municipality existing within its limits, and a proportionate amount of the property, assets and liens belonging to any municipality any portion of whose territory is embraced within its limits; it shall also be liable to pay the bonded and other indebtedness of any municipality which before its incorporation existed within its limits, and a proportionate amount of the bonded or other indebtedness of any municipality a portion of the territory of which was included therein, which proportionate amount of property, assets or indebtedness shall be ascertained in the manner hereinafter provided.

Rights and duties of officers.

2. The officers of any township, village, town, borough, city or other municipality, any portion of which shall be included within the newly-created municipality, who shall hold office at the time of such incorporation, shall, until the Monday following the first election of officers in the newly-created municipality, continue to perform the duties and possess the powers imposed upon or given to them by law within their respective municipalities, notwithstanding the creation or incorporation of such new municipality; on the first Monday following the first election of officers, held within the newly-created municipality, the terms of office of the officers of any municipality, the whole of which shall be embraced within the limits of such newly-created municipality, shall thereupon cease and be terminated, and said officers shall forthwith deliver over to the governing body of such newly-created municipality, immediately after their qualification, all books, papers, assets and property of every kind and description belonging to the said old municipality; the new municipality may be substituted on its own application as party plaintiff or defendant in any suit pending in any court of law or equity by or against such old municipality, and all taxes and assessments theretofore levied by any municipality lying within such newly-created municipality, or any taxes and assessments which may have been set over and apportioned to the newly-created municipality as hereinafter provided, shall be valid and effectual as if originally levied and assessed by the officers of the said newly-created municipality; the governing body thereof is authorized to do and perform all necessary acts to confirm and make effectual said taxes and assessments, and may have the same rights for the enforcement and collection thereof as if the same had been levied and assessed by the officers of the said newly-created municipality.

New municipality to be substituted for old in suits at law.

Previous taxes and assessments valid.

Duty of county board of elections.

3. On the filing with the county clerk of a copy of the act of incorporation of such newly-created municipality, certified under the hand and seal of the secretary of state, it shall be the duty of the county board of elections of the county in which such newly-created municipality is located, upon the application of

any legal voter therein, to appoint the time, place or places, and manner of holding the first election within the newly-created municipality for the election of officers therein, and the manner of registering the voters for such election; the county board of election shall thereupon give notice of the time, place or places, and object of such election, and of the time, place or places, and manner of registering the voters therefor, by posting advertisements thereof, signed by the chairman and clerk of the board, in five of the most public places within each election district in said newly-created municipality, and by publishing the same in at least one newspaper of their selection, published in the county and circulating within said municipality, for such period as the county board of elections shall think necessary; the county board of election, upon the application of any legal voter in said newly-created municipality, shall, if they deem more than one election district to be necessary at said first election, prescribe and define the boundaries of such election districts as may, in their opinion, be necessary, and appoint a board of registry and election for each election district, with or without nominations by the chairmen of the county committees of the political parties within each county; *provided, however*, that such division into election districts shall be made, so far as practicable, in such manner as that no one of said districts shall contain more than six hundred voters, according to the last registry of voters made in the municipality or municipalities out of which the new municipality shall have been created, and that due regard shall be had for the geographical compactness of said districts and the convenience of the voters; if the newly-created municipality be one that by the general laws governing it is required to be divided into wards, no such division into election districts shall be made until after the lines of such wards have been established, and then only with due regard for such ward lines; the boards of registry and election so appointed shall prepare the registry and poll-list or lists of said first municipal election from the like lists used in each of the municipalities out of which the new municipality has been created, at the last election held therein, and shall add thereto the names of all other qualified voters who shall be shown, by the affidavit in

Proviso.

writing of some voter in the election district, to reside therein, whose names are not on said old registry or poll-list; said board or boards shall provide the ballot-boxes and booths or compartments necessary for the holding of such first election and shall also conduct said election as provided by the laws of this state for the conduct of municipal elections; in the conduct thereof and the estimate and canvass of the votes cast thereat said board or boards shall, in all respects, perform the duties and powers conferred upon boards of registry and election in the conducting and holding of municipal elections in this state, except that the statement of the result of said first election, duly certified, shall be filed in the office of the clerk of the county within five days after such election; the reasonable cost of such ballot-boxes, booths or compartments, the preparations of the registry or poll-lists and the conducting and holding of said election as above provided, shall be borne by the newly-created municipality; all of the acts and proceedings of the county board of election under the authority of this act shall be by resolution or resolutions, a copy of which duly certified under their hands shall, forthwith after the adoption of the same, be filed in the office of the clerk of the county in which the newly-created municipality is located.

Statement to be filed within five days.

Expense of election to be borne by newly created municipality.

4. On the first Monday after the said first election the governing body thus elected shall assemble in some convenient place, and, having first qualified and taken such oath of office as may by the general laws governing such new municipality be required of all newly-elected officers, shall proceed to organize in the manner provided by law; all other officers chosen at said first election shall qualify within ten days thereafter; if such first election shall be held on any day other than that prescribed by law for the annual municipal election in such newly-created municipality, then at the annual municipal election next succeeding such first election a complete set of officers for the new municipality shall be elected for the terms and in the manner required by law, and on the date of the commencement of their terms of office the terms of all the officers elected at the said first election shall cease; the governing body shall have power to fill all vacancies that may, in the meantime, occur.

Meeting and organization of governing body.

When term of office of certain elected officers shall cease.

Power to fill vacancies.

When committees are to be appointed to determine division of debts, etc.

5. Whenever said newly-created municipality includes a portion only of any other municipality or municipalities, a committee of three shall forthwith be appointed by said governing body from their own number, and a like committee shall be appointed by the governing bodies of each of the municipalities a portion of which only shall have been taken and included in the newly-created municipality; the governing body of the newly-created municipality shall appoint a time and place for a joint meeting of said committees and give at least ten days' written notice thereof to the presiding officer and clerk of each of the governing bodies of the municipalities a portion only of which shall have been so taken; at the appointed time and place said joint committee shall meet and shall then and there, or as soon thereafter as may be, proceed to appraise, state an account of, allot and divide between such newly-created municipality and such other municipality or municipalities, all the moneys on hand, property, assets and liens of every kind and all the indebtedness of such municipalities, in the proportion that the taxable property within the portion of any municipality so taken shall bear to the whole of said municipality as the same was before said portion was taken; *provided*, that any real estate belonging to the old municipality, acquired and held for public use, shall be and remain the property of the municipality within whose limits it may lie after separation as aforesaid, and any indebtedness then existing, incurred for or on account of the said property, shall be and remain the indebtedness of the municipality which retains said property, and neither said property nor said indebtedness shall be included or taken into account in making the apportionment and division herein provided for; such appointment shall be based upon the last abstract of ratables made for the purpose of levying taxes in each of the municipalities, the whole or any portion of which shall have been included in the newly-created municipality; in effecting such division a decision of a majority of those present of the committee of said newly-created municipality concurred in by a majority of those present of the committee of the municipality the assets and debts of which are being divided, shall be final and conclusive, the members of the committees of other

Proviso.

municipalities present for the purpose of making such division having no voice therein; if any member of any of said committees shall neglect or refuse to attend such meeting, the other members thereof who may be present may act; *provided*, that it shall be lawful for the majority of the whole number of such joint committee to adjourn such meeting from time to time, not exceeding one week; said joint committee shall appoint a clerk from their own number, who shall keep a record of their proceedings and shall certify to each municipality affected the apportionment of assets and debts so made; such joint committee shall have power to issue subpœnas and to compel the attendance of any of the officers of any of the municipalities affected, to compel the production of all books and papers relating to the subject-matter under consideration, and to administer oaths or affirmations to any person appearing before said committee to testify, and shall have the same power to enforce its process of subpœna and to compel any person to attend and testify as is given to committees appointed by the common council of any city under the provisions of any act entitled "An act concerning evidence" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, and the several supplements thereto. Proviso.

6. In case the joint committee herein provided for shall be unable to agree upon a division of the assets or debts of said municipalities, or in case either of said municipalities desires to have such allotment and division made by commissioners, then it shall be lawful for the governing body of either of said municipalities to apply to the court of common pleas of said county for the appointment of three disinterested persons as commissioners, who shall make the above appraisal and apportionment in the manner hereinbefore provided, and their determination in writing, signed by any two of them, shall be binding and conclusive upon each of said municipalities, for which service said commissioners shall receive such compensation as said court may think proper, to be paid by said municipalities equally. In case of disagreement, court may appoint commissioners to appraise and apportion.

7. Whenever any municipality in this state shall be dissolved under any special or general law, and shall then In case a municipality be dissolved.

become or be made a part of any other municipality, or shall have its territory divided among several municipalities, the municipality of which it becomes a part (if it becomes a part of any one municipality) shall have and possess all its property, assets and liens, and shall be bound by and charged with the payment of all its indebtedness or obligations for the payment of money or otherwise; where said municipality becomes a part of, or its territory is divided among, several municipalities, apportionment shall be made of said assets, property, liens, debts, obligations and other liabilities in the manner hereinbefore provided in the case of the creation of a new municipality.

Method of dividing into wards.

8. If the newly-created municipality be one that is, by the general laws governing it, required to be divided into wards, the judge of the court of common pleas of the county wherein it lies, on the application of any legal voter of said municipality, may appoint three persons, residents of said municipality, commissioners to divide the same into wards as so required by law; the commissioners so appointed shall, within ten days after their appointment, having first taken and subscribed before some officer authorized to administer oaths and affirmations an oath or affirmation faithfully and impartially to execute and perform the duties imposed upon them, proceed to divide said municipality into wards; all such wards shall be formed of contiguous territory, and in dividing the same the commissioners shall have regard to equality of population; the boundary and dividing lines of said wards shall be properly described, and a map defining the said lines and showing the extent and boundaries of such wards shall be made and filed by the said commissioners in the office of the clerk of said county, with a description or statement of such lines, all of which shall be attested and certified by said commissioners under their hands, and shall there remain of record.

Validity of acts of commissioners.

9. The acts of a majority of the said commissioners shall be deemed and taken to be the acts of all the commissioners, and shall be valid and binding when done in pursuance of this act; such commissioners shall have power to employ, when so appointed, a competent surveyor to aid them in the discharge of their duties, and

Appointment of surveyor.

the said judge of the court of common pleas may fix the compensation to be paid said commissioners and surveyor for their services under this act, and the amount so fixed shall be paid by the municipality so divided into wards. Compensation.

10. In case any newly-created municipality shall include a part of another municipality, any officer thereof residing within the limits of the newly-created municipality shall hold his office and perform the duties thereof until the next general election is held for the election of officers within said old municipality, at which time some other person or persons residing in the remaining part of said municipality shall be elected in his place or stead, whether the term of office for which he was originally elected has expired or not; and the incorporation of a new municipality shall not in anywise affect the commissions of justices of the peace or commissioners of deeds resident therein. When officers are to continue in office and how long. Justices of peace and commissioners of deeds not affected.

11. Any charter or special act in force within any municipality, any portion of which shall be included within such newly-created municipality, shall be of no further force or effect within such newly-created municipality, and as to it, shall be deemed to be, from the time of its incorporation, repealed; *provided*, such repeal shall not operate to affect any right which shall have been acquired under or by said charter or special act. Special acts and charters pertaining to newly-elected municipalities repealed. Proviso.

12. This act shall take effect immediately.

Approved February 24, 1898.

CHAPTER 16.

An Act to incorporate the borough of South River, in the county of Middlesex.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The inhabitants of that portion of the township of East Brunswick, in the county of Middlesex, hereinafter set forth, are hereby constituted and declared to be a Corporate name.

body corporate in fact and in law, by the name of the borough of South River, and shall be governed by the general laws of this state relating to boroughs.

Boundaries.

2. The boundaries of the said borough shall be as follows: Beginning at South river on a line between lands of Marcus S. Wright, formerly Randolph Low's, and lands of Timothy Selover, and running thence (1) westerly up said line between said lands and continuing on the same course westerly to the center of the road leading from Old Bridge to New Brunswick near (formerly) Sheriff Bissett's house; thence (2) following the center of said road northwesterly the several courses thereof to a line between lands of Milton A. Edgar, formerly Charles Van Deventer's, and lands of Robert A. Messler; thence (3) easterly down the said line between said lands and a line between said lands of Messler and lands of Milton A. Edgar's, formerly of Garline and Abraham Van Deventer's to South river aforesaid; thence (4) up said river the several courses thereof to the place of beginning.

3. This act shall take effect immediately.

Approved February 28, 1898.

CHAPTER 17.

An Act to consolidate with the city of Trenton, in the county of Mercer, the borough of Wilbur.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Borough of Wilbur annexed to city of Trenton.

1. There shall be, and hereby is, annexed to and made a part of the city of Trenton, in the county of Mercer, all that territory which is embraced within the bounds of the borough of Wilbur.

Constituted 12th ward.

2. The territory so annexed shall constitute a new ward in said city of Trenton, to be known as the twelfth ward.

3. This act shall take effect immediately.

Approved February 28, 1898.

CHAPTER 18.

A Supplement to an act entitled "An act providing for the formation, establishment and government of towns," approved March seventh, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Laws applicable to specially incorporated towns.

1. Upon the incorporation of any town by special act of the legislature of this state such town shall be governed by the provisions of the act to which this is a supplement, together with other general laws for the government of towns, in like manner as if said town had been created and incorporated pursuant to the provisions of the act to which this is a supplement.

2. This act shall take effect immediately.

Approved March 1, 1898.

CHAPTER 19.

A Supplement to an act entitled "An act to establish a system of public instruction" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Pertaining to independent school districts; selection of secretary and treasurer; defining their duties.

1. In all school districts of this state governed and managed by a board of education or trustees heretofore established by a special act of the legislature, and independent of any city charter, such board of education or trustees may, at their option, elect from among their members a secretary and treasurer; the secretary, in addition to such powers and duties as may be conferred

upon and required from him by the act incorporating such special school districts, shall have the powers and perform all the duties conferred upon and required from the district clerks of the several school districts of this state; and the treasurer of such board of education or trustees shall, before entering upon the performance of his duties as described in this act, give such bonds and in such amount for the faithful discharge of his duties as shall be acceptable to said board of education or trustees; such treasurer shall receive direct from the county collector, township collector or other municipal collector of taxes, by whatever name said municipality may be designated, within any school district, all moneys which shall come into the hands of said collectors from any source whatever, which, under any present or future law of this state, such special school district may be or may become entitled to have for school purposes in such district, which payment the aforesaid collectors are required to make within ten days after the same shall have come into their hands, and it shall be the duty of said treasurer to hold and disburse the said moneys according to law; the said treasurer shall also, at the annual school meeting for the election of members of the board of education or trustees, present an itemized statement of his receipts and disbursements as such treasurer; and for his services the said treasurer shall be entitled to receive each year from the township or other municipality collecting school taxes, in which such district may be located, or be any part thereof, a sum equal to three-fourths of one per centum of the total amount of school money which he has disbursed during such year, as compensation for handling such school moneys; the board of education or trustees shall cause to be published in a newspaper published in or circulating in said district, or in such other manner as may be deemed best for the public good, an itemized annual report of the financial condition of the district.

Compensation of treasurer.

Financial report to be published annually.

2. No collector of taxes shall be entitled to any compensation for disbursing or paying over to such treasurer any school money for any such school district.

Collector of taxes not compensated.

3. All acts and parts of acts inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Approved March 2, 1898.

CHAPTER 20.

An Act to incorporate the town of Irvington, in the county of Essex.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Constituting "The Town of Irvington."

1. The inhabitants of that portion of the county of Essex contained within the territorial limits hereinafter described are constituted and declared to be a body politic and corporate in law by the name of "The Town of Irvington," and shall be governed by the general laws of this state relating to towns.

Description of boundaries.

2. The territorial limits of the said town shall be as follows: beginning at a monument stone planted in the center of the road known as Lyon avenue in the village of Irvington, said monument stone being in front of the house of Conrad Moesle, deceased, and at a corner in the division line between the city of Newark and the township of Clinton and the division line of the village of Irvington; thence south, forty-three degrees forty-five minutes west, midway between nineteenth B and nineteenth C streets as laid out by commissioners appointed to lay out streets, avenues and public squares in the township of Clinton, in the county of Essex, two thousand seven hundred and ninety-five feet to the dividing line between Essex and Union counties; thence northwesterly along said dividing line between Essex and Union counties, to a monument stone standing on the easterly side of the road leading past the house of Robert Gibson, Chestnut avenue, and nearly in range with the southerly side of said Gibson's house; thence still along the dividing line between Essex and Union counties to the dividing line between the township of Clinton and the township of South Orange; thence along said line and the line between said township of South Orange and the village of Irvington to the boundary line of the borough of Vailsburg; thence

along the dividing line between said borough of Vailsburg and the village of Irvington to the Newark city line; thence along the dividing line between said city of Newark and village of Irvington to the place of beginning.

3. This act shall take effect immediately.

Approved March 2, 1898.

CHAPTER 21.

An Act for the incorporation of the township of Union, in the county of Hudson, into the town of West New York.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Description of boundaries.

1. All that portion of the county of Hudson lying within the boundaries and description following, to wit: Beginning at the intersection of the center line of Bulls Ferry road and the northerly boundary of the town of Union, running thence in a generally westerly direction along said northerly boundary of the town of Union its several courses to the center line of what was formerly the Bergenwood road; thence in a generally northerly direction along what was formerly the center line of said Bergenwood road its several courses to a point in the southerly line of the town of Guttenburg; thence in a generally easterly direction along said southerly line of the town of Guttenburg its several courses to the Hudson river; thence in a generally southerly direction along the Hudson river its several courses to the northerly boundary line of the township of Weehawken; thence westerly along the said northerly boundary line of the township of Weehawken to the center line of Bulls Ferry road; thence southerly along said center line of Bulls Ferry road to the point or place of beginning and now embraced within the limits of the township of Union, be and the same is incorporated into a town to be called and known by the name of the town of West New York.

2. The inhabitants of the town of West New York hereby created are hereby constituted a body politic and corporate in law, under the name and style of the "town of West New York." Constituting the "town of West New York."

3. This act shall take effect whenever the inhabitants of the said township of Union, in the county of Hudson, shall accept the provisions of the act entitled "An act providing for the formation, establishment and government of towns," approved March seventh, one thousand eight hundred and ninety-five, and the supplements thereto, in the manner therein provided at any special or charter election held therein, and thereafter the town hereby created shall be governed under the provisions thereof. When to take effect.

Approved March 2, 1898.

CHAPTER 22.

An Act to provide for the expenses of the assembly committee of inquiry appointed January eighteenth, one thousand eight hundred and ninety-eight.

WHEREAS, the speaker of the general assembly on the eighteenth day of January, one thousand eight hundred and ninety-eight, did appoint a committee of five members of the general assembly, pursuant to the resolution of the general assembly passed on the eleventh day of January, one thousand eight hundred and ninety-eight, to inquire into the truth of the charges relative to the alleged maladministration of justice, and to the alleged malfeasance in office upon the part of officials and officers of justice in the county of Hudson holding commissions from the state; and to inquire also in the truth of such other charges as may be preferred which, in the judgment of said committee, may be worthy of investigation as to the conduct of public affairs in the county of Hudson, with power to sit during the recess of the legislature and to make their report with all convenient speed, and said committee is about to commence such inquiry, therefore, Preamble.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Providing for expenses, their approval and payment.

1. Upon the requisition of said committee, or a majority of them, the comptroller of the treasury shall draw his warrants for, and the state treasurer shall pay all expenses which may be incurred in such inquiry or any other inquiry which said committee may be authorized to make for witness' fees, mileage, counsel fees, compensation of clerks, stenographers and others necessarily employed by said committee, and all other necessary expenses incurred by said committee in the course of their inquiry, and all moneys necessary for said purpose are hereby appropriated out of any moneys in the treasury not otherwise appropriated; *provided*, that no such expenses shall be paid, except upon the approval of the governor, the state treasurer, and the comptroller, and this act shall take effect immediately.

Approved March 2, 1898.

CHAPTER 23.

An Act to amend an act entitled "A supplement to an act entitled 'An act concerning executors and the administration of intestates' estates,'" approved March seventeenth, eighteen hundred and eighty-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the act of which this is amendatory be and the same is hereby amended so as to read as follows:

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Relating to mortgaged property acquired by executors and administrators.

1. Where executors and administrators heretofore have and shall hereafter become purchasers of lands, tenements or hereditaments covered by any mortgage forming a part of the assets of the estate in their hands at a sale upon a foreclosure of any such mortgage, the

conveyance of the title to the lands, tenements or hereditaments so purchased shall be construed to have vested and to vest an estate in joint tenancy in such executors or administrators, and the lands, tenements or hereditaments so conveyed shall be assets in their hands and may be sold and conveyed by them without any order of court, and they shall be accountable for and pay over the proceeds of such sales as other estate moneys in their hands, and where any executor or administrator shall have died or been removed from office by any court of competent jurisdiction, or shall hereafter die or be removed from office by any court of competent jurisdiction, then and in every such case, any sale or conveyance of such lands, tenements or hereditaments made by the surviving or acting executor or executors, administrator or administrators, or made by an administrator or administrators cum testamento annexo, or administrator or administrators of intestates' estates appointed by any court of competent jurisdiction in the place and stead of such deceased or removed executor or administrator, shall be construed to have vested and to vest in the purchaser or purchasers, grantee or grantees, the title to such lands, tenements or hereditaments, in the same manner and as fully to all intents and purposes as if all had been living or acting and had joined in such conveyance.

In case of death or removal of an executor or administrator.

Transfer to be construed as fully vested.

2. This act shall take effect immediately.

Approved March 2, 1898.

CHAPTER 24.

An Act providing for the repavement of paved streets in cities of this state, and for the issuance of bonds in payment therefor.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The board having charge and control of the finances of any city in this state is hereby authorized, from time

Bonds authorized to be issued.

Amount. to time, to issue the bonds of said city, to an amount not exceeding four dollars for each inhabitant of such city, under the corporate seal of the city, signed by the mayor, attested by the city clerk and countersigned by the comptroller or other chief financial officer of such city; said bonds shall run for a period not exceeding thirty years, and be in such denominations and form as said board shall provide; and shall bear interest at a rate not exceeding four per centum per annum, payable half-yearly; said bonds shall be sold at public sale at not less than par and accrued interest.

Time.

Rate.

Selling price.

Provision for interest and payment at maturity. 2. There shall be included in the tax levy in such city annually the interest upon said bonds for that year, and also a sum equal to two per centum of the principal thereof, which sum shall be paid into a special sinking fund of such city, and be invested and re-invested, in order to provide for the payment of the bonds at maturity.

Proceeds; how used. 3. The proceeds of such bonds, including any premium thereon, shall be used by the board having charge and control of the streets in such city in the payment of the costs and expenses hereafter incurred by such city in the repavement of any paved street or streets therein, which said last-mentioned board shall hereafter decide to so repave out of said fund; *provided, however*, that nothing herein contained shall be construed as authorizing any city to carry out any contract heretofore awarded, but under which no work has been performed on the street.

Proviso.

Repealer. 4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately.

Approved March 2, 1898.

CHAPTER 25.

An Act to incorporate the borough of Sea Side Park, in the county of Ocean, and to fix the boundaries thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. The inhabitants of that portion of the county of Ocean hereinafter set forth are hereby constituted and declared to be a body corporate in fact and in law by the name of "the borough of Sea Side Park," and shall be governed by the general laws of this state relating to boroughs. Body corporate. Name.

2. The boundaries of the said borough shall be as follows: beginning at a square marble stone at the intersection of the center lines of Central and Fourteenth avenues, at Sea Side Park, as now laid out, the same being a corner of lands conveyed by Thomas Kennedy and others to George M. Dorrance, by deed dated May fourteenth, one thousand eight hundred and eighty-seven, and recorded in the clerk's office of Ocean county, in book one hundred and fifty-three of deeds, page four hundred and fourteen; thence along the center line of said Fourteenth avenue fourteen hundred and eighty feet, more or less, to Barnegat bay; thence northwardly along said Barnegat bay, the several courses thereof, to the northwest corner of a tract of land containing three hundred acres (of which the land hereby described are part) conveyed by George W. Giberson to the Baptist Sea Side Park association, by deed dated October twenty-seventh, one thousand eight hundred and seventy-five, and recorded in book eighty-three of deeds, page three hundred and ninety-seven; thence along the northerly line of said lands, fifteen hundred and fifty-eight feet, more or less, to the Atlantic ocean; thence southerly, along the ocean, thirty-eight hundred Boundaries.

and fifty feet, more or less, to the center line of said Fourteenth avenue, extended eastward, and land conveyed to the said George M. Dorrance; thence along the center line of said Fourteenth avenue, ten hundred and fifty feet, more or less, to the place of beginning; the said tract of land being bounded on the north by a twenty-acre tract, formerly of George S. Bond, now of Benjamin F. Archer, on the east by the Atlantic ocean, on the south by said land of George M. Dorrance, and on the west by Barnegat bay.

3. This act shall take effect immediately.

Approved March 3, 1898.

CHAPTER 26.

A Supplement to an act entitled "An act regulating proceedings in criminal cases" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section twenty-six of the act entitled "An act regulating proceedings in criminal cases" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, is hereby amended to read as follows:

Courts of oyer and terminer and general jail delivery to constitute one court.

26. The courts of oyer and terminer and general jail delivery in and for each of the counties of this state shall be deemed and taken to be one court, to be called the court of oyer and terminer and general jail delivery, which court shall possess, enjoy and exercise all the jurisdiction, powers and authority heretofore belonging to said courts respectively; and any justice for the time being of the supreme court, and the judge for the time being of the respective courts of common pleas, in and for the several counties of this state, shall by virtue of this act and without other commission constitute the

Who to constitute court.

court of oyer and terminer and general jail delivery in and for the said counties respectively; and such justice of the supreme court shall be the presiding judge of said court, and no session of said court shall be held when such justice is not present, except as hereinafter provided; but, in the absence of the judge of the court of common pleas, such justice of the supreme conrt, sitting alone, shall constitute and may hold said court of oyer and terminer and general jail delivery; and in any county having three hundred thousand inhabitants, as shown by any state or federal census, in the absence of such justice of the supreme court, the judge of the court of common pleas, sitting alone, shall constitute and may hold said court of oyer and terminer and general jail delivery.

Who presides.

Justice of supreme court may sit alone.

When judge of court of common pleas may sit.

2. This act shall take effect immediately.

Approved March 7th, 1898.

CHAPTER 27.

A Supplement to an act entitled "An act to authorize the formation of railroad corporations and regulate the same," approved April second, one thousand eight hundred and seventy-three (general statutes of New Jersey, page 2635).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. In all cases where the articles of association mentioned in the first section of the act to which this is a supplement, or the affidavit or acknowledgment which is required to be endorsed thereon, shall, after said contemplated railroad has been partially constructed, be found to be defective either in form or substance, if the deposit of money required by said act shall have been made, the organization and incorporation of said company shall not, on account of such defect, be invalid, but the persons composing such association may after

In case of defective articles of association, organization made valid by filing necessary supplemental articles.

the discovery of such defect, sign and file with the secretary of state supplemental articles of association with the affidavit of at least five of the directors endorsed thereon, certifying to such partial construction, or if said contemplated railroad shall have been entirely constructed and in actual operation, then the board of directors, or those claiming to act as such, may file in the office of the secretary of state a certificate signed by them individually and verified by their respective oaths that said railroad has been constructed and is being operated; and on filing of such supplemental articles of association or verified certificate, such company shall be considered and held by all the courts of this state as having been incorporated under the law to which this is a supplement, from the time of filing said original articles of association vested with all rights and privileges, and subject to all the duties and liabilities conferred or imposed on railroad corporations by the laws of this state, and a copy of such supplemental articles of association or certificate, certified by the secretary of state, shall be presumptive evidence of such incorporation in any of the courts of this state.

Courts to consider all proceedings valid.

2. Any and all acts done and proceedings taken by any railroad company heretofore formed under the provisions of the act to which this is a supplement, whose railroad has been constructed and is in actual operation, and whose articles of association are defective for any of the reasons mentioned in the first section of this act, shall be and they are hereby declared to be as valid and effectual in law as if said articles of association had been in all respects as required by the act to which this is a supplement; *provided, however*, that the directors of said company to the number of at least five shall, within sixty days after the passage of this act, make and file with the secretary of state a certificate verified by their respective oaths that said railroad has been constructed and is being operated.

All acts and proceedings to be considered valid.

Proviso.

3. Where a branch railroad has been constructed by any railroad company, whose original organization may afterwards be found to have been defective for the reasons mentioned in the first section of this act, or either of them, and said branch road is being actually operated by said railroad company, the filing of such supple-

In case of a branch road, filing of supplemental articles shall act as a confirmation.

mental articles of association or such certificate as are provided for by the first section of this act, shall operate as a confirmation of any and all grants and conveyances to said railroad company of rights of way or other title to lands occupied or used by said branch railroad, and said company shall thereafter be entitled to acquire title to any lands occupied by said branch railroad or necessary for its use, in the manner provided in the act to which this is a supplement, as fully as if the original articles of association or the route or map had been prepared and filed in strict accordance with said last-mentioned act or the supplement thereto.

4. This act shall take effect immediately.

Approved March 7, 1898.

CHAPTER 28.

An Act to incorporate the borough of Deal, in the county of Monmouth, and fix the boundaries thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Corporate name

1. The inhabitants of that portion of the township of Ocean, in the county of Monmouth, hereinafter set forth, are hereby constituted and declared to be a body corporate in fact and in law, by the name of the borough of Deal, and shall be governed by the general laws of this state relating to boroughs.

Boundaries.

2. The boundaries of the said borough shall be as follows: Beginning on the shore of the Atlantic ocean at low water-mark at the southerly boundary line of the municipality; the Long Branch Police Sanitary and Improvement Commission, called Long Branch, Monmouth county, New Jersey, and running from thence in a westerly direction, by and along the southerly boundary line of said municipality called Long Branch, the several courses thereof, to the middle of the macadam road leading from Long Branch to Asbury Park, now called Norwood avenue; thence southwardly, by and along the

middle of said macadam road leading from Long Branch to Asbury Park, now called Norwood avenue, to the middle of the bridge over Poplar Swamp brook; thence westerly, up the middle of said brook, the several courses thereof, to the westerly line of the right of way of the New York and Long Branch Railroad Company; thence southwardly, by and along the westerly line of the said right of way of the New York and Long Branch Railroad Company, to the middle of the public road known as Roseld avenue; thence westerly, by and along the middle of said Roseld avenue, to the northeast corner of Thomas R. Woolley's farm; thence southwardly, by and along the easterly line of said Thomas R. Woolley's farm, to Crow-foot gully; thence southwardly down Crow-foot gully and brook, the several courses thereof, to the north branch of Deal Lake; thence southwardly down said north branch of Deal Lake, to the northwest corner of the borough of Allenhurst; thence eastwardly, by and along the northerly boundary line of the borough of Allenhurst, to the shore of the Atlantic ocean at low-water mark; and thence northwardly, by and along the shore of the Atlantic ocean at low-water mark, to the place of beginning.

3. This act shall take effect immediately.

Approved March 7th, 1898.

CHAPTER 29.

An Act to incorporate the new borough of Longport, in the county of Atlantic, and fix the boundaries thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Corporate name.

1. The inhabitants of that portion of the county of Atlantic hereinafter particularly described, are hereby constituted and declared to be a body corporate, in fact

and in law, by the name of "the borough of Longport," and shall be governed by the general laws of this state relating to boroughs.

2. The boundaries of said borough shall be as follows: beginning at a point in the division line between tract or lot number twenty-eight, owned by William G. Bartlett and others, and tract or lot number twenty-seven in the high-water line of the Atlantic ocean, which division line is the southwesterly boundary line of South Atlantic City; thence extending said line southeastwardly, in the Atlantic ocean as far as the jurisdiction of the state extends; thence southwestwardly, along the boundary line of the state to a point in the center of the main channel of Great Egg Harbor inlet; thence northwestwardly, in the center line of the main channel of Great Egg Harbor inlet to a point in the center of the main channel of Beach thoroughfare; thence northeastwardly, along the center line of the main channel of Beach thoroughfare to a point opposite the division line between tracts or lots numbers twenty-eight and twenty-seven aforesaid; thence southeastwardly, to the intersection of the said division line and Beach thoroughfare; thence southeastwardly, along said division line to the place of beginning. Boundaries.

3. This act shall take effect immediately.

Approved March 7, 1898.

CHAPTER 30.

An Act to annex a portion of the territory of the mayor and council of the borough of Schraalenburgh, in Bergen county, to the township of Palisades, in said county.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All that portion of the borough of Schraalenburgh, in the county of Bergen, bounded and described as fol-

Boundaries of portion of borough of Schraalenburgh annexed to township of Palisades.

lows: beginning at the northerly point of the first obtuse angle, westerly from the patent line in the northerly line of the territory of the mayor and council of the borough of Schraalenburgh (otherwise called the borough of Schraalenburgh), formed by the northerly line of said borough of Schraalenburgh, at the northwest corner of the land of the late Cornelius S. Cooper, and running thence in a west-southwesterly direction over the land of John Meister, and crossing the mill-pond until it reaches the division line of land of said Meister and John Bell, Jr.; thence westerly along the said line of land to the Flats road; thence crossing the Flats road to connect with the southerly side of Demarest avenue; thence westerly along said line to a road running to New Milford; thence crossing said road and continuing said line to the center of the Hackensack river; thence southerly, following the various courses in the center of said river, to a point opposite the division line of land of Jacob T. Voorhis and the heirs of Aaron Voorhis, deceased; thence easterly along said division line to a road leading from Madison avenue to River Edge, crossing said road to the easterly side thereof; thence southerly until it strikes the northeasterly corner of Linwood avenue, at the junction of said road and Linwood avenue; thence easterly along the northerly side of said avenue to the end thereof, crossing the Flats road to the easterly side thereof; thence southerly along the said easterly side of said road, to a road leading from River Edge to Cooperstown; thence easterly along said road, on the northerly side thereof, to the westerly line of lands formerly of William Walter Phelps, deceased; thence northerly along the westerly line of said land of said Phelps, deceased, to the most northerly-northwesterly corner thereof; thence northerly in a direct line to and across the mill-pond to the point or place of beginning; shall be and the same is hereby annexed to the township of Palisades, in the county of Bergen, and shall hereafter form a part thereof.

2. This act shall take effect immediately.

Approved March 7, 1898.

CHAPTER 31.

A Further Supplement to an act entitled "An act to establish and regulate pilots for the ports of Jersey City, Newark and Perth Amboy, by the way of Sandy Hook," approved April seventeenth, one thousand eight hundred and forty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

Boats to operate in Sandy Hook pilot service.

1. The pilot boats belonging to the United New Jersey Sandy Hook Pilots' Benevolent association, manned and operated by the pilots licensed by the laws of this state, shall be the only pilot boats in the New Jersey Sandy Hook pilot service, and the said pilot boats may have more than one apprentice; said apprentices shall be entered in the books of the New Jersey pilot commissioners in the name of and be indentured to the executive committee of the said association and serve as said apprentices under the laws of this state, and said committee shall have the sole control of all apprentices until they have served the full term of four years; it shall be the duty of said committee to see that all apprentices entered in the pilot commissioners' books in its name are fully instructed in their duties in such manner as is necessary to fully qualify them in every respect to perform the duties of a Sandy Hook pilot.

Apprentices, number and indenture.

Term of service.

2. Said apprentices shall be attached to the pilot boats of the said association, and shall serve at least four years, and serve at least three consecutive years as apprentice, boat-keeper or assistant boat-keeper, and shall then be examined by said pilot commissioners as directed by law, and after the said examination shall be licensed as a deputy pilot, at the discretion of the said pilot commissioners, and no person shall be licensed as a pilot of this state, by way of Sandy Hook, except as herein provided; every person who shall have served

Examination and license as deputy pilot.

Full Branch pilot.

two years as a deputy pilot shall be entitled to be examined and licensed as a full Branch pilot, if found qualified; the apprentices herein provided for shall be the only apprentices to be appointed or employed by the New Jersey Sandy Hook pilots, and the apprentices now serving their term shall have the benefit of the time so served.

Repealer.

3. All acts and parts of acts, inconsistent herewith, are hereby repealed.

4. This act shall take effect immediately.

Approved March 7, 1898.

CHAPTER 32.

An Act to amend an act entitled "An act respecting cities of the first class and providing for the apportionment of taxes, assessments and water-rents therein," approved March twenty-sixth, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the act to which this is an amendment be and the same is hereby amended so as to read as follows:

Taxes, &c., laid upon a parcel of land may be subdivided.

1. Upon application, made to the comptroller or other chief financial officer of any city of the first class, or to any officer or officers having the power to assess for taxes any lands and real estate in such city, by petition, signed by any person or persons interested, petitioning said officer to apportion any taxes, assessments or water-rents which have been or shall be laid upon any plot or parcel of land in any city of the first class in this state among any subdivision of such plot or parcel, accompanied by a map showing the subdivisions desired, the officer or officers to which such application shall be made shall have power to make a just apportionment of such taxes, assessments and water-rents upon and

among such subdivisions or such other subdivisions as may be just and proper, and also to apportion in manner aforesaid any taxes, assessments or water-rents, for non-payment of which any plot or parcel of land has been or shall be sold under the laws relating to such sale, with expenses of sale in cases where such land has been or shall be bought by the comptroller or other officers of such city, for the use and benefit thereof; and such apportionment shall be made by like proceedings in case said taxes, assessments or water-rents shall have been adjusted or revised by any board or body having power to make such adjustment or revision.

Section amended.

2. Section two of the act to which this is an amendment be and the same is hereby amended so as to read as follows:

Application to comptroller.

2. Any application to apportion any taxes under this act before the said taxes are in arrears and the land on which the same are a lien is liable to be sold for the non-payment of such taxes shall be made to the taxing officers of such city, and in all other cases where the apportionment may be made under this act the application therefor shall be made to the comptroller or other chief financial officer of the said city; the said application shall be made in the manner and by like proceedings as now provided by law for the making of apportionments of taxes, assessments and water-rents in such cities, but such apportionment, if made by such comptroller or other financial officer, shall not be valid or binding until the same shall have by resolution been approved by the common council or other board having control of the finances in such city.

How made.

Approval necessary.

3. This act shall take effect immediately.

Approved March 7, 1898.

CHAPTER 33.

An Act to provide for the payment of certain expenses connected with the special election held on the twenty-eighth day of September, anno domini one thousand eight hundred and ninety-seven.

Preamble.

WHEREAS, provision was made in and by the act entitled "An act to provide for submitting proposed amendments to the constitution of this state to the people thereof," approved May twenty-fifth, anno domini one thousand eight hundred and ninety-seven, for the payment of certain expenses in connection with the special election to be held in pursuance of said act; but no provision was therein made for the payment of certain other expenses in connection with such election; therefore,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Provision for certain expenses.

1. All expenses for rental of polling places, for notices by county and municipal clerks, for advertising for ballot-boxes and the repair of same; for polling booths and the care and repair of the same, and all other expenses and compensation to officers for services duly and lawfully rendered in connection with said special election shall be paid in the same manner and under the same regulations as similar expenses in connection with the general election for members of the general assembly are by law directed to be paid, except the printing of ballots, and the notices and publications in said act directed to be made by and through the secretary of state.

Payments heretofore made validated.

2. All such payments heretofore made in any county, either by the board of chosen freeholders of such county or by any municipality therein, are hereby validated.

3. This act shall take effect immediately.

Approved March 7, 1898.

CHAPTER 34.

A Further Supplement to an act entitled "An act respecting conveyances," approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All acknowledgments or proofs of deeds heretofore made or taken, after the lapse of six years from the date of such acknowledgment or proof, notwithstanding any errors or imperfections in said acknowledgments or proofs, shall be taken and held to be good and sufficient in law; *provided, however,* that all such deeds have been already recorded for the period of at least five years. Certain acknowledgments to be sufficient. Proviso.

2. This act shall take effect immediately.

Approved March 7, 1898.

CHAPTER 35.

An Act for the relief of David D. Eckerson.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. David D. Eckerson, of the county of Bergen, is hereby restored to all his former rights and privileges as a citizen of New Jersey. Restoration to citizenship.

2. This act shall take effect immediately.

Passed March 8, 1898.

CHAPTER 36.

A Further Supplement to an act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water-rates or water-rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to further taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Omission to file certain affidavits may be corrected.

1. Where the purchaser, his legal representatives or assigns have omitted to file the affidavits and proofs of mailing and publication required by the act to which this is a supplement and any of the supplements thereto within the time now required by law, such affidavits and proofs may be filed any time within two months after the passage of this act.

Repealer.

2. All acts so far as they conflict herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Passed March 8, 1898.

CHAPTER 37.

A Further Supplement to an act entitled "An act to revise and amend 'An act for the taxation of railroad and canal property,'" approved April tenth, one thousand eight hundred and eighty-four, approved March twenty-seventh, one thousand eight hundred and eighty-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Taxes to be paid to the several districts assessed.

1. The taxes which were assessed and became a lien on the first day of November, one thousand eight hundred and ninety-seven, upon the real estate used for railroad or canal purposes in each taxing district in this state, separately valued and assessed under the provisions of subdivision two (2) of section three (3) of said act, when collected, shall be allotted to and paid over to the various taxing districts through which said railroads or canals run, giving to each such district the total amount of tax that may be so derived from the property of each railroad or canal company therein.

2. This act shall take effect immediately.

Approved March 9, 1898.

CHAPTER 38.

An Act to incorporate a borough in the county of Sussex, to be called the borough of Branchville, and to fix the boundaries thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Corporate name.

1. The inhabitants of that portion of the township of Frankford, in the county of Sussex, hereinafter set forth, are hereby constituted and declared to be a body corporate and in law by the name of the borough of Branchville, and shall be governed by the general laws of this state relating to boroughs.

Boundaries

2. The boundaries of said borough shall be as follows: beginning at a point in the center of the road (Wantage avenue) leading from Branchville to Beemerville, at a corner of land of Noah H. Hopkins, lands of William Dalrymple and land of the estate of William B. Crane, deceased, and on a course of north, thirty and three-quarter degrees east, distant one hundred and five feet and six-tenths of a foot from the south corner of the north abutment of iron bridge in said road over Dry brook, and runs thence (1) north, seventy-seven degrees west, two thousand two hundred and thirty-six feet to a stake in the fence on lands of Warren and Isaac Holton, from which a white oak tree bears south, sixty-two degrees east, distant one hundred and eleven feet and five-tenths of a foot, and the highest point of a shelly rock bears north, eighty-one and three-quarter degrees east, distant sixty-nine feet and five-tenths of a foot, and a spring bears north, twenty-six and one-half degrees east, fifty-six feet; thence (2) south, seventy-one degrees and fifty minutes west, one thousand and forty-six feet to a large white oak tree on the north side of Ridge road; thence (3) south, thirty-six degrees west, one thousand five hundred and eight feet to a corner in the line between lands of Mrs. Bell and lands of Coleman Snook; thence

(4) south, forty-three degrees east, two thousand one hundred feet, passing six and one-half feet west of Alfred Struble's house, to a stake and stone in the line between lands of William D. Price and lands of John E. Howell, south, thirty-six and one-half degrees west, distant sixty-five feet from corner of lands of Alfred Struble and lands of William D. Price; thence (5) south, sixty degrees east, two thousand four hundred and seventy-four feet to a point in the middle of the road leading from Branchville to Newton, from which the southwest corner of James Smith's new house bears north, forty-six degrees east, distant one hundred and thirty-three feet; thence (6) south, eighty-six and one-half degrees east, one thousand four hundred thirty-nine feet to a point in the east edge of the old Augusta road in a line of Arthur Roe's land, and distant twenty-nine feet, on a course of north, seventy-one and three-quarter degrees east, from a maple tree standing in the east corner of Joseph McDonald's lot; thence on Arthur Roe's line (7) north, sixty-eight degrees east, four hundred and forty-six feet to a point in Arthur Roe's line; thence (8) north, twelve degrees and thirty-five minutes west, three thousand four hundred and six feet to a corner of the lands of William Dalrymple and lands of the estate of William B. Crane, deceased; thence (9) north, fifty-six degrees west, seven hundred and thirteen feet to the place of beginning.

3. This act shall take effect immediately.

Approved March 9, 1898.

CHAPTER 39.

A Supplement to an act entitled "An act to regulate the practice of courts of law," approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Power to commission persons to administer oaths and take depositions.

1. Justices of the supreme court, or any two of them, of whom the chief justice shall be one, may commission and empower such persons as they may think fit and necessary, to administer an oath or affirmation to any person in or concerning any cause or proceeding in the said supreme court or other courts of law, and to take any and all depositions for use in any of said courts, and every affidavit so made shall be as effectual as if the same were made before a justice of the supreme court.

Title, "supreme court examiners."

2. The persons so commissioned shall be entitled "supreme court examiners," and any oath, affirmation or affidavit required by law to be taken before a supreme court commissioner may in like manner be taken before a supreme court examiner, and when so taken shall have the same force and effect for all purposes as if taken before such commissioner.

Compensation.

3. For all services rendered under this act, said examiners shall be entitled to receive the fees and compensation allowed by law to supreme court commissioners for like services.

4. This act shall take effect immediately.

Approved March 9, 1898.

CHAPTER 40.

An Act authorizing towns to issue bonds for the purpose of raising money to pay certain bonds and improvement certificates and interest thereon and judgments recovered thereon heretofore legally issued and now due.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Provision for payment of unpaid bonds, etc.

1. It shall be lawful for the town council or other governing body of any town in this state to provide for the payment of all bonds and improvement certificates heretofore legally issued by said town for or on account of any street improvement or improvements and now remaining unpaid and for the payment of interest due thereon and of any judgments recovered on any such bond or bonds, improvement certificate or certificates by the issue and sale of the corporate bonds of such town in an amount not exceeding the total amount due by the town on and for the bonds, improvement certificates, interest and judgments aforesaid; which bonds so to be issued shall be of such denominations and shall be payable at such time and times not exceeding twenty years from the date of issuing same and shall bear interest at such rate not exceeding six per centum per annum as the town council or other governing body of such town shall by ordinance or resolution determine; and such bonds issued under the provisions of this act shall be executed under the corporate seal of such town and be signed by the mayor thereof, and if there be no mayor by the chairman of the town council or other governing body thereof, and shall be attested by the town clerk and shall have coupons attached for every half year's interest, or may be registered at the option of the purchaser or holder.

Denomination.

Time

Rate.

How executed.

Sinking fund provided for meeting payment at maturity.

2. In order to meet the payment of such bonds at their maturity the said town council, or other governing body of any such town, shall establish a sinking fund into which shall be paid all moneys received from assessments or redemption from sale for unpaid assessments for or on account of any of the improvements for which said bonds and improvement certificates were originally issued, and also the sums hereinafter directed to be raised by taxation for said sinking fund, and such other moneys as the said town council or governing body shall direct to be placed therein for the redemption of such bonds; and the moneys of said sinking fund shall not be used for any purpose whatsoever other than the redemption of bonds issued under the provisions of this act.

Provision for interest and principal.

3. It shall be the duty of the town council or other governing body of such town, which shall issue bonds under the provisions of this act, to order to be raised by taxation in each and every year while said bonds remain unpaid not less than two per centum of the total amount of the issue of said bonds, which sum when collected shall be paid into the sinking fund; and the interest on all bonds issued under the provisions of this act shall be levied and collected annually, as other town taxes are or may hereafter be levied and collected, and the whole of each year's interest shall be levied and collected in each year.

Sale of bonds and application of proceeds.

4. The town council or other governing body of such town as aforesaid may dispose of the bonds issued under this act at either public or private sale for the best price that can be obtained for the same, but not at a less price than the par value thereof, and all moneys derived from the sale thereof shall be applied and used for the payment of the bonds, improvement certificates, interest and judgments mentioned in the first section of this act.

Repealer.

5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately.

Approved March 9, 1898.

CHAPTER 41.

A Further Supplement to an act entitled "An act respecting police departments of cities and regulating the time and term of office of officers and men employed in said departments," approved March twenty-fifth, one thousand eight hundred and eighty-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. In cities of this state where no police board, having charge and control of the police department of such cities, other than boards established by city ordinance, exists, written charges against police officers or employees for incapacity, misconduct, non-residence or disobedience of the rules and regulations of the police department, may be preferred to the police committee, or board established or that may be established by city ordinance, of any such city, which committee or board is hereby declared to be the appropriate municipal board, officers or authority, under the provisions of the act to which this is a supplement, to try officers or employees of the police department in such cities upon service of a copy of the charges and reasonable notice to the person charged; such committee or board, for just cause shown on the trial of such charges, shall have the power to fine any such officer or employee, or to suspend for a definite period not exceeding six months, and if they deem the proof of such charges sufficient to warrant the removal by expulsion, from the police department, of the officer or employee so charged, they shall make such recommendation to the city council of such city, with a statement of the facts proven which would warrant such removal by expulsion, and the city council shall take action thereon and order the removal, by expulsion, of such officer or employee, or may order the officer or employee so charged to be fined or suspended for a definite period.

To whom charges may be preferred.

Power.

May recommend expulsion by council.

Repealer.

2. All acts or parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

Approved March 9, 1898.

CHAPTER 42.

A Supplement to an act entitled "An act to authorize the increasing of the number of managers or directors of corporations to provide for the support and maintenance of supernumerary or superannuated ministers of the gospel, or the widows or orphans of deceased ministers of the gospel, or to provide for both, or any of such objects," approved March twenty-second, one thousand eight hundred and ninety-two.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Number of directors, and term.

1. That the number of managers or directors hereafter to be elected in any society or societies mentioned and described in the title of this act shall not exceed eighteen, one-half of whom, at least, shall be laymen, who shall be residents of the state of New Jersey, and members of some church of the denomination of christians, to which said said society or societies shall belong; and that it shall be the duty of said society or societies, electing said managers or directors, to prescribe by by-law or otherwise, the term of office of such managers or directors, which term shall not exceed three years.

Repealer.

2. Any act or part of act inconsistent with the provisions of this supplement shall be and the same is hereby repealed.

3. This act shall take effect immediately.

Approved March 10, 1898.

CHAPTER 43.

An Act concerning improvement certificates issued in payment for improvements in cities of this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. That all improvement certificates issued by any city of this state, made by such city, shall bear interest from the date of issue. Improvement certificates to bear interest.

2. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect immediately. Repealer.

Approved March 10, 1898.

CHAPTER 44.

An Act to amend an act entitled "An act respecting the opening, widening, extending or otherwise improving of streets, avenues and public highways in cities of the first class in this state, and providing for the payment of the same; and further providing that the assessments upon property for special benefits shall be payable in full or in installments, at the option of the property owner," approved March twenty-second, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section seven of the act to which this is an amendment is hereby amended so as to read as follows: Section amended.

7. After the confirmation of said assessment as herein provided, the property owner or owners shall have five Time allowed to pay assessment.

years from the date when the annual tax is payable, next after the making of the aforesaid assessment, in which to pay the same; the amount assessed against each piece of property shall bear interest at the rate of six per centum per annum from thirty days after the date of confirmation; and such payment may be made immediately after confirmation, or in five equal annual installments as follows: the first installment is to be due and payable when the annual tax is payable, next after the making of the aforesaid assessment and confirmation, and each installment thereafter shall be due and payable on and after the date of payment of annual taxes of each year in said city, together with interest computed at the rate aforesaid from the time aforesaid upon the unpaid balance of such assessment; and the property owner or owners shall, at any time after the aforesaid confirmation, have the right to pay the said assessment or any amount remaining unpaid thereon, with interest as aforesaid, from thirty days after the date of confirmation to the date of payment; all payments herein provided for shall be paid to the official or officials authorized to receive the payment of assessments in such city.

Rate of interest.

Choice of method of payment.

To whom payable.

2. And this act shall take effect immediately.

Approved March 11, 1898.

CHAPTER 45.

A Supplement to an act entitled "An act to establish a system of public instruction" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

County superintendents to apportion school moneys in districts.

1. It shall be the duty of the county superintendent of each county, on or before the fifteenth day of May, annually, to apportion to the districts of his county the

state school moneys, together with the interest of the surplus revenue belonging to said county, in the following manner:

I. He shall apportion to each district a sum equal to two hundred dollars for each teacher employed in any public school in such district for the full time for which the school in which said teacher was employed was maintained during the year next preceding such apportionment; *provided*, that when, in the judgment of a majority of the board of education of any school district, any school within the district has needed and does need an additional teacher only a portion of the school year, the time to be determined by said board, and to be not less than four school months, said board shall certify the same to the county superintendent on or before the first day of April in each year, and the county superintendent shall thereupon further apportion to such district the sum of eighty dollars for each additional teacher thus certified to be needed, but said additional apportionment shall not be made to any district in which an additional teacher, as aforesaid, has not been employed for the term of four months during the year preceding that for which the apportionment is made; *provided further*, that an additional sum of two hundred dollars shall be apportioned to each district in which there is a supervising principal of schools who devotes his entire time to the supervision of the schools in such district; *and provided further*, that if any district shall vote a sufficient sum for the transportation of pupils living remote from any school-house in the district, and the board of education shall provide proper means for transporting such pupils in accordance with the provisions contained in the act to which this is a supplement or in any supplement thereto, and if by reason of such transportation the number of teachers employed in said district is reduced, the amount apportioned annually to such district on the basis of the number of teachers employed, shall not be less than the amount apportioned to such district on said basis for the year preceding that for which such transportation is provided, so long as the pupils are transported as aforesaid; nothing in this section, however, shall be so construed as to prohibit the apportionment of the sum of two hundred dollars for each addi-

Amount for each teacher.

Proviso.

Proviso.

Proviso.

tional teacher employed in said district, for the full time the schools were kept open in such district in any year subsequent to the year in which pupils were first transported as aforesaid.

Balance of moneys.

II. He shall apportion to each district the remainder of the school moneys belonging to his county on the basis of the last published school census.

Required attendance.

2. All children shall be required to attend the schools in the district in which they reside; *provided*, that any child living remote from any public school in the district in which he resides may be allowed to attend a public school in an adjoining district, but only with the consent of the county superintendent, which consent shall be in writing, and one copy thereof filed with the district clerk of the district in which such child resides, and one copy filed with the district clerk of the district in which such child attends school; and in case the districts are not in the same county, the written consent of the county superintendent of each county must be obtained; *and provided further*, that the custodian of the school moneys of the district from which a child is transferred as aforesaid shall pay, on the order of the county superintendent, to the custodian of the school moneys of the district to which said child is transferred, such sum for the education of said child as the respective boards of education may agree upon; but if said boards of education shall be unable to agree on or before the first day of February upon the amount so to be paid, then and in that case the amount so to be paid shall be the sum of three dollars, and in addition thereto the money apportioned to the district for such child on the basis of the school census.

Proviso.

Proviso.

Repealer.

3. All acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 14, 1898.

CHAPTER 46.

An Act to enable municipalities to apply surplus money from the proceeds of water bonds to the purchase of apparatus for suppressing fires.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Unexpended balance may be used for purchasing fire apparatus.

1. Whenever any municipality in this state shall have issued bonds for the purpose of establishing a public water supply, and upon the completion of the work by reason of which such bonds were issued there shall remain unexpended a balance of the proceeds of such bonds not exceeding two thousand dollars, it shall be lawful for the council or other governing board of such municipality, by resolution, to apply such balance, or such part thereof as may be necessary, for or towards the procuring of apparatus for suppressing fires.

2. This act shall take effect immediately.

Approved March 14, 1898.

CHAPTER 47.

An Act providing for the procedure under ordinance for the regulation of bicycles, tricycles and similar vehicles.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Bicycles, etc., may be left as security for appearance.

1. Any person or persons who shall hereafter be arrested charged with the violation of any ordinance of any city, town, borough, village, township or other municipality of this state providing for the regulation

and the use of bicycles, tricycles and similar vehicles on the public streets within the limits of said municipalities, shall have the right in lieu of giving bonds or entering into recognizance for his, her or their appearance or examination under such charge, to deposit and leave as such security with the magistrate or authority causing such arrest to be made, his, her or their bicycle or other vehicle, provided such person or persons shall make oath to the ownership of such bicycle or other vehicle, which oath shall be in writing and duly signed by such person or persons so arrested, and any person or persons who shall make false oath as to such ownership shall be liable to the penalties now provided by law for perjury.

Ownership.

Penalty for false oath.

2. This act shall take effect immediately.

Approved March 14, 1898.

CHAPTER 48.

An Act to authorize cities of the third class to construct sewers, or drains, or both, and to provide for the payment of the cost thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Third class cities may provide a sewerage system.

1. It shall be lawful for the city council or other governing body of any city of the third class in this state to order and cause sewers or drains to be constructed in any part of such city, and to provide, maintain and alter a general system of sewerage and drains for such city, or any part thereof, conformably to which all sewers and drains shall be constructed, and to establish and maintain one or more outlets or places of deposit within or without such city for sewerage or drainage, and to provide for the disposal of sewage and drainage from the city, and to repair and cleanse such sewers and drains.

2. If in the judgment of the said city council or other governing body the construction of such sewers or

drains is likely to benefit and increase the value of any land and real estate in the vicinity thereof, the said governing body shall apply to the court of common pleas of the county wherein such city is situate for the appointment of commissioners to estimate and assess such benefits, of the time and place of which application notice shall be given by ten days' publication in two newspapers printed or circulated in such city, at which time and place, or at such other time and place as the court shall designate, said court shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of the city making the application, to estimate and assess the said benefits; the said court shall have power to remove any commissioner and appoint another in his place, and also to fill any vacancy that may occur in the office of any commissioner from any cause.

Application may be made to court of common pleas for appointment of commissioners to estimate benefits.

3. The said commissioners, before entering upon the execution of the duties required of them by this act, shall take and subscribe before some person duly authorized to administer the same, an oath or affirmation that they will make all estimates and assessments required of them fairly, legally and equitably, according to the best of their skill and understanding, which oath or affirmation shall be attached to the report that they are hereinafter required to make.

Oath of commissioners.

4. The said commissioners, having thus qualified, shall give notice, under the direction of said court, of the time and place, when and where they will hear any persons in interest who may present themselves to be heard, and at such time and place, and at such other times and places to which they may adjourn for that purpose; the said commissioners shall attend, and shall give a public hearing to those persons in interest who may desire to be heard; the said commissioners shall have power to examine witnesses under oath, to be administered by any one of them, and to enter upon and view any premises that they may deem necessary, and to adjourn from time to time in their discretion, or as directed by said court; they shall use diligent efforts to ascertain the names of the owners of the land and real estate benefited by the construction of such sewers or drains as aforesaid, and shall state the same in the report

Public hearings to be given; further duties.

hereinafter mentioned; but the failure to so ascertain the name of any such owner, or to state the same correctly, or the omission of any such name from the said report, shall not be deemed to invalidate the said assessment, nor to be a bar to the collection of the same.

Report of commissioners.

5. After having given opportunities aforesaid for a public hearing of the persons in interest and having viewed the premises likely in their judgment to be benefited by the construction of such sewers or drains, the said commissioners shall make their report in writing of their estimates and assessments to the said court, accompanied by a survey and map prepared by the city surveyor or engineer, under their direction, showing the lots or parcels of land and real estate particularly benefited by such sewers or drains; the said report shall state the cost of the whole work, the portion, if any, assessed upon the city at large, and shall give the names, so far as ascertained, of the owners of said lots or parcels of land and real estate, and the amount of the assessment to each owner for each of such lots or parcels of land and real estate for the said benefits, which assessment shall in each case be in proportion, or as near as may be, to the advantage which each of such owners shall be deemed to have acquired by the constructions of such sewers or drains; in case the cost and expenses of such work shall exceed the amount of said benefits, the excess thereof shall be paid by the city at large and raised as hereinafter specified; in no case shall any property or owner thereof be assessed beyond the amount of benefit actually derived from the construction of such sewers or drains.

Duty of court upon presentation of report.

6. Upon the coming in of any such report, signed by the said commissioners, or any two of them, said court shall cause such notice to be given as it shall deem proper of the time and place of hearing any objections that may be made to such assessment, and after hearing any matter that may be alleged against the report and assessment, the said court, either by rule or order, shall confirm the said report or shall refer the same to the same commissioners for revision and correction, or to new commissioners to be appointed by the said court forthwith to reconsider the subject-matter thereof, and the said commissioners to whom such report shall be so

referred by the court shall return the same corrected and revised, or a new report to be made by them in the premises to the said court, without unnecessary delay, and the same being so returned shall be confirmed or again referred by the said court in the manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned in the premises which the said court shall confirm; such report, when so confirmed, shall be final and conclusive as well upon the said city as upon the owners of any land and real estate affected thereby; the court shall thereupon cause a certified copy of such report and the accompanying map to be transmitted to the city clerk of said city with a certified copy of the rule or order of said court confirming the same, which shall be forthwith delivered by the said clerk to the collector of such city, who shall be charged with and whose duty it shall be to collect said assessments.

Report when confirmed to be final.

Certified copy to be sent city clerk, etc.

7. No certioraris shall be allowed by any court to review any proceedings in relation to such improvement, nor in any way affect any assessment made by such commissioners, after the lapse of thirty days from the making of the order of the court confirming such assessment; the court shall designate what notice, if any, shall be given, by publication or otherwise, of the confirmation of the court of said commissioners.

Time within which certiorari may be allowed.

8. All assessments made under the provisions of this act shall be and remain a first lien upon the land and real estate affected thereby until the same are fully paid and satisfied.

Assessments a first lien.

9. In order to pay the expense of the building of such sewers and drains any such city may issue bonds bearing interest at not more than six per centum per annum, which bonds shall be payable in not less than one year nor more than ten years, at the option of the city; and that the order of the payment of said bonds shall be the same as the order of the numbers of the bonds, and that the said bonds shall be called in and paid off and as frequently and whenever money shall be received from assessments of benefits or from taxes sufficient to pay off one or more of said bonds; and that all moneys received from assessments of benefits for said sewers or drains shall be immediately applied in payment of such bonds,

Provision for meeting expenses.

and such money shall not be used for any other purpose whatever.

Assessments to bear interest.

10. The assessment of benefits made in pursuance of this act shall bear interest at the rate of not more than six per centum per annum, and after the end of sixty days following the confirmation thereof, and unless sooner paid, shall be payable in ten equal annual installments, which, together with the interest on all unpaid installments shall be due and payable on the twentieth day of October in each year; *provided, however*, that such assessment may be paid off at any earlier time if the property-owner may desire; and in case of the failure of any property-owner to pay any such installment and interest within sixty days after it shall become due that said lands may be sold for the collection of such installment and interest in the same manner as land and real estate are sold in any such city for the non-payment of taxes.

Proviso.

In case cost exceeds benefits assessed.

11. If the total cost of such improvement and the expenses connected therewith shall exceed the total amount of the benefits assessed, bonds shall be issued by such city for the full amount of the cost, and the excess over and above the total amount of the assessment upon the property benefited shall be divided into nine equal parts, and a sum of money equal to the amount on one of such parts and the interest on the other parts remaining unpaid shall be raised by taxation in each year, in the same manner as other taxes are raised in such city, and one-ninth part of the bonds representing the excess of the cost over the benefits assessed on the property benefited shall be paid off by said city in each year after the first year.

Council may take certain lands for sewers, etc.

Compensation for same.

12. It shall be lawful for the city council or other governing body of such city, if necessary, to take and appropriate for the purpose of constructing any sewer or sewers, drain or drains, or both, or for the purpose of establishing and maintaining one or more outlets or places of deposit within or without such city, to provide for the disposal of sewerage and drainage from such city, authorized by any ordinance or ordinances passed or adopted by said city council or other governing body of such city, under and by virtue of the provisions of this act, any lands and real estate, upon making com-

pensation to the owner or owners thereof, as hereinafter mentioned and provided; and whenever said city council or other governing body of such city shall determine to make and construct any sewer or sewers, drain or drains, or both, or any sewerage receptacle or works, or place of deposit for treating and disposing of sewerage, and shall deem it necessary to take and appropriate, for any such purpose, any lands and real estate within or without said city, they are hereby authorized to treat with the owner or owners thereof for the same, and they may purchase said lands and real estate from the owners of the same and make such compensation therefor as they may deem reasonable, and thereupon shall receive from such owner or owners a conveyance of such lands and real estate to said city by its corporate name.

In case of disagreement, court of common pleas to appoint commissioners to estimate damages.

13. When the city council or other governing body of such city cannot agree as to the price or compensation with the owner or owners of any lands and real estate which they may deem it necessary to take and acquire, or when by the absence or legal incapacity of such owner or owners, or from any other cause no such agreement can be made, it shall be lawful for the court of common pleas of the county in which such lands and real estate are situated, on application in writing made on behalf of such city council or other governing body of such city, and after notice of the time and place of making such application, published at least ten days previously thereto in some newspaper circulating in the said county, to appoint three disinterested commissioners, who shall make an estimate and assessment of the damages that any such owner or owners shall sustain as well as for the taking of his, her or their lands and real estate with the appurtenances, as for the injury to the owner or owners by reason of the intended improvement; if any of said commissioners die or refuse to act, the said court shall immediately make appointment of a proper person to fill any vacancy so created; the said commissioners shall be sworn to make a just and impartial estimate and assessment, and shall present without delay, to the said court, a report in writing, of such estimate and assessment, which shall be sufficient,

Report.

if signed by a majority of said commissioners; the said court shall direct notice to be given, by advertisement in some newspaper circulating in said city, for at least ten days, of the time and place at which said court will proceed to consider said report and any objections that may be made thereto, and shall have power to consider said report and the objections thereto, in a summary way, and to revise and confirm said report, with or without alteration; said report, when confirmed by the court, or a copy thereof duly certified by the county clerk, shall at all times be plenary evidence of the right of the said city council or other governing body of such city to enter upon, take and use the said land and real estate, with the appurtenances, the said city council or other governing body of such city first tendering to the owner or owners thereof, if resident in this state, the amount so awarded to them; and if any owner is not a resident of this state, or on due inquiry cannot be found therein, or is a lunatic or idiot, or under age, or is for any other cause incapacitated to receive the amount awarded, or will not receive the same and sign a proper voucher or receipt therefor when tendered, then affidavit shall be made of the facts and filed in the office of the county clerk, and the amount awarded to any such owner shall be deposited in said court of common pleas, before said city council or other governing body of such city shall have the right to take and use the said lands and real estate; the court shall settle and determine the compensation to be paid to the said commissioners, and the costs and expenses of the application and report, which shall be paid by the said city council or other governing body of such city in behalf of which the application has been made.

Report, when confirmed, to be full evidence of rights of city.

Payment.

Commissioners' compensation.

Acceptance of this act.

14. This act shall not apply to or affect any such city until the same shall have been first submitted to the legal voters thereof for their approval either at an annual municipal or at a special election especially ordered by the said city council or other governing body of said city for that purpose, and at which election at least twenty days' notice by publication in at least one newspaper printed and published in said city if any there be, and in case no newspaper is printed in such city then in a newspaper printed and published in the

county seat of the county in which such city is situate; at such election all of the qualified voters shall be entitled to vote and those in favor of the acceptance of this act shall deposit a ballot containing the words "Act of one thousand eight hundred and ninety-eight, entitled 'An act to authorized cities of the third class to construct sewers, or drains, or both, and to provide for the payment of the cost thereof' accepted," written or printed thereon, and those who are opposed shall deposit a ballot containing the words "Act of one thousand eight hundred and ninety-eight, entitled 'An act to authorize cities of the third class to construct sewers, or drains, or both, and to provide for the payment of the cost thereof' rejected"; the said city council or other governing body shall furnish ballot boxes of such design as they may see fit for the purpose of such election in which said ballots shall be deposited; in case such election is held at the time of the annual municipal election, the municipal election board shall conduct the same; in case said election is held at a special time designated by said city council or other governing body, said city council or other governing body shall appoint an election board constituted the same as that which is now provided for by law to hold such municipal election; the said board of election shall canvass the return upon the vote upon this question of such acceptance or rejection in the same way and manner as the vote for officers in any such city are now canvassed, and if a majority of the ballots cast at such election for the acceptance or rejection of this act be for the acceptance thereof it shall then, and not otherwise, go into effect and be binding upon such city in which such vote shall have been taken.

Ballot.

Conduction of election.

15. All acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

Approved March 15, 1898.

CHAPTER 49.

An Act to authorize the assessment of the cost of the construction of sewers, drains and receiving basins in cities of this state, where the proceedings taken for the construction thereof have been informal and defective.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

In case of defective proceedings or embarrassment in collecting assessments, commissioners may be appointed.

1. It shall be lawful for the board of councilmen, board of aldermen, common council, board of street and water commissioners or other legislative body of any city of this state in which sewers have been constructed in and through the streets and avenues of any such city, where the proceedings taken for the construction thereof are informal and defective, and by reason whereof such cities are embarrassed in the making and collection of valid assessments therefor, to appoint three disinterested freeholders, residing in different wards of said city, commissioners to make an assessment of the cost of the construction of any such sewer or sewers, with the necessary appurtenances thereto in respect to which they may be appointed, upon the lands and real estate benefited by the construction thereof, to the extent of the benefit received by said lands and real estate.

Oath of commissioners.

2. Before entering upon the discharge of their duties the said commissioners shall take and subscribe before the mayor or city clerk, or some other person authorized to administer oaths, an oath or affirmation, faithfully, fairly and impartially to execute the duties imposed upon them by this act to the best of their knowledge, skill and ability, which oaths so taken and subscribed shall be attached to their report of the said assessment when made by them.

Hearing by commissioners.

3. The said commissioners, before making any assessment against any of the lands benefited by the construction of the said sewer or sewers, shall give the

owners of all such lands a hearing, and shall appoint a time and place for that purpose, and give two weeks' notice thereof by publication in two newspapers published and circulating in such city, at least once a week, for two weeks before the time so appointed.

Duty of commissioners.

4. The said commissioners shall determine the amount such lands are benefited and report in writing to the municipal body or board appointing them, the amount each lot or parcel of land is benefited by the construction of such sewer or sewers, and shall accompany such report with a map, showing each lot or parcel assessed, and the name of the owner or owners thereof, as far as the names of such owners can be ascertained, and the amount each lot or parcel is assessed; the said municipal body or board, upon the presentation to it of the said report, shall cause the said map to be filed in the office of the city clerk, or the clerk of the board having jurisdiction over such improvements, and shall fix a time and place to hear and consider any objections to said report, and shall direct the said clerk to cause to be published in two newspapers circulating in said city, a notice of the filing of said report and also of the time and place appointed by said board to hear and consider said report and assessment, for two weeks, at least once a week, before the time appointed for said hearing, and it shall be the duty of said board to receive and consider all objections thereto which may be presented in writing, and the said board shall have power, from time to time, to return said map and report to said commissioners for correction in matters of form and substance; if no objections are presented in writing, or if in the judgment of said board such objections as may be presented are insufficient to warrant the return of said report and assessment to said commissioners, said board shall confirm the said report and assessment, and said assessment when so confirmed shall constitute a lien on the property assessed for the amount of such assessment; but if said board should determine upon the consideration of such objections that the report of said commissioners should be referred back to them, the objections presented against its confirmation shall be transmitted by the clerk of said board with said report and map to said commissioners, to the end that said commissioners

Duty of governing body.

Objections be presented.

Report may be referred for consideration.

may make such corrections of their said assessment as in their judgment should be made.

In case report is returned.

5. If the said map and report of said assessment should be returned to the said commissioners for correction, they shall, within twenty days after the same is returned to them, consider the objections presented to said municipal board and make such corrections in matters of form and substance as, in their judgment, should be made, and shall re-file said map and report as corrected, together with said objections, with the said clerk within said twenty days after it shall have been referred back to them, and the said clerk shall report the filing thereof to the said board at its first meeting thereafter, whereupon the said board shall fix a time and place to hear and consider any objections to such corrected report as may be made in writing thereto, and shall direct the said clerk to cause notice of the filing of said corrected report and of the time and place fixed by said board to hear and consider all objections thereto which may be presented in writing, to be published in the same manner as this act directs for the publication of the notice of the filing of the report of said commissioners in the first instance, and if, in the judgment of said board, said assessment should be confirmed it shall then be lawful for said board, by resolution, to confirm the same, and when confirmed it shall constitute a lien on the property assessed for the amount of such assessment.

Hearing on corrected report.

Assessment, if confirmed, to be a lien on property assessed.

Interest and collection.

6. All assessments made under this act shall bear interest from the date of their confirmation at the same rate as is now chargeable against assessments for benefits arising from the construction of sewers, and shall be collectible in the same manner as assessments and the interest thereon are now collectible.

7. This act shall take effect immediately.

Approved March 15th, 1898.

CHAPTER 50.

An Act to provide for the registration of labels, trade-marks, terms and designs, and protect and secure the rights, property and interests therein of the persons, associations, organizations and corporations adopting and filing the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Labels, trade-marks, etc., may be filed.

1. It shall be lawful for any person, association, organization or corporation to adopt for their protection and file for registry, or cause to be filed for registry, as herein provided, any label, trade-mark, term or design that has been used or is intended to be used for the purpose of designating, making known or distinguishing any goods, wares, merchandise or products of labor that have been or may be wholly or partly made, manufactured, produced, prepared, packed or put on sale by any person, association, organization or corporation, or to or upon which any work or labor has been applied or expended by any person or by any member or members of any association, organization or corporation that has adopted and filed for registry, or that may adopt and file for registry, any such label, trade-mark, term or design as aforesaid, or announcing or indicating that the same have been made in whole or in part by any such person, association, organization or corporation or by any member or members thereof.

All rights to labels, etc., fully secured by filing.

2. Whenever any person, association, organization or corporation shall adopt and file for registry, or cause to be adopted and filed for registry, any label, trade-mark, term or design pursuant to the provisions of this act, the property, privileges, rights, remedies and interests in and to any such label, trade mark, term or design, and in and to the use of the same, provided or given by this act to, or otherwise conferred upon or enjoyed by,

the person, association, organization or corporation filing the same, or causing the same to be filed, for registry, shall be fully and completely secured, preserved and protected as the property of those entitled to the same, before any such label, trade-mark, term or design has been actually applied to any goods, wares, merchandise or product of labor and put upon the market for sale or otherwise, and before any use or appropriation of any such label, trade-mark, term or design has been made in connection with any such goods, wares, merchandise or product of labor, as well as after the same has been used or applied to designate, make known or distinguish any such goods, wares, merchandise or product of labor and they have been put upon the market.

To be filed with secretary of state.

3. Any person, association, organization or corporation that has heretofore adopted and used, or shall hereafter adopt and use, any label, trade-mark, term or design as herein provided, may file the same for registry in the office of the secretary of state by leaving two copies, fac-similes or counterparts thereof, with the said secretary, and filing therewith a statement in the form of an affidavit, subscribed and sworn to by any such person, or by any officer, agent or attorney of any such association, organization or corporation, specifying the person, association, organization or corporation by whom, or on whose behalf, any such label, trade-mark, term or design is filed, and the class or character of the goods, wares, merchandise or product of labor to which the same has been, or is intended to be, appropriated or applied, and that the person, association, organization or corporation so filing the same, or on whose behalf the same is so filed, has the right to the use of the said label, trade-mark, term or design, and that no other person, firm, association, organization or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, without the permission or authority of the person, association, organization or corporation filing the same, or causing the same to be filed, and that the copies, fac-similies or counterparts filed therewith are true and correct copies, fac-similes or counterparts of the genuine label, trade-mark, term or design of the person, association, organization or corporation filing

the same or causing the same to be filed; and there shall be paid for such filing and registry a fee of one dollar to the secretary of state for the use of the state. Fee for filing.

4. The secretary of state, upon the filing of any such label, trade-mark, term or design that is not in conflict with the next section hereof, shall register the same, and shall deliver to the person, association, organization or corporation filing the same, or causing the same to be filed, as many certified copies thereof, with his certificate of such registry, as any such person, association organization or corporation may request, and for every such copy and certificate there shall be paid to the secretary of state, for the use of the state, a fee of one dollar; and any such certified copy and certificate shall be admissible in evidence and competent and sufficient proof of the adoption, filing and registry of any such label, trade-mark, term or design by any such person, association, organization or corporation, in any action or judicial proceeding in any of the courts of this state, and of due compliance with the provisions of this act; *provided, however*, that such certificate shall not be assignable or transferable by the person, association, organization or corporation to whom the same is issued by the secretary of state. Duty of secretary of state. Proviso.

5. It shall not be lawful for the secretary of state to register, or permit to be registered, for any person, association, organization or corporation any label, trade-mark, term or design that is in the identical form of any other label, trade-mark, term or design theretofore filed by or on behalf of any other person, association, organization or corporation, or that bears any such near resemblance thereto as may be calculated to deceive, or that would be liable to be mistaken therefor; and any person, association, organization or corporation who shall file or procure the filing and registry of any label, trade-mark, term or design in the office of the secretary of state, under the provisions of this act, by making any false or fraudulent representations or declarations, with fraudulent intent, shall be liable to pay any damages sustained in consequence of any such registry, to be recovered by or on behalf of the party injured thereby in any court of law of this state having jurisdiction in civil causes. Filing of labels, etc., identical or resembling those already filed not permitted.

Imitating or counterfeiting labels, trade-marks, etc., unlawful.

6. Whenever any person, association, organization or corporation has heretofore adopted and filed for record or registry, or shall hereafter adopt and file for registry, any label, trade-mark, term or design, or cause the same to be done, as herein provided, and the same shall have been registered pursuant to this act, it shall be unlawful, and a violation of this act, for any other person, association, organization or corporation to manufacture, use, sell, offer for sale, or in any way utter or circulate, any counterfeit or imitation of any such label, trade-mark, term or design; or have in possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or product of labor to which or on which any counterfeit or imitation of any such label, trade-mark, term or design is attached, affixed, printed, painted, stamped, impressed or displayed; or to sell or dispose of, or offer to sell or dispose of, or have in possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, impressed or displayed.

Unauthorized use of labels, trade-marks, etc., unlawful.

7. Whenever any person, association, organization or corporation has heretofore adopted and filed for record or registry, or shall hereafter adopt and file for registry, any label, trade-mark, term or design as herein provided, it shall be unlawful, and a violation of this act, for any other person or persons, association, organization or corporation, to make any use, sale, offer for sale or display of the genuine label, trade mark, term or design of any such person, association, organization or corporation, filing the same; or to have any such genuine label, trade-mark, term or design in possession with intent that the same shall be used, sold, offered for sale or displayed, or that the same shall be applied, attached or displayed in any manner whatever to or on any goods, wares or merchandise; or to sell, offer to sell, or dispose of or have in possession with intent that the same shall be sold or disposed of, any goods, wares or merchandise in any box, case, can or package to or on which any such genuine label, trade-mark, term or design of any such person, association, organization, or

corporation is attached, affixed, or displayed; or to make any use whatever of any such genuine label, trade-mark, term or design, without first obtaining, in every such case, the license, consent or authority of the person, association, organization or corporation adopting, filing and registering the same, or causing the same to be adopted, filed and registered; and any such license, consent or authority may be revoked and terminated at any time upon notice, and thereafter any use thereof shall be a violation of this act, and subject those violating the same to all the liabilities and penalties herein provided against any violation thereof.

Permission to use labels, etc., may be given.

Permission revoked.

8. It shall be lawful for any person, association, organization or corporation that has adopted and filed, or caused to be filed and recorded or registered in the office of the secretary of state, at any time before the passage of this act, any label, trade-mark, term or design, to refile the same for registration by the secretary of state pursuant to the provisions of this act, upon payment of the fees herein provided for filing and registering any label, trade-mark, term or design, and for copies and certificates thereof, and any person, association, organization or corporation so re-filing any such label, trade-mark, term or design shall have and be entitled to all the rights, remedies, privileges and protection given by this act to any person, association, organization or corporation originally filing any label, trade-mark, term or design under the provisions of this act, and subject to the same liabilities.

Labels, trade-marks, etc., already filed may be re-filed.

9. The court of chancery shall have jurisdiction in all cases arising or commenced therein under this act for the violation of any of the provisions thereof, and any person, association, organization or corporation filing, or causing to be filed, for registry, any label, trade-mark, term or design pursuant to the provisions of this act, shall have the right to an action in the said court against any person or persons, association, organization or corporations, for the violation of any of the provisions of this act; and upon the filing of any bill of complaint therefor, the law and practice regulating proceedings in that court shall be applicable thereto; and the said court is hereby empowered and required to enjoin the manufacture, counterfeiting, imitation, display, use, sale, offer of sale, cir-

Court of chancery to have full jurisdiction in all cases under this act.

May enjoin manufacture, sale, etc.

culating or uttering of any counterfeit or imitation of any such label, trade mark, term or design of any such person, association, organization or corporation; and the sale or disposal of any goods, wares, merchandise or product of labor to which, or on which, any such counterfeit or imitation label, trade-mark, term or design is attached, affixed, printed, painted, stamped, impressed or displayed; or any goods wares, merchandise or product of labor contained in any box, case, can or package to or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped, impressed or displayed; and further to enjoin the manufacture, use, sale, offer of sale, or display, of any genuine label, trade-mark, term or design of any such person, association, organization or corporation filing the same as aforesaid; or having in possession any such genuine label, trade-mark, term or design with intent that the same shall be used, sold, offered for sale or displayed, or the same applied, attached or displayed in any manner whatever to or on any goods, wares, merchandise or product of labor; or the selling, or offer to sell or dispose of, or having in possession with intent that the same shall be sold, offered for sale or disposed of, any goods, wares or merchandise in any box, case, can or package to or on which any such genuine label, trade-mark, term or design of any such person, association, organization or corporation is attached, affixed or displayed; and from making any other, or any, use whatever of any such genuine label, trade-mark, term or design, without having first obtained, in any and every such case, the consent and authority of the person, association, organization or corporation adopting, filing and registering the same, or causing the same to be filed and registered, as herein provided; and the said court of chancery is hereby empowered to make such other orders and direct such other proceedings as the court may deem necessary and proper for the due protection of the rights of complainants, effecting the purposes of this act, the prevention of any violation of any of the provisions of the same, and secure and protect any and all persons, associations, organizations or corporations in all the rights, privileges, property and interests to which they or any of them are

or may be entitled in any such label, trade-mark, term or design under any of the provisions of this act or otherwise; and it shall be the duty of the said court of chancery to award to the complainant or complainants in any such action any and all damages resulting from any such wrongful use of any such label, trade-mark, term or design by any defendant or defendants, or for any violation of any of the provisions of this act; and to require any such defendant or defendants to pay to such complainants any and all such damages, together with all costs and expenses incurred by any such complainant in any such action or proceeding; and the said court shall also order and decree that the defendants pay to the complainant or complainants any and all profits obtained, received or derived from any such wrongful use, or any violation of the provisions of this act; or both profits and any such damages, and that any and all such counterfeits or imitations of any such labels, trade-marks, terms or designs in the possession or under the control of the defendant or defendants in any such action shall be delivered up to an officer of the court, or to the complainant, to be destroyed, and that any such genuine labels, trade-marks, terms or designs in the possession or under the control of any such defendant or defendants shall be delivered up to the complainant.

Court may award damages to complainant.

10. That, in addition to any other rights, remedies or penalties provided by this act, and as concurrent therewith, any person or persons, association, organization or corporation that shall violate any of the provisions of this act shall be liable to a penalty of not less than two hundred and not more than five hundred dollars, to be recovered in an action of debt in any court of law of this state having jurisdiction in civil causes, by any such person, association, organization or corporation that has adopted and filed, or caused the same to be done as aforesaid, any such label, trade-mark, term or design; which action may be commenced by summons as in ordinary cases, and shall be proceeded with therein as ordinary cases in said court; and in case any execution shall be issued upon any judgment obtained against the defendant or defendants in any such action and the same be returned unsatisfied, the court, on application and two days' notice to the defendant, may award an

Penalty for violation of the provisions of this act.

execution to take the body of the defendant or defendants as in other cases where a capias may issue out of the circuit or supreme courts of this state; and thereafter the rights, remedies and liabilities of the parties, and the proceedings in the case shall be the same, or as nearly as may be, as in other actions in said courts where an execution to take the body of the defendant or defendants has been issued; and it shall be the duty of the court in which any such action may be brought to make all proper and necessary orders to restrain and prevent any defendant or defendants from continuing the committing of any violation of any of the provisions of this act.

In case of unincorporated associations, how suit may be brought.

11. In any suit or proceeding in equity, or in any action at law, brought by or on behalf of any such association or organization that is not incorporated, for any violation of any of the provisions of this act, the same may be brought in the recognized name of any such association or organization, or in the proper name of the president or the secretary or the treasurer of any such association or organization who has been or may be given authority to bring any action or actions for or in behalf of any such association or organization, and if for any reason such authority is not given before the commencement of any such suit or action, the same may be given thereafter at any time before the trial of the same; and any such suit in equity or action at law may be brought as aforesaid in the recognized name of any branch or local or sub association, affiliated or connected with any national or international association or organization, or in the name of the president, or the secretary, or the treasurer thereof; and such authority to bring the same may be given by any board of directors, executive board, or executive committee, of any such association or organization, elected, chosen, or appointed by any such association or organization; and any such person or persons bringing any such action or proceeding in any court of law or equity in this state shall have the right to receive any and all moneys, property or other valuable thing recovered by or adjudged to the complainant or plaintiff in any such suit or action, for the use and benefit of the association or organization entitled to the same; and whenever any such suit or action shall be

brought by or on behalf of any such branch or local or sub-association or organiztion as herein provided instead of by or on behalf of any such national or international association or organization, such branch or local or sub-association bringing the same shall be entitled to the same rights, privileges, remedies and advantages, in the prosecution of such suit or action, as any other party or parties authorized by this act to bring such suit or action would have been entitled to if any such suit or action had been brought by them, or in their behalf, as herein provided.

This act to be construed liberally.

12. This act shall be construed by all courts at all times, in all suits, actions and proceedings, in the most liberal manner for effecting the objects and purposes thereof and protecting the claims, rights, interests, use and property of every person, association, organization or corporation in and to any label, trade-mark, term or design filed and registered pursuant to the provisions of this act.

Repealer.

13. All acts and parts of acts contrary to, or inconsistent with the provisions of this act, be and the same are hereby repealed.

14. This act shall be deemed and taken to be a public act and shall take effect immediately.

Passed March 15th, 1898.

CHAPTER 51.

An Act to amend an act entitled 'An act respecting the paving, re-paving, grading, curbing, sewering and otherwise improving of streets and public highways in cities of the first class in this state, and providing for the payment of the same, and further providing that the assessments upon property for special benefits shall be payable in full, or on installments, at the option of the property owner," approved March twenty-first, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section six of the act to which this is an amendment is hereby amended so as to read as follows:

Time within which payment may be made.

6. After the confirmation of said assessment, as herein provided, the property owner or owners shall have five years from the date when the annual tax is payable, next after making of the aforesaid assessment, in which to pay for the said improvement; the amount

Rate of interest.

assessed against each piece of property shall bear interest at the rate of six per centum per annum, from and after thirty days after the date of confirmation, and

Choice of method of payment.

such payment may be made immediately after confirmation, or in five equal annual installments, as follows: the first installment is to be due and payable when the annual tax is payable, next after the making of the aforesaid assessment and confirmation, and each installment thereafter shall be due and payable on and after the date of payment of annual taxes of each year in said city, together with interest, computed at the rate aforesaid, upon the unpaid balance of such assessment; and the property owner or owners shall, at any time after the aforesaid confirmation, have the right to pay the said assessment, or any

amount remaining unpaid thereon, with interest as aforesaid, upon the date of confirmation to date of payment; all payments herein provided for shall be paid to the official or officials authorized to receive the payment of assessments in such city. Payments; to whom made.

2. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 52.

An Act to amend an act entitled "An act concerning street improvements in cities," approved May ninth, one thousand eight hundred and ninety-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section four of the act to which this act is an amendment is hereby amended so as to read as follows: Section amended.

4. After the making of the assessment and apportionment as herein provided, the property owners, successors, heirs or assigns shall have five years from the date when the annual tax is payable next after the making of the aforesaid assessment and apportionment, in which to pay for said improvement; the amount assessed or apportioned against each piece of property shall bear interest at the rate of seven per centum per annum from and after thirty days from the date of confirmation, and that the payments shall be made in five annual installments; the first installment is to be payable when the annual tax is payable next after the making of the aforesaid assessment and apportionment, and each installment thereafter shall be payable on and after the date of payment of annual taxes of each year in any city wherein the installment is payable, and the property owner shall at any time after the aforesaid confirmation have the right to pay the whole amount assessed and apportioned against such property owner's property, Time for making payments. Rate of interest Method of payment.

New Jersey State Library

with interest as aforesaid from and after thirty days from the date of confirmation to date of payment; all payments herein provided for shall be paid to the official authorized to receive the payments of annual taxes.

Payments; to whom made.

2. This act shall take effect immediately.

Approved March 15th, 1898.

CHAPTER 53.

An Act to recognize the existence and rights and duties of churches, religious societies, and denominations of christians, and the supreme governing bodies thereof, and to provide for the enforcement of their civil rights and claims by judicial proceedings, and to define certain words used in the act.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Recognition of religious societies by their common name.

1. Any and every church, religious society or denomination of christians now or hereafter to be established in the United States of America, and the supreme governing body thereof, whether sole or aggregate, shall be severally recognized in this state, as well in courts of justice as elsewhere, as an entity bearing the name by which it is commonly called and known, the want of any civil incorporation notwithstanding; and said supreme governing body, whether sole or aggregate, shall be and hereby is authorized to bring or institute and maintain any action, suit or proceeding, in any court of this state, to enforce the civil rights or claims of the whole church, religious society, or denomination of christians.

Meaning of certain terms.

2. The words or phrases "church," "religious society," "denomination of christians," as in this act used and employed, are hereby defined to mean and include, and shall be construed in courts of justice and elsewhere to mean and include the whole body of religious believers having a common faith and polity.

3. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 54.

A Supplement to an act entitled "An act authorizing the incorporated cities, towns and townships of this state to renew matured and maturing bonds," approved February eighteenth, one thousand eight hundred and seventy-nine.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section one of an act to which this is a supplement be so amended as to read as follows: Section amended

1. Whenever any bonds heretofore legally issued or assumed by any incorporated city, town or township in this state, or whenever any bonds for which any such city, town or township become liable, under the authority of law, are now due and unpaid, or shall hereafter become due, the board of aldermen or common council or township committee or board of finance and taxation of any such city, town or township may renew ninety-six and two-thirds per centum of said indebtedness, or any less part thereof, by the issuing of the bonds of said city, town or township for that purpose; which bonds shall be made payable at periods of time not exceeding thirty years from the date of issuing the same, and shall draw such rate of interest not exceeding six per centum per annum, and be issued in such sums as the board of aldermen, common council, township committee or board of finance and taxation of any such city, town or township, shall by ordinance or resolution determine; which bonds shall be of the denomination of not less than fifty dollars nor more than ten thousand dollars, and shall be executed under the corporate seal of said city, town or township, and the signature of the mayor, comptroller, chairman of the township committee or other proper financial officer thereof, and shall have coupons attached for every half year's interest until due, or may be regis-

Portion of matured and maturing bonds may be renewed.

Amount.

Time

Rate.

Issued by

Denomination.

tered, at the option of the holder; which coupons, if attached, shall be signed by the said mayor, comptroller, chairman or other proper financial officer, and numbered to correspond with the bond to which they shall respectively be attached; and all the bonds issued under this act shall be numbered, and a register of such numbers, the date of issuing and the time of payment shall be made by the said mayor, comptroller, chairman or other proper financial officer of said city, town or township, in a book to be provided for that purpose; *provided*, that in order to redeem the bonds issued under the provisions of this act at maturity, it shall be the duty of the board of aldermen, common council, township committee or board of finance and taxation of any such city, town or township, to establish a sinking fund, which shall be created either by a special tax of not less than three per centum on the issue herein provided for, to be raised in the annual tax levy, or from collections of assessments for improvements in cases where the bonds hereby authorized to be reissued were originally issued to pay for street and sewer improvements in any such city, town or township, or both, at the option of the governing body thereof.

Proviso.

2. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 55.

An Act to incorporate the borough of Garfield, in the county of Bergen.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Boundaries.

1. All that portion of the township of Saddle River and of the borough of Wallington, in the county of Bergen, described as follows: beginning at a point in the middle of the Passaic river, where the northerly line of the Philip P. Van Bussum farm intersects the same;

thence extending easterly along the northerly line of said farm; thence still easterly along the northerly line of former school district number forty-two, to the center line of the public road leading from Centerville to Garfield, known as Midway avenue; thence southerly along the center line of Midway avenue to the center line of the road known as Outwater's lane, leading from the Passaic river to Lodi; thence easterly along the center line of Outwater's lane to the point where the center line of the new public road lately opened and known as Harrison avenue, prolonged, intersects the same (said point, being the northwesterly corner of the borough of Lodi); thence southerly along the borough of Lodi, being along the said center line of Harrison avenue, to its intersection with the centre line of Frederick street, as laid down on the map of the Bogart Heights property; thence easterly still along the borough of Lodi, being along the center line of Frederick street, to the point where the northerly line of the land of the St. Nicholas cemetery association, extended westerly, intersects the same (being at or near the middle of the public road known as Passaic avenue, leading from Lodi to Garfield and Passaic); thence easterly still along the borough of Lodi (being along the said northerly line of said St. Nicholas cemetery association's land), about five hundred and forty-one feet to the northeasterly corner thereof; thence southerly still along the borough of Lodi (being along the easterly line of said St. Nicholas cemetery association's land), about five hundred and ninety-seven and five-tenths feet to the center of the Saddle river; thence through the middle of the Saddle river, down stream, southerly and westerly to its junction with the Passaic river; thence westerly to the middle of the Passaic river (the same being the Passaic county line), to a point opposite the mouth of the Saddle river; thence northerly and up stream along the middle of the Passaic river and the Passaic county line to the place of beginning; shall be and is hereby set off from the said township of Saddle river and the borough of Wallington aforesaid, and is hereby created a borough, which shall be called and known by the name of the "borough of Garfield."

Corporate name.

2. The inhabitants of the said borough of Garfield shall be and they are hereby constituted and declared to be a body corporate, in fact and in law, by the name of the "borough of Garfield," and shall be governed by the gereral laws of this state relating to boroughs.

3. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 56.

An Act incorporating "the borough of Totowa," in the county of Passaic.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Portions of townships set off.

1. All that portion of the township of Manchester, and all that portion of the township of Wayne, in the county of Passaic, and the state of New Jersey, hereinafter more particularly described, be and the same are hereby set off from said townships respectively, and incorporated into a borough by the name of "the borough of Totowa."

Boundaries.

2. The boundaries of said borough shall be as follows: beginning in the middle of the Passaic river at Lincoln bridge, where the line between Manchester township and the city of Paterson extended southeasterly would intersect the middle of said river, and running from thence (1) up the middle of said river to the Morris canal at the aqueduct at Little Falls; thence (2) northerly along the middle of said canal to the Singac brook; thence (3) northeasterly along said Singac brook to the mouth of the Naaktpunkt brook; thence (4) up said Naaktpunkt brook to the bridge on the lower Preakness of Totowa road at the house late of Warren B. Mitchell; thence (5) northeasterly in a straight line to the center line of the lower Preakness road or Preakness avenue where the same intersects the line between the townships of Manchester and Wayne; thence (6) along the center line of Preakness avenue to the Pater-

son city line; thence (7) southwesterly and southeasterly along said city line to the place of beginning.

3. The inhabitants of said borough shall be and they are hereby constituted a body politic and corporate in law, and by the name of "the borough of Totowa" shall be entitled to all the rights, powers, authority, privileges and advantages, and be subject to the same regulations, government and liabilities, as the other boroughs in this state are or may be entitled, or to which they may be subject, by the general laws of this state. Corporate name.

4. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 57.

An Act to regulate theatres and places of public amusement in cities of this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All lights used in theatres and other places of public amusement shall be properly protected by globes or glass coverings, or in such other manner as the board or body having control of the extinguishment of fires in any such city shall prescribe; the owners or managers of all theatres, and other places of public amusement, or the persons having charge thereof, shall provide such means of communicating alarms of fire, accident or danger to the police and fire departments respectively, and shall also provide such fire hose, fire extinguishers, buckets, fire hooks, axes, fire doors and other means of preventing and extinguishing fires as the body or board having control of the extinguishment of fires shall direct; no obstruction or any article or thing whatever shall be placed in any aisle or passageway in any such theatre or other place of public amusement. Lights to be protected. Means of communicating with police and fire departments and extinguishing fires. Passageways to be unobstructed.

2. The board or body having control of the extinguishment of fires may detail not to exceed two members of its force at each and every place of public amuse- Firemen may be detailed at certain public amusement places.

Duty of detail.

ment where machinery and scenery are used while such place is open to the public, whose duty it shall be to guard against fire, and who shall have charge and control of the means provided for its extinguishment, and shall have the direction and control of the employees of the place to which they may be detailed, for the purpose of extinguishing any fire which may occur therein; it shall also be the duty of such person or persons so detailed, to inspect every portion of the building or buildings to which they may be detailed during public performance therein, for the purpose of guarding and protecting the occupants from fire or panic; the board or body in any city having control of the extinguishment of fires shall also have power to keep the aisles and passageways in such place or places of public amusement free and clear of all obstructions, and to prevent persons from standing therein and to remove such persons therefrom, and may also make rules for the better enforcement of the provisions hereof.

Penalty for violation.

3. Any person or corporation who shall willfully violate, or neglect or refuse to comply with any provision or requirement of this act, or any regulation, order or special direction duly made thereunder, shall, for every such offense, forfeit and pay to the city in which such offense shall be committed, a penalty of not less than fifty nor more than two hundred dollars, in the discretion of the judge or court having cognizance thereof, which penalty may be recovered in any court now or hereafter having jurisdiction over the violation of the ordinances of the city in which such offense shall be committed, and in the manner now or hereafter provided for the enforcement of the ordinances of such city, and for the collection of penalties for the violation thereof; and it shall be the duty of the board or body having the control of the extinguishment of fires in such city to enforce the provisions of this act and of any regulation, order or special direction duly made thereunder, and of the police force to aid in the enforcement of the provisions of this act, and the officers of the police force of any city shall have power, without warrant, to arrest any person or persons who shall violate

Duty of police and fire departments

the provisions of this act, or of any regulation, order or special direction duly made thereunder.

4. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 58.

An Act confirming, validating and legalizing deeds of conveyance of or for lands, tenements, hereditaments, or real estate heretofore made and delivered by any administrators or administrator with the will annexed, or by any administrators or administrator de bonis non with the will annexed, or by the survivors or survivor or successors or successor of them, him or her, and making the record of said deeds admissible in evidence.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Validating certain conveyances and making record of same admissible in evidence.

1. Any deed or deeds of conveyance heretofore made and delivered by any administrators or administrator with the will annexed, or by any administrators or administrator de bonis non with the will annexed, or by the survivors or survivor, or successors or successor of them, him or her, of or for any lands, tenements, hereditaments, or real estate sold pursuant to the power, permission or direction in the said will annexed, given to or vested in the executors or executor named in the said will annexed, is and are hereby confirmed, validated, legalized and declared to be, and is, and are, and shall be, as good, legal, valid and effectual, and the record thereof admissible in evidence, and fully and completely as if the said deed or deeds of conveyance had been, or was, or were, made and delivered by the executors or executor named in the said will (although the terms of the said sale have not been submitted to the orphans' court of the county

in which the said lands or real estate lie, or have not been approved by said court, or the second section of the act entitled "A supplement to an act entitled 'An act concerning executors and administrators of intestates' estates' (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, regulating the sale of lands by administrators with the will annexed, or by administrators de bonis non with the will annexed, and defining their powers," approved April sixth, one thousand eight hundred and eighty-eight, or any part of said second section has not been complied with), except where said will has expressly confided the exercise of said power of sale to some other persons or person named therein other than the executors or executor named in said will.

2. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 59.

A Supplement to an act entitled "An act concerning idiots and lunatics" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

When orphans' court may appoint guardian.

1. That whenever any person or persons have been admitted to and confined in any state or county asylum of this state for the insane, on the certificate of two reputable physicians residing in the state, or may hereafter be admitted and confined as aforesaid, and it shall appear that such person or persons are possessed of personal property, and shall have been for at least one year insane and confined in an insane asylum of this state, and no inquisition of lunacy shall have adjudged such person or persons an idiot or lunatic, it shall be lawful for the judge of the orphans' court of the county in

which the lunatic shall have been a resident when committed, to appoint any one of the next of kin, or other proper person, as guardian or guardians of such lunatic or lunatics, in the manner provided by law governing the appointment of guardians by the orphans' court; *provided*, a petition duly verified by the oath of the petitioner shall be presented to said judge, which petition shall set forth the name or names, when, where and how long confined, and the age of such person or persons possessing such personal property, the value of the same, and what it consists of, whether in money or securities, and what relationship said lunatic or lunatics bear to the petitioner; *and provided further*, that the affidavits of two physicians connected with said asylum for the insane, one of whom shall be the superintendent or medical director thereof, shall be attached to said petition and form a part of the same, giving a full medical history of said insane person or persons while confined in said asylum for the insane, when admitted, and if still a patient or patients, and by reason of insanity not capable to receive, manage or take care of said personal property.

Proviso

Proviso.

2. All acts or parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

Approved March 15, 1898.

CHAPTER 60.

A Supplement to "An act supplemental to an act entitled 'An act relative to the supreme and circuit court,'" approved March twenty-seventh, one thousand eight hundred and seventy-four, and also for the appointment of three judges to hold said circuit courts, and to define their powers, approved March ninth, one thousand eight hundred and ninety-three.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section two of the above-entitled act be and the same is hereby amended to read as follows:

Power of circuit court judges to appoint sergeant-at-arms.

2. The said judges so to be appointed, and each of them, shall have the same authority, power and jurisdiction, by virtue of their said office, as is now vested by the common and statute laws in the several justices of the supreme court, by reason of their being judges of the said circuit court, and each of such circuit judges, to whom a judicial district has been or may be assigned, and which judicial district comprises a county of the first class, is authorized and empowered to appoint in his judicial district a suitable person as sergeant-at-arms of the circuit court of said judicial district, to hold office during the pleasure of said judge, and it shall be the duty of said sergeant-at-arms to attend daily upon the said circuit court during the several terms thereof, for which services the judge of the said circuit court is hereby authorized to order and fix a per diem allowance, not exceeding five dollars per day, as shall appear to said judge, in the exercise of his discretion, to be fair and reasonable to allow; but said per diem allowance shall be made and taken in lieu of all fees, perquisites and allowances whatever; said per diem to be paid monthly by the county collector upon the certificate of the clerk of said court, after the claim for the services

so rendered, verified by the oath of the claimant, shall have been presented to such clerk; *provided, however,* that when in any such judicial district, comprising a county of the first class, there is a duly designated sergeant-at-arms, selected by the justice of the supreme court who sits in the circuit court of such county, and which sergeant-at-arms habitually performs duty as such in said circuit court, no further or other appointments shall be authorized by this act. Proviso.

2. This act shall take effect immediately.

Passed March 15, 1898.

CHAPTER 61.

An Act concerning fire departments in cities of the first class.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

1. It shall be lawful for the municipal board having charge of the fire department in any city of the first class to fix the annual salary of the superintendent of telegraph of the fire department of such city, at an amount not exceeding two thousand five hundred dollars, which salary when fixed under the provisions of this act by resolution adopted by such board shall not be increased or diminished during the term of the officer whose salary shall be so fixed. Annual salary of superintendent of fire telegraph.

2. All inconsistent acts are hereby repealed, and that this act shall take effect immediately. Repealer.

Passed March 15, 1898.

CHAPTER 62.

A Supplement to an act entitled "An act to tax intestates' estates, gifts, legacies, devises and collateral inheritance in certain cases," approved May fifteenth, one thousand eight hundred and ninety-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Certain gifts, grants, legacies, etc., not taxable.

1. All gifts, grants, legacies, bequests and devises, whether by will, deed or otherwise, of real or personal property, by residents or citizens of this state, to any bible or tract society, or religious institution, boards of the church or organizations thereof, in trust or otherwise, not confined in their operations and benefactions to local or state purposes, but for the general good of the people interested therein, of the United States or of foreign lands, as the board of home and foreign missions of various church denominations, shall not be taxed under said act, whether said societies, religious institutions or boards aforesaid, are organized under the laws of this state, or incorporated and organized under the laws of some other state.

Application.

2. This provisions of this supplement and its exemptions shall apply to all gifts, grants, legacies, bequests and devises aforesaid, on which the tax has not been assessed and paid.

3. This act shall take effect immediately.

Approved March 15, 1898.

CHAPTER 63.

A Further Supplement to an act entitled "A general act concerning taxes," approved March nineteenth, one thousand eight hundred and ninety-one.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Duty of state board of taxation, upon formal complaint, to investigate assessments and valuations.

1. When complaint shall be made in writing to the state board of taxation by the board of chosen freeholders of any county in this state, or by the common council, board of aldermen, mayor and council, township committee or other governing body of any city, town, borough, township or other like municipality in any such county, alleging that injustice is being done such county or municipality by reason of the taxable property of the county or counties complained of being illegally undervalued or omitted by the assessors or other taxing officers therein, it shall be the duty of the state board of taxation to investigate the assessment and valuation of the property subject to taxation in such county or counties complained of, and for the purposes of such investigation the state board of taxation shall have the right to use and exercise all the powers and process for compelling the attendance of witnesses and production of evidence which are now or may hereafter be lawful for said board to exercise or use in any other investigation.

Certification of such investigation filed.

2. The state board of taxation shall certify and file the result of every such investigation in the office of the state superintendent of public instruction and in the office of the comptroller of the state, and shall in such certificate specify, first, whether substantially all the real and personal property in each county so investigated has been listed, assessed and valued, and if not all, what percentage; second, whether or not such property subject to taxation has been assessed and valued by the respective assessors and taxing officers in such county

Specifications.

at substantially its true value, and if not at such value at what percentage of such value; third, what should be the valuation of the property both real and personal in each county investigated, and such determination of the proper valuation on the part of the state board of taxation shall for all purposes of the state comptroller, the state superintendent of public instruction and the state board of education be deemed to be the true valuation of each county or counties investigated, until otherwise determined by the state board of taxation under the provisions of this act.

Provision for expenses of investigation.

3. For the purpose of making such investigation the state board of taxation shall have the power to provide for such reasonable disbursements as may be necessary, not exceeding for any one county the sum of one hundred dollars, which shall be paid by the state treasurer from any fund available for that purpose, upon their filing in his office a certificate specifying in detail the items of such disbursements.

4. This act shall take effect immediately.

Approved March 16, 1898.

CHAPTER 64.

A Supplement to an act entitled "An act providing for the repavement of paved streets in cities of this state, and for the issuance of bonds in payment therefor," approved March second, one thousand eight hundred and ninety-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Limitation as to issue of bonds.

1. No city shall issue bonds under the provisions of the act to which this is a supplement, where the amount of such bonds, together with all other funded and floating indebtedness of such city, then outstanding, after deducting the available sinking funds thereof, shall exceed ten per centum of the valuation of the real and

personal property of said city, as assessed for municipal purposes, for the year next prior to the incurring of such indebtedness.

2. This act shall take effect immediately.

Approved March 16, 1898.

CHAPTER 65.

An Act to make the boundary line between adjoining municipalities the middle of any public road, avenue or street along which a boundary line runs, and relating to public improvements made on either side of such boundary line.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Boundary line between municipalities.

1. Where a boundary line between adjoining municipalities runs along a public road, avenue or street, the middle line of such public road, avenue or street shall be the boundary between such municipalties; and wherever a boundary line exists, which, while running along a public road, avenue or street, is not the middle line thereof, such boundary line shall be and is hereby so changed that the boundary between such municipalities shall be the middle of such public road, avenue or street.

Assessments and collections for improvements.

2. Whenever a boundary line exists as provided in the first section of this act, all costs and expense for all public improvements made by an adjoining municipality in such part of such public road, street or avenue, lying within such municipality, shall be laid, assessed and collected by the municipality making such public improvements, in the same manner and pursuant to the same laws as the costs and expense for like public improvements are laid, assessed and collected in the municipality making the same.

Repealer.

3. All acts or parts of acts, general or special, inconsistent with the provisions of the act, are hereby repealed, and this act shall take effect immediately.

Approved March 16, 1898.

CHAPTER 66.

An Act for the protection of railroad grade crossings.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Governing bodies may apply by petition to Court of Chancery for gates, &c.

1. Whenever the governing body of any city, town, township, borough, village or other municipality in this state shall be of the opinion that it is necessary, for the security of human life or the protection of the public, that gates should be erected across any public road or highway where the same is crossed by a railroad track at the same grade or level, or that a flagman should be stationed thereat for the purpose of giving notice of the approach of trains, or that some other reasonable provision for protecting such crossing should be adopted, such governing body may apply by petition to the court of chancery for such order as the court may deem necessary in the premises.

Court shall, after notice, investigate necessity for same.

2. Upon filing such petition the court of chancery shall, after such notice to the said railroad company as the court may deem necessary, proceed in a summary way to investigate the circumstances of the case; and thereupon, if the court shall decide that it is reasonable and necessary for the security of human life or the protection of the public that gates or bars should be erected and maintained, or a flagman should be stationed, by such railroad company at such crossing, or that some other reasonable provision for protecting such crossing should be adopted by such railroad company, the said court shall make an order or decree to that effect; and the railroad company affected thereby shall comply with the terms of such order or decree within such time as the said court may prescribe, and

Court shall make order.

by mandatory injunction issuing out of said court, or by other appropriate process, may be compelled to perform and carry out the said order or decree, and to do and perform all things thereby required of such company, which order or decree shall be subject to review as in other causes. May enforce order.

3. A petition under this act may embrace several crossings by the same railroad within the same municipality, or by order of the court several separate petitions may be consolidated and heard as one. Nature of petition.

4. Before any such governing body shall make application to the court of chancery under the authority of this act, it shall pass and adopt an ordinance authorizing and directing such application to be made. Before petitioning, ordinance to be adopted.

5. In case application should be made for the protection of a crossing by any railroad over a public road or highway hereafter laid out, the court, on such application, shall decide what, if any, portion of the expense of establishing gates, and maintaining a flagman thereat, should equitably be borne by the municipality applying for such protection, and may make such order for the payment thereof as may be necessary. In case of crossings hereafter made.

6. Nothing herein contained shall be construed as repealing or limiting the powers now possessed by any municipality to protect or regulate grade crossings. Not to affect powers already possessed.

7. This act shall take effect immediately.

Approved March 16, 1898.

CHAPTER 67.

A Supplement to an act entitled, "An act for the publication of the law and chancery reports," approved February twenty-eighth, one thousand eight hundred and seventy-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The law and chancery reporters shall print at the beginning of the report of each case, inserted by them Duty of law and chancery reporters.

respectively in the law and equity reports, the date of the argument or submission of cases hereafter argued or submitted and the date of the decision of the causes reported.

2. This act shall take effect immediately.

Approved March 16, 1898.

CHAPTER 68.

A Supplement to an act entitled "An act to authorize towns and villages to construct sewers and drains and to provide for the payment of the cost thereof," approved May twelfth, one thousand eight hundred and ninety.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section one amended.

1. Section one of said act is amended so as to read as follows:

Lawful for governing body to order sewers etc.

1. In any town or village in this state which has been incorporated under any general or special law, whether the powers granted have been vested in a board of commissioners having among other powers the charge and control of the public streets of such town or village, or in any other governing body or board, it shall be lawful for the board of commissioners or other governing body, by ordinance, whenever in their opinion the public good requires it, to order and cause any main sewer or lateral sewer or system of sewers or drains or either or any of them to be constructed in any part of the town or village with suitable outlets and disposal works, and to use and occupy the streets, highways and public places for that purpose and to acquire by purchase or condemnation and to take and appropriate any land that may be needed for the purpose of constructing such sewers and for sewage disposal works and appliances upon making compensation to the owner or owners thereof; the ordinance shall specify generally the route

Acquire land by purchase or condemnation.

Ordinance.

of the sewer and the streets wherein the same is to be constructed; in case the board or other governing body shall deem it necessary for the efficient sewage or drainage of such town or village to construct a sewer or sewers to tide or other waters, or to an outlet or disposal works outside of the town or village, and for that purpose to occupy territory within the bounds of any township, it shall be lawful for such board or other governing body to construct such sewer or sewers and disposal works, and to take, appropriate and use for this purpose, so far as necessary, any land within or without the lines of any public street or highway in such township, and to acquire by purchase or condemnation any land needed for said purpose; in case such sewer be laid through or across any public street or highway or be repaired therein, it shall be done under such reasonable regulations, if any, as may be imposed by the township committee with respect to like work done by the township, and the surface of said street or highway shall be restored for traffic at the cost of the town or village.

In case necessary to construct sewer out-ide corporate limits.

2. Section two of the act to which this is a supplement is hereby amended so as to read as follows:

Section two amended.

2. Whenever a petition in writing of any owners or property interested, not less than ten, shall be presented to the board of commissioners or other governing body or board of such town or village, asking for the construction of a sewer or drain in the whole or any particular section of such town or village, it shall be lawful for such board to adopt a resolution declaring its intention to cause such sewers or drains to be constructed; and the said board shall forthwith cause public notice of such intention to be given by its president or designated officer, in two or more newspapers printed or circulating in such town or village, for the space of ten days, briefly describing the purposed work and the section or part of such town or village to be affected, and requesting such persons as may object thereto to present their objections in writing, at a meeting of the board to be held at a time and place appointed by the board and specified in said notice, and a hearing shall be held upon said objections at said time and place, whereupon it shall be lawful for such board to adopt any ordinance for the

Action of governing body when petitioned to build sewer.

construction of such sewers or drains, to award contracts for the same, or for any part or section thereof, and to take all necessary steps for the properly carrying into effect the desired improvements, notwithstanding said objection.

Section thirteen amended.

3. Section thirteen of the act to which this is a supplement is hereby amended so as to read as follows:

Issue of bonds.

13. If there shall be a majority of votes cast in favor of the issue of bonds, it shall then be lawful for the board of commissioners or other governing body or board of such town or village to issue registered or coupon bonds of said town or village, such issue being hereby expressly authorized for the purpose of providing funds to pay for such improvements; the bonds may be made payable at times to be therein specified, not more than twenty years after date, but so that an equal amount shall fall due each year after the first, the rate of interest not to exceed six per centum, and the denominations to be fixed by the board of commissioners or other governing body or board issuing the same.

Further proceedings by resolution.

4. Whenever an improvement shall have been ordered under this act by ordinance, all further acts and proceedings which it may be necessary to take in order to complete said improvement and all orders relating thereto may be by resolution.

Assessment; how made.

5. The board or other governing body may, in their discretion, order an assessment for the special benefits of any improvement, under this act, to be assessed and collected and bonds to be issued for the cost thereof, either under the procedure prescribed by this act or under that prescribed by any other act appropriate for the purpose and applicable to towns or to towns and villages.

Repealer.

6. All acts and parts of acts, general or special, inconsistent with the provisions of this act, are hereby repealed, and this act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 69.

An Act to change the surname of Thomas Hanlon and his family to "O'Hanlon," and to validate and confirm their deeds, devises, acts and otherwise.

Preamble.

WHEREAS, The ancestral surname of Thomas Hanlon, now of Pennington, Mercer county, New Jersey, and family, was originally "O'Hanlon," as appears by their family gravestones, family records and otherwise; *and whereas*, after the death of their father, over half a century ago, his children, being all minors, did inconsiderately drop said letter "O" from their family surname, under the erroneous impression that it was merely a middle letter of little or no account, rather than a distinguishing and historic prefix and part of the family surname; *and whereas*, said Thomas Hanlon has desired for many years to bear the full and correct surname of his parents and ancestors, and transmit it to his posterity; therefore,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Name changed.

1. That the surname of the said Thomas Hanlon be and the same is hereby changed and restored to "O'Hanlon," and likewise the surnames of his wife, children and grandchildren.

Deeds, gifts, etc., lawful by changed name.

2. All deeds, gifts, grants, devises, bequests, records, acts and things whatsoever, in which the said Thomas Hanlon or his said wife, children and grandchildren have been described as "Hanlon," shall be good and effectual in law and equity, and shall inure to his, her and their benefit as "O'Hanlon," as effectually as if said surname of "O'Hanlon" had been originally used and inserted therein.

Legal rights for or against unimpaired.

3. All the legal and equitable rights, remedies and liabilities of the said Thomas Hanlon and his family shall remain the same as if this act had not been passed;

but they shall be held and prosecuted as if their original surnames had been written "O'Hanlon."

4. This act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 70.

A Supplement to an act entitled "An act concerning marriage licenses," approved May eighteenth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Duplicate certificate or copy thereof valid as evidence.

1. Every duplicate certificate of marriage and copy of marriage license transmitted to the state bureau of vital statistics of this state under the authority of the act to which this is a supplement, and any copy thereof certified to be a true copy under the hand of the medical superintendent of said bureau, shall be received in evidence in any court of this state to prove the facts therein contained, to the same extent as if the original certificate were produced.

2. This act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 71.

An Act to determine the status of type-writing.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Type writing legalized.

1. All type-writing heretofore executed or done, and all type-writing which may be hereafter executed or done, for any purpose, and in any instrument whatso-

ever, shall have the same legal force, meaning and effect as writing, and writing shall be taken and held to include type-writing; *provided*, that this act shall not be so construed as to in any manner affect or change the law as it now is respecting signatures. Proviso.

2. This act shall take effect immediately.

Approved March 17th, 1898.

CHAPTER 72.

An Act to authorize cities in this state to adjust and settle questions relating to lands owned, or claimed to be owned, by such cities, the title to which shall be, or shall have been, in dispute, and to provide for the purchase or cancellation by such cities of leasehold or other interest in said lands.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. In case any city of this state, in any agreement made or to be made by it in settlement of questions relating to the ownership of or title to lands in dispute between such city and any corporation or person has or shall receive deeds of release or conveyance of lands which are subject to leasehold or other interests, or has or shall make and deliver deeds of release or conveyance of lands subject to leasehold or other interests, it shall be lawful for such city, through its board of street and water commissioners, common council or other board or body having control and charge of its public parks, to purchase any outstanding lease or leases upon said lands, or any part thereof, or any interest therein, at such price as may be agreed upon between such city and the person or corporation holding such leasehold or other interest; and for the purpose of meeting the expenses incident to the carrying out of such agreement, and the purchase of such leasehold or other interest, it shall be lawful for the common council or other board Lawful for city to purchase leases.

Sum appropriated.

or body of such city having control of the finances thereof to appropriate for that purpose a sum not exceeding thirty-five thousand dollars.

Provision for payment.

2. Such city by or through its common council or other governing board or body having charge of the finances of such city may borrow the money so appropriated by the common council or other governing board or body of such city, pursuant to the provisions of this act, and may issue either temporary or other bonds of such city to the amount so appropriated, and may negotiate and sell the same at not less than par; said bonds so to be issued, if temporary bonds, may be issued from time to time and which bonds shall not be carried for a longer period than five years, and shall bear interest at a rate not greater than five per centum per annum, and, in case other bonds of the said city are issued, they shall be made payable in not more than ten years, and shall bear interest at a rate not greater than four per centum per annum, payable semi-annually, and may be registered or coupon bonds, or may be registered or coupon bonds combined, at the option of the city; and there shall be raised in each year the interest on the whole amount of the bonds so issued, together with not less than the sum of three thousand dollars, for the purposes of a sinking fund to pay the said bonds as they shall become due, and all moneys received from the tenants or lessees under the said leases so purchased, or the renewals thereof from time to time, shall be pledged and used for the redemption of the said bonds issued as aforesaid and the interest accruing thereon.

Temporary or other bonds.

Rate and time, if temporary.

Rate and time, if otherwise.

Sinking fund.

3. This act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 73.

A Further Supplement to an act entitled "An act fixing the compensation of certain public officers of the state," approved February sixth, one thousand eight hundred and eighty-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The state librarian shall be allowed the further sum of three hundred dollars per year, for clerical services in the discharge of the duties of his office; *provided,* said sum shall not be paid until regularly appropriated. Further allowance to state librarian. Proviso.

2. This act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 74.

An Act to regulate the practice of dentistry in the state of New Jersey, and to repeal certain acts now relating to the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

LICENTIATES.

1. The following persons only shall be deemed licensed to practice dentistry in this state: Persons entitled to practice.

(*a*) Those who are now duly licensed and registered as dentists pursuant to law, and

(*b*) Those who may hereafter be duly licensed and registered as dentists pursuant to the provisions of this act.

STATE BOARD OF REGISTRATION AND EXAMINATION IN DENTISTRY.

Continuance in office of certain officers.

2. The members and officers of the state board of registration and examination in dentistry, as now constituted pursuant to chapter one hundred and forty-three of the laws of eighteen hundred and ninety, may continue to hold office until the expiration of their terms, unless previously removed; the New Jersey state dental society shall, at each of its annual meetings, recommend to the governor for appointment as a member of said board a dentist of good repute, residing and practicing in this state, whom the governor shall appoint; the member so appointed shall hold office for five years, or until his successor is appointed; the governor shall also fill, for the unexpired term only, vacancies occuring in the board by reason of death, resignation or otherwise; cause being shown before him, he may remove a member from office upon proven charges of inefficiency, incompetency, immorality or professional misconduct; the board shall, at its annual meeting, elect from its members a president and secretary; it shall hold at least two meetings annually for examining and licensing persons to practice dentistry in this state, at which meetings three members shall constitute a quorum; said board shall have the power to determine the good standing and repute of any dental school, college, or department of a university, and may from time to time designate in some public manner schools colleges, or departments of universities whose diplomas will be received by it; it shall annually make a report of its proceedings to the governor; the seal heretofore adopted by it shall continue to be the common seal of the board; it may sue or be sued, and in all actions brought by or against it, the board shall be designated as "the state board of registration and examination in dentistry."

Appointment to board, and term.

Semi-annual examinations.

Annual report.

Seal.

Designation.

EXAMINATION.

Rules and procedure.

3. The board shall from time to time adopt rules for its own government and for the examination of candi-

dates for license to practice dentistry; any rule altering the nature or increasing the severity of the examination or the subjects to be included therein shall not be enforced within six months after its adoption and public promulgation; the examination of applicants shall be confined to written or oral, or both written and oral, examination upon subjects properly relating to the science of dentistry, the knowledge of which is necessary to the proper and skillful practice of said science; the board may also require from applicants, as part of the examination, demonstrations of their skill in operative and mechanical dentistry; no person shall be examined by the said board unless he be twenty-one years of age, of good moral character, and have received a preliminary education equal to that furnished by the common schools of this state and be graduated in course with a dental degree from a dental school, college or department of a university recognized by said board, or shall present the written recommendation of at least five licensed dentists of this state of five years' standing, certifying that he is qualified for such examination, or shall hold a diploma or license conferring full right to practice dentistry in some foreign country and granted by some authority recognized by the board; any member of the board may inquire of any applicant for examination concerning his qualifications, and may take testimony of any one in regard thereto, under oath, which he is hereby empowered to administer.

EXAMINATION FEES.

Examination fee.

4. Every applicant for license to practice dentistry shall file his application with and pay to the secretary of said board a fee of twenty-five dollars and present himself for examination at the first regular meeting of the board after such application, due notice of which shall be given; such fee shall not be refunded, unless from sickness or other good cause appearing to the satisfaction of the board such applicant was prevented from attending and completing such examination; further or subsequent examinations under such application may be given to applicants, in the discretion of the board, without payment of additional fee.

EXPENSES OF BOARD.

Expenses.

Mileage.

Secretary's salary.

Bond of secretary.

Statement to governor.

Surplus.

5. The board may cause to be paid out of the fees, fines and penalties had and received by its secretary all proper expenses incurred by it under the provisions of this act, including mileage to each member at the rate of five cents per mile for all distances necessarily traveled in discharge of his duties, and an annual salary of one hundred dollars to its secretary; all moneys received shall be held by the secretary and paid out only upon resolution of the board and warrant of its president; the secretary shall give bond in such sum and with such surety as the board may from time to time direct and approve; a statement of all moneys received and disbursed by the board shall be annually submitted to the governor in the annual report of said board, and the surplus, if any, after payments as aforesaid, shall be paid to the state treasurer.

LICENSES.

License.

Proviso.

Fee.

6. Said board shall register as licensed dentists, and under its seal and the hand of its president and secretary, issue to all persons who shall successfully pass said examination, its license to practice dentistry in this state; the board may also, without the examination hereinabove provided for, issue its license to any applicant therefor who shall furnish proof satisfactory to it that he has been duly licensed after examination to practice dentistry in any state after full compliance with the requirement of its dental laws, and has been lawfully and reputably engaged in said practice for five years next preceding his application; *provided, however*, that his professional education shall not be less than that required in this state; every license so given shall state upon its face the grounds upon which it is granted, and the applicant may be required to furnish his proof upon affidavit; the fee for such license shall be fifty dollars.

REVOCATION OF LICENSES.

When license may be revoked.

7. Upon presentation to the board of a certified copy of a court record, showing that a practitioner of dentistry has been convicted of felony or misdemeanor, that fact may be noted upon the record of licenses, and the license and registration shall be marked cancelled; any person whose license shall be so cancelled shall be deemed an unlicensed person, and, as such, subject to the penalties prescribed for other unlicensed persons who practice dentistry.

CONSTRUCTION OF THIS ACT.

Act, how construed.

8. This act shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in a dental office or laboratory; or to prohibit the registered student of a licensed dentist from assisting his preceptor in dental operations while in his presence and under his direct and immediate personal supervision; or to prohibit a duly licensed physician from treating the diseases of the mouth or performing operations in oral surgery; nothing in the provisions of this act shall be construed to permit the performance of dental operations by any unlicensed person under cover of the name of a registered practitioner; any person now registered as a student may present himself for examination to the board upon complying with the provisions of this act relative to examination, and presenting to the board a certificate, under oath from the dentist or dentists with whom he has studied, that such applicant has studied as a student with the dentist or dentists so certifying for not less than five years continuously; *provided, however*, such applicant shall have filed, on or before the first day of June, eighteen hundred and ninety-eight, a notice with the board that it is his purpose to avail himself of the exemption hereby made; the board may, however, at any time, upon proof of the violation of any of the provisions of this act by such student, revoke his right to present himself for and pass such examination; any

Proviso.

person shall be regarded as practicing dentistry within the meaning of this act who shall use the words, "doctor of dental surgery," "doctor of dental medicine," or the letters "D. D. S." or "D. M. D." in connection with his or her name, or any other title intended to imply or designate him or her as a practitioner in dentistry in all of its branches, and who, in connection with such title or titles, or without the use of such titles, shall practice dentistry in any of its branches; and it is further provided that the use of any one of the aforementioned titles or the exposition of a sign, circular, advertisement or any other devise or information indicating thereby the occupation of the person or persons, shall be taken and considered in the trial of any indictment which may be found for the violation of any of the provisions of this act as prima facie evidence.

ASSOCIATIONS OR COMPANIES PRACTICING DENTISTRY.

In case of companies or associations.

9. That hereafter if any association or company of persons, whether incorporated or not, shall engage in the practice of dentistry under the name of "company," "association," or any other title, the said company or association shall cause to be displayed and kept in a conspicuous place at the entrance to its place of business the names of each and every person employed by said company or association in the practice of dentistry; and any person employed by such company or association whose names shall not be displayed as above provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided; and the said association or company, if incorporated, or the persons comprising the same, if not incorporated, shall for such failure to display the aforesaid names be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided.

ANNUAL REGISTRATION.

Annual registration.

10. That hereafter there shall be an annual registration of every person, persons, company or association

practicing dentistry within the state, together with an annual registration of each and every assistant in the employ of every such person, persons, company or association; it shall be the duty of the secretary of this board, not later than the first day of December in each year, to prepare and mail to every person, company or association known to be practicing dentistry within this state a document to be known as the "annual registration blank," upon which shall be proper space for the endorsement of the name, residence, and location of office of the person, company or association to whom the same is sent, together with the name and residence of every assistant employed in any such office; and it shall be the duty of every person, company or association, upon the receipt of said blank, to fill in the name, residence and location of office of said person, company or association, and also the name and residence of each and every assistant employed by said person, company or association in any such office; said return shall be fully completed and returned to the secretary of this board within thirty days after its receipt; for failure to comply herewith the person, company or association shall be liable to a fine of ten dollars, besides costs, to be sued for in the name of the board, in any court of competent jurisdiction; said fine to be paid into the treasury of the board; and any person, company or association making any false statement concerning or touching any matter or thing covered by this section shall for such offense be liable to a fine of fifty dollars, besides costs, for each and every offense, to be sued for in the name of said board in any court of competent jurisdiction; said fine to be paid into the treasury of said board.

Secretary to mail blanks.

Failure to comply.

Penalty for false statement.

LIST OF PRACTITIONERS AND ASSISTANTS.

11. That hereafter it shall be the duty of every person, company or association practicing dentistry within this state, upon demand in writing made by the secretary of this board, to furnish, within thirty days after said demand to the state board through its secretary, the name and address of each and every person practic-

Duty of those practicing to show authority.

ing dentistry or assisting in the practice thereof, in the office of said person, company or association, together with a statement showing under and by what license or authority the said person, company or association is practicing; for failure so to do the said person, company or association shall be liable to a fine of ten dollars, besides costs, to be sued for in the name of the board in any court of competent jurisdiction, said fine to be paid into the treasury thereof; and any person, company or association making any false statement concerning or touching any matter or thing covered by this section shall for such offense be liable to a fine of fifty dollars, besides costs, for each and every offense, to be sued for in the name of said board in any court of competent jurisdiction, said fine to be paid into the treasury of said board.

Failure to comply.

Penalty for false statement.

PENALTIES AND FINES.

Penalty for practicing without license.

12. Any person, company or association, practicing or holding himself or itself out to the public as practicing dentistry, not being at the time of said practice or holding out legally licensed to practice as such in this state, shall be guilty of a misdemeanor and punishable upon conviction of a first offense by a fine of not less than fifty dollars, and, upon conviction of a subsequent offense, by a fine of not less than one hundred dollars, or by imprisonment of not less than two months, or by both fine and imprisonment.

Penalty for not complying with certain sections of this act.

13. Any person, company or association, for failure to comply with each and every provision and condition contained in the ninth, tenth and eleventh sections of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished with a fine of not less than five hundred dollars, or by imprisonment of not less than six months, or by both fine and imprisonment.

Penalties for certain misdemeanors.

14. Any person, company or association shall be guilty of a misdemeanor, and upon every conviction thereof shall be punished with a fine of not less than five hundred dollars, or by imprisonment for not less than six months, or by both fine and imprisonment, who

(1.) Shall sell or barter, or offer to sell or barter, any diploma or document conferring or purporting to confer any dental degree, or any certificate or transcript, made or purporting to be made, pursuant to the laws regulating the license and registration of dentists; or

Selling, etc., any diploma.

(2.) Shall purchase or procure by barter any such diploma, certificate or transcript with intent that the same shall be used as evidence of the holder's qualification to practice dentistry, or in fraud of the laws regulating such practice; or

Purchasing, etc., diploma.

(3.) Shall with fraudulent intent, alter in a material regard any such diploma, certificate or transcript; or

Fraudulently altering diploma.

(4.) Shall use or attempt to use any such diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist; or

Using, &c., improperly issued diploma.

(5.) Shall practice dentistry under a false or assumed name; or

Using false name.

(6.) Not being now duly licensed and registered as a dentist, shall assume the degree of "doctor of dental surgery," or "doctor of dental medicine," or shall append the letters "D. D. S.," or "D. M. D." to his or her name, not having had duly conferred upon him or her by diploma from some college or school legally empowered to confer the same the right to assume said titles; or shall assume any title or append any letters to his or her name with the intent to represent falsely that he has received a dental degree or license; or

Not duly licensed and registered.

(7.) Any person who, in any affidavit or examination required of an applicant for examination, license or registration under the laws regulating the practice of dentistry, shall make wilfully a false statement in a material regard, shall be guilty of a high misdemeanor, punishable upon conviction thereof by a fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding five years, or both, at the discretion of the court.

Making false statement.

15. All fines, penalties or forfeitures imposed or collected for the violation of any of the foregoing provisions of this act, shall be paid as follows: one-half thereof to the county collector of the county in which the prosecution is had, and one-half thereof to the secre-

Disposition of fines co lected under preceding sections.

tary of this board, to be held, disposed and accounted for by him as hereinabove directed; and it shall be the duty of the county collector of each county, upon receipt by him of any such fine, penalty or forfeiture, to forthwith pay over to the secretary of this board, one-half of the same; said board or any member or officer thereof may prefer a complaint for violation of the law regulating the practice of dentistry before any court, tribunal or magistrate having jurisdiction, and may by its officers, counsel and agents aid in presenting the law or facts before said court, tribunal or magistrate in any proceeding taken thereon; and it shall be the duty of the prosecutor of the pleas of the counties of this state to prosecute all violations of the aforesaid provisions of this act.

ADDITIONAL FINES AND PENALTIES IN CIVIL PROCEEDINGS.

Additional penalties.

16. In addition to all of the fines, forfeitures and penalties hereinabove provided for, it shall be lawful for the said board to institute civil proceedings in any court of competent jurisdiction against any person, company or association for the violation of any of the provisions of this act; such proceeding shall be brought in an action in debt, and, upon conviction thereunder, the person, company or association so convicted shall be liable to a fine, which shall be the same amount fixed in the section of this act, for violation of which the suit shall have been brought; and all fines and penalties collected by any court under the provisions of this section of this act shall be paid over to the secretary of this board, to be received and disbursed by him in accordance with the provisions of this act.

Disposition of fines collected under this section.

Repealer.

17. The following laws are hereby repealed, to wit: chapter two hundred and sixty of the laws of eighteen hundred and seventy-three; chapter twenty of the laws of eighteen hundred and eighty-four; chapter one hundred and forty-three of the laws of eighteen hundred and ninety, and chapter forty-four of the laws of eighteen hundred and ninety-four.

18. This act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 75.

An Act to amend an act entitled "An act to provide for the repaving, repairing and improvement of paved streets and public places, and reconstruction of sewers in cities of the first class in this state," approved April sixteenth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the act entitled "An act to provide for the repaving, repairing and improvement of paved streets and public places, and reconstruction of sewers in cities of the first class in this state," approved April sixteenth, one thousand eight hundred and ninety-seven, be amended so as to read as follows:

One-half of liquor license fees may be used for improving streets, etc.

1. It shall be lawful in any city of the first class in this state for the board or body having charge and control of the finances thereof to appropriate and set apart annually, with the consent of the mayor, out of the license fees received in such city for licenses to sell spirituous or malt liquors, one-half thereof for the repaving, repairing and improving of paved streets and public places, the reconstruction of sewers and for the construction of additional or relief sewers in connection with existing sewerage systems in such city, and said moneys so appropriated shall be disbursed, applied and expended for such purposes exclusively by the board, body or department in such city, charged with the duty of paving and repaving streets and the construction of sewers therein, and by no other board or authority nor for any purpose whatever, except as hereinbefore provided.

2. This act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 76.

AN act for the purchase and erection of a suitable monument or marker to the memory of such soldiers and sailors from the State of New Jersey who died in Confederate military prison, at Andersonville, Georgia, and the appointment of persons to carry out the provisions of this act, and the payment of the actual necessary expenses of the same.

Preamble.

WHEREAS, Congress has acquired the lands known as the national cemetery, at Andersonville, in the State of Georgia, and has provided for the care, maintenance and safety from vandalism of the said property; therefore,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Governor authorized to appoint two persons to secure permission and erect monument.

1. The governor of this State be and is hereby authorized to appoint two gentlemen who shall serve without pay, and whose duty it shall be to communicate with those in authority over said national cemetery and secure the privilege of erecting upon a suitable site in said grounds a monument or marker, in the name of the State of New Jersey, and for this purpose shall avail themselves of the knowledge and assistance of those who have information as to the number, name, company and regiment or vessel in which said soldiers or sailors served; the persons so appointed shall report to the governor and legislature upon the completion of the work.

Make report.

Appropriation.

2. For the purpose of meeting the cost of erecting the said monument or marker, and the actual necessary expenses of those who are to carry out the project, there may be spent a sum not exceeding two thousand dollars ($2,000), provided the same shall have first been appropriated therefor.

3. This act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 77.

An Act concerning city physicians in cities of the second class.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Governing body may appoint city physician and assistant.

1. Whenever in the opinion of the board of aldermen, the common council, or other governing body of any city of the second class in this state, it shall be deemed necessary for the welfare of the people of such cities to appoint a city physician or a city physician and an assistant city physician, the said board of aldermen, common council or other governing body shall, at their option, have power to appoint the same.

Term of office.

2. The term of office of any such city physician or assistant city physician shall be three years from the date of his or their appointment, or until his or their successor or successors are appointed.

Salary.

3. The yearly salary of any such city physician or assistant city physician hereafter so appointed shall be such sum as the board of aldermen, common council or other governing body in any city may determine; but it shall not in any case exceed the sum of one thousand dollars.

Not to affect present incumbents.

4. This act shall not affect term of office or salary of any city physician or assistant city physician in any city of the second class now in office, until after the term for which he or they shall have been appointed has expired.

Repealer.

5. All acts or parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Approved March 17, 1898.

CHAPTER 78.

A Supplement to an act entitled "A further supplement to an act entitled 'An act concerning roads'" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which further supplement was approved March twelfth, one thousand eight hundred and ninety-one.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Validating certain proceedings.

1. In any township in the state, where there has been a failure or neglect to comply with the fifth section of the act to which this is a supplement, the appropriation voted to be raised by tax, or made by the committee or governing body of said township, for road or street purposes in any year, is hereby validated.

Repealer.

2. Section six of an act entitled "A further supplement to an act entitled 'An act concerning roads'" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which further supplement was approved March twelfth, one thousand eight hundred and ninety-one, be and the same is hereby repealed.

3. This act shall take effect immediately.

Approved March 19, 1898.

CHAPTER 79.

An Act to amend an act entitled "An act to authorize the issue of bonds to provide moneys for the erection of county lunatic asylum buildings in counties of this state," approved June tenth, one thousand eight hundred and ninety.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section three of the act of which this is an amendment is hereby amended so as to read as follows: Section amended.

3. The board of chosen freeholders of such county shall provide for the payment of the principal and interest of said bonds by taxation, as follows: every year after the issue therof, said board shall, by tax, in the manner hereinafter directed for the payment of the principal, raise and provide moneys sufficient to pay the interest thereon as the same shall accrue; yearly and every year, commencing with and including the third year after the date of issue of said bonds, until said bonds shall be redeemed and paid off, such board shall order and cause to be assessed and collected by tax, at the same time and in the same manner that other taxes are assessed and collected, a sum, in addition to the amount required for interest, of not less than five thousand dollars, to pay the principal of said bonds, and provision for the redemption thereof, in accordance with this section, shall be made at the time of the direction for an issue for the bonds as aforesaid. Providing for principal and interest.

2. All acts and parts of acts inconsistent with this act are hereby repealed and this act shall take effect immediately. Repealer.

Approved March 19, 1898.

CHAPTER 80.

An Act to repeal an act entitled "An act to amend an act to authorize the issue of bonds to provide moneys for the erection of county lunatic asylum buildings in counties of this state," approved June tenth, one thousand eight hundred and ninety, which supplement was approved May first, one thousand eight hundred and ninety-four, which amending act was approved May twenty-second, one thousand eight hundred and ninety-four.

BE IT ENACTED *by the Senate and General Assemb'y of the State of New Jersey:*

Act repealed.

1. An act to amend an act entitled "A supplement to an act entitled 'An act to authorize the issue of bonds to provide moneys for the erection of county lunatic asylum buildings in counties of this state,'" approved June tenth, one thousand eight hundred and ninety, which supplement was approved May first, one thousand eight hundred and ninety-four, which amending act was approved May twenty-second, one thousand eight hundred and ninety-four, is hereby repealed.

2. This act shall take effect immediately.

Approved March 19, 1898.

CHAPTER 81.

An Act to amend an act entitled "An act respecting the compensation of the chancellor and the justices of the supreme court of this state," approved March fourteenth, one thousand eight hundred and seventy-nine.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The tenth item of section five of the act to which this is an amendment shall be amended so as to read as follows: "Signing every judgment, fifty cents." Amending section five, item ten.

2. This act shall take effect immediately.

Approved March 19, 1898.

CHAPTER 82.

A Supplement to an act entitled "An act to regulate fees," approved April fifteenth, one thousand eight hundred and forty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The fees of the criers of the supreme court and of the supreme court circuit now provided for and allowed by law, are hereby abolished and shall no longer be charged in the taxed bill of costs. Supreme court criers' fees abolished.

2. This act shall take effect immediately.

Approved March 19, 1898.

CHAPTER 83.

An Act to amend an act entitled "An act relative to the supreme and circuit courts" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section ten of an act entitled "An act relative to the supreme and circuit courts" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, is amended so as to read as follows:

Appointment of sergeant-at-arms and criers.

10. The justices of the supreme court be and they are hereby authorized to appoint two suitable persons as sergeants-at-arms and criers of the supreme court, to hold their offices during the pleasure of said court, whose duty it shall be to attend said court during the several terms thereof, for which service they shall severally receive a salary of six hundred and fifty dollars per annum, to be paid by the treasurer on the warrant of the comptroller in equal monthly payments, in full compensation for all services rendered by said sergeants-at-arms and criers, and said compensation shall be in lieu of all fees now provided for or allowed by law.

Salary.

2. This act shall take effect immediately.

Approved March 19, 1898.

CHAPTER 84.

An Act to validate certain bonds of boroughs.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No bonds heretofore issued, or directed or authorized to be issued, by any borough under color of the provisions of the act entitled "A general act relating to boroughs" (Revision 1897), approved April twenty-fourth, one thousand eight hundred and ninety-seven, shall be void, or deemed or held invalid, by reason of any defect or irregularity in any of the proceedings required by said act to authorize the issuing of such bonds; *provided*, that at the election had upon the resolution to authorize such issue a majority of all the votes cast were in favor of the issue of such bond; and all bonds heretofore issued or directed or authorized to be issued under said conditions are hereby ratified, confirmed and made valid.

Bonds not void by reason of defect in issuing.

Proviso.

2. This act shall take effect immediately.

Approved March 21, 1898.

CHAPTER 85.

An Act to amend an act entitled "An act to provide for the election of an alderman-at-large in certain cities of this state, and to regulate his duties and salary and term of office," approved March twenty-fourth, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section one of the act entitled "An act to provide for the election of an alderman-at-large in certain cities of

Section amended.

this state, and to regulate his duties and salary and term of office," approved March twenty-fourth, one thousand eight hundred and ninety-six, be amended to read as follows:

Providing for alderman at-large.

1. In each of the cities of this state now having or that may hereafter have a population of ten thousand and not exceeding forty thousand inhabitants, according to the last preceding national or state census, and wherein the board of aldermen or common council consists of an even number of members, there shall be elected by all the legal voters of such city, in addition to the aldermen or members of the common council now required to be elected by wards, an alderman-at-large, who shall hold his office for two years and shall receive the same annual salary as the other aldermen or members of common council in the city in which he shall be elected, and shall be a resident of said city; the said alderman-at-large shall, by virtue of such election, be the president of the common council or board of aldermen of said city, and shall possess and exercise all the powers of a member of said common council or board of aldermen, and also of the president thereof.

Duties and powers.

2. This act shall take effect immediately.

Passed March 21, 1898.

CHAPTER 86.

An Act to amend an act entitled "A further supplement to the act entitled 'An act to establish and regulate pilots for the ports of Jersey City, Newark and Perth Amboy, by way of Sandy Hook,'" approved February sixteenth, one thousand eight hundred and fifty-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section ten amended.

1. Section ten of the act entitled "A further supplement to the act entitled 'An act to establish and regulate pilots for the ports of Jersey City, Newark and Perth

Amboy, by way of Sandy Hook,'" approved February sixteenth, one thousand eight hundred and fifty-five, be and the same is hereby amended so as to read as follows:

Who shall pilot vessels.

10. Any person not holding a license as pilot under the laws of the state of New Jersey, or under the laws of the state of New York, who shall pilot or offer to pilot any ship or vessel, not exempted by virtue of the laws of this state from pilotage to or from the ports of Jersey City, Newark or Perth Amboy, by the way of Sandy Hook or Kill von Kull, except such as are exempt by virtue of the laws of this state, or any master or person on board a steamtug or towboat who shall tow such vessel or vessels without such licensed pilot on board such vessel or vessels, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one hundred dollars or imprisonment not exceeding sixty days, and all persons employing such a person to act as pilot not holding a license as aforesaid shall forfeit and pay to the pilots suing therefor, in any court of jurisdiction in behalf of themselves and the commissioners of pilotage for New Jersey, for the sum of one hundred dollars.

Penalties.

2. This act shall take effect immediately.

Approved March 21, 1898.

CHAPTER 87.

An Act authorizing cities to create a sinking fund commission and defining their powers.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Sinking fund commission created.

1. The council or other legislative body of any city in this state may, by ordinance, create a sinking fund commission, which shall consist of the mayor, comptroller and treasurer of the city, and such commission shall be a continuous body, and their duties shall begin immedi-

ately upon their qualification as hereinafter set forth; that every member thereof shall before entering upon the duties thereof be required to make and file a bond in the penal sum of ten thousand dollars, in such form and with such sureties as may be approved by the city or corporation counsel and the board having charge of the finances of the city; that upon the election or appointment of any succeeding mayor, comptroller or treasurer as aforesaid, such new member or members of said sinking fund commission shall enter into bond as aforesaid.

Duties.

2. It shall be the duty of such sinking fund commission to receive all such moneys as may be by law set apart as a fund to pay any bonds now or hereafter issued, and to receive any special tax that may be hereafter raised for the payment of any of the bonded indebtedness of such city, and also to receive all assessments made for the public improvements, when such assessments are levied for the purpose of defraying part of the cost of any of the public improvements in such city; and also to receive such moneys as the common council or legislative body may by ordinance, under authority of any law, set apart for the payment of the bonded indebtedness of such city; also to receive all moneys which by law, heretofore or hereafter enacted, may be set apart for the purpose of paying in whole or in part the bonded indebtedness of any city.

Further duties.

3. Said sinking fund commission shall keep an accurate account in proper books of all moneys received and disbursed by them; that they may pay so far as the money comes to their hands as aforesaid all maturing bonds and script of such city, but no money specially appropriated or raised for or on account of a particular issue of bonds or for a particular improvement set apart for the payment of the costs or a part of the cost thereof, shall be applied by such commission other than toward the payment of such particular issue or cost; that such commisson shall take and receive and deposit such moneys in the name of said commission, and the same shall not be withdrawn or disbursed except upon a check or draft or other order signed by the mayor, who shall be president of such commission, and another member thereof; that such

commission may loan its funds to such city upon a proper note or notes of such city, or may purchase the bonds of such city in order to obtain an investment for such funds as may be available, until they may be used for the purpose aforesaid.

Limitation.

4. This act shall not repeal or in any manner interfere with any existing statute or statutes, and shall take effect immediately.

Approved March 21, 1898.

CHAPTER 88.

A Supplement to an act entitled "An act to incorporate trustees of religious societies" (Revision), approved April ninth, one thousand eight hundred and seventy-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Lawful to change date of annual election.

1. Whenever any congregation of the protestant episcopal church in this state, which shall have become incorporated in accordance with the provisions of the act to which this is a supplement, and filed a certificate thereof stating therein the day on which new elections of officers shall annually take place as required by section thirty of said act, shall desire to change the day on which such annual elections shall take place, it shall be lawful for such congregation to make such change at any annual election, by a majority vote of the members present duly qualified to vote, on notice of such contemplated action being given for the period of time and in the manner designated in section twenty-nine of said act; a certificate of the proceedings of the meeting so far as the same relate to such change, under the hands and seals of the presiding officer and the secretary of such meeting, shall be filed for record in the office in which the certificate of incorporation of such

Certificate of proceedings filed.

congregation is filed, and shall thereafter be and be deemed to be a part of the act of incorporation of such congregation; if and when any such congregation shall so change the day for such annual elections, the officers elected at the time when such change is made, or then in office, in case there shall be a failure to elect new officers, or such as may thereafter be elected at a special meeting, shall continue in office until the first annual election after the meeting at which such change is made, or until their successors shall be elected.

Continuance in office of officials.

2. This act shall take effect immediately.

Approved March 22, 1898.

CHAPTER 89.

An Act to authorize the acquisition by the United States of a tract of land in the township of Ocean, in the county of Monmouth and State of New Jersey, to be used for the purpose of erecting and maintaining thereon fortifications and accessories for the defense of the southern entrance to New York harbor.

Preamble.

WHEREAS, The United States has acquired by purchase a tract or parcel of land situate, lying and being in the township of Ocean, in the county of Monmouth and state of New Jersey, and which is more particularly described as follows: Those certain twenty-two lots, pieces or parcels of land which, on a certain map entitled map of property of "The Highland Beach Association," Monmouth county, New Jersey, and filed in the office of the clerk of Monmouth county, are known and designated as lots numbered one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty, (20), twenty-one (21) and twenty-two (22), each lot being one hundred feet wide throughout its entire

length and extending from the Atlantic ocean to the Shrewsbury river, being a tract of land twenty-two hundred feet long, bounded on the north by lands belonging to the United States, on the east by the Atlantic ocean, on the south by lot known and designated on said map as lot number twenty-three (23), and on the west by the Shrewsbury river; also all the land under water in front of said lots on both sides thereof under the waters of the Atlantic ocean and Shrewsbury river, and within the exterior lines established by the riparian commission of New Jersey in said Atlantic ocean and Shrewsbury river in front of said property; *and whereas*, the United States has acquired, by purchase, a certain other tract or parcel of land and premises, situate, lying and being in the township of Ocean, in the county of Monmouth and state of New Jersey, being a strip of land shown on a map of the "Highland Beach Association, Monmouth county, New Jersey," filed in the office of the clerk of Monmouth county, New Jersey, being sixty feet in width and two thousand two hundred feet in length, running through lots numbered one to twenty-two, both inclusive, as shown on said map, being the right of way of the New Jersey Southern Railway Company over said lots, bounded on the north by lands belonging to the United States of America and on the south by lot twenty-three, and with the right to have a switch connection from said railroad on the premises hereby conveyed to and with the main line of the New Jersey Southern Railway; therefore

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Land ceded to the United States.

1. The consent of the state of New Jersey is hereby given to the acquisition by the United States of the twenty-two lots, pieces or parcels of land above described, and also of the right of way over the same owned or controlled by the New Jersey Southern Railway company, and the same is hereby ceded to the United States of America; upon the said land and right of way so acquired the United States may erect fortifications, barracks and other public buildings, construct road-beds, and lay and maintain railroad tracks for the defense of

the southern or main entrance to New York harbor, and the United States shall have, hold, occupy and own said land thus acquired, and exercise jurisdiction and control over the same and every part thereof subject to the restrictions hereafter mentioned, the same, however, not to be used for quarantine purposes.

Jurisdiction.

2. The jurisdiction hereby ceded shall vest when a plat and description of the land thus acquired shall have been filed in the office of the secretary of state of the state of New Jersey; such jurisdiction shall continue no longer than the United States shall own such land, and such consent is given and jurisdiction ceded upon the express condition that the state of New Jersey shall retain concurrent jurisdiction with the United States in and over such land so far as that all civil processes in all cases, and such criminal and other processes as may issue under the laws or authority of the state of New Jersey against any person or persons charged with crimes, misdemeanors or criminal offenses committed within the state may be executed thereon, in the same way and manner as if such consent had not been given or jurisdiction ceded, except so far as such processes may affect the real or personal property of the United States.

Exemptions.

3. So long as such land thus acquired shall remain the property of the United States, and no longer, the same shall be and continue exonerated from all taxes, assessments and other charges which may be levied or imposed under the authority of the state.

4. This act shall take effect immediately.

Approved March 22, 1898.

CHAPTER 90.

Supplement to an act entitled "An act authorizing any town, township or borough or part thereof, containing a population exceeding five thousand inhabitants, to be incorporated as a city after a vote of the people, and providing for the government and powers of such cities," and which said act was approved March twenty-second, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

May provide for grading, etc.

1. It shall be lawful for the common council or other governing body of any city of this state organized under the above-entitled act, whenever in their opinion the public good may require it, by ordinance to provide for the grading, curbing and flagging or any part of said improvement, upon any of the streets, highways or avenues of said city, or upon any part of the same; said improvement to be paid for in the manner now provided for by said act when made upon the application of the abutting land-owners.

Payment.

Objections not to prevent improvement.

2. The objections of the owners of the property or any part thereof subject to assessment for the said improvement, or subject to assessment for any action taken by said council or governing body of said city under the provisions of section thirteen of the act entitled "An act to amend an act entitled 'An act authorizing any town, township or borough or part thereof, containing a population exceeding five thousand inhabitants, to be incorporated as a city after a vote of the people, and providing for the government and powers of said cities,'" approved April sixth, one thousand eight hundred and ninety-seven, shall not prevent the said council from making said improvement or taking said action.

Assessment not to exceed benefits received.

3. No lands or real estate shall be assessed for any improvement authorized under said act to which this is a supplement or any supplement thereto for a greater amount than such lands or real estate shall be specially benefited by such improvement, and in case the whole expense of any such improvement shall exceed the amount assessable for the special benefits received, then the balance of such expense shall be paid out of the city treasury.

4. This act shall take effect immediately.

Approved March 22, 1898.

CHAPTER 91.

Amendment to an act entitled "An act to amend an act authorizing any town, township or borough or part thereof, containing a population exceeding five thousand inhabitants, to be incorporated as a city after a vote of the people, and providing for the government and powers of such cities," and which said amendment was approved April sixth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section forty-three of said act be amended so as to read as follows:

Board of excise.

43. The board of excise commissioners shall consist of the mayor and one member from each ward, to be elected at the next city election, who shall hold their office for the terms determined upon by the said board, in the manner following: one-half thereof when the membership is even, or a minority thereof when said membership is odd, as the case may be, shall hold their office for the term of one year and the remainder thereof for the term of two years, said question of the length of term to be determined by lot immediately

Term of office.

after the organization of the board, on the first day of May next ensuing said election, and thereafter one-half of said board or a majority thereof, as the case may be, shall be elected every two years; if the number of wards in said city should be increased before the next election at which members of the excise board are to be elected, following the one above provided for, the council shall appoint a member for said ward or wards who shall hold his or their office until said election, when one-half or a majority of said board, as the case may be, shall be elected for two years, as hereinbefore provided; the mayor shall be the presiding officer of said board; they shall have full power to license inns and taverns, to regulate licenses or prohibit the sale or transfer of spirituous, vinous, malt or other strong or intoxicating liquors; *provided, however*, that no such license shall be granted to any person who is not a citizen of the United States; they shall have power to prescribe the terms and conditions upon which licenses for such purposes shall be granted, and to provide for the revoking and annulling of licenses for violation of such conditions; *provided, however*, that all such conditions shall be printed on the licenses; *and provided further*, that no such license shall be granted unless the applicant shall first pay to the city clerk such license fee as may be required by any general law of this state, and if there be no general law, such fee, not less than fifty dollars, as may be fixed by the board, and if the application is rejected the deposit shall be returned; the mayor shall sign all licenses directed to be issued by the board; the board shall, upon request of the council, render a statement of all licenses and unlicensed saloons, inns, taverns or restaurants existing within the city, together with a record of all the proceedings of the board.

Presiding officer.

Power.

Proviso.

Proviso.

Proviso.

Render statement.

2. This act shall take effect immediately.

Approved March 22, 1898.

JOINT RESOLUTION NO. 1.

As to the record of soldiers of this state in the colonial period, the Revolutionary war, the Pennsylvania insurrection of one thousand seven hundred and ninety-four, the war of one thousand eight hundred and twelve, and the Mexican war.

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey*:

Publication of colonial records authorized.

1. The governor, the comptroller, the treasurer, and the adjutant general be authorized to cause to be published such a number of copies as they may deem proper of the record of soldiers of this state in the colonial period, the Revolutionary war, the Pennsylvania insurrection of one thousand seven hundred and ninety-four, the war of one thousand eight hundred and twelve, and the Mexican war, which has been compiled in the adjutant-general's office, and that they be directed to make such disposition of the same upon such plan and in such manner as shall appear to them most judicious and consistent with the public interest.

Disposition.

2. This joint resolution shall take effect immediately.

Approved March 22, 1898.

CHAPTER 92.

A Supplement to an act entitled "An act concerning corporations" (Revision of 1896), approved April twenty-first, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section twenty-eight of the act to which this is a supplement be and hereby is amended so as to read as follows:

Certain changes authorized.

28. Any corporation of this state, whether organized under a special act of incorporation or under general laws, excepting railroad and canal corporations, and other corporations possessing the right of taking and condemning lands, may increase or decrease its capital stock, change its name, the par value of the shares of its capital stock, or the location of its principal office in or out of this state, and fix any method of altering its by-laws permitted by the act to which this is a supplement in the manner prescribed in the foregoing section, and any corporation may in the same manner relinquish one or more branches of its business, or extend its business to such branches as might have been inserted in its original certificate of incorporation.

2. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 93.

An Act for the incorporation of the township of Kearney, in the county of Hudson, into the town of Kearny.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

Boundaries.

1. All that portion of the county of Hudson, lying and being within the limits of the boundaries and description following, to wit: beginning on the Essex county line, in the middle of the Passaic river, and in the northerly line of the Morris and Essex railroad company's bridge, and thence running easterly along the northerly line of said bridge to the easterly line of the River road leading to Belleville, from the turnpike road between Newark and New York; thence along the easterly line of said River road in a northeasterly direction to the center line of Reynolds avenue; thence in a southeasterly direction along the center line of said avenue to the line of property now or formerly belonging to the estate of William Mulock, deceased; thence in a northeasterly direction along the line of said property of said estate, until it intersects the line of land formerly belonging to James Bishop, deceased; thence in a southeasterly direction along the line of James Bishop, deceased, and John Williams, deceased, to the line of Daniel Ewen, deceased; thence in a northeasterly direction along the line of Daniel Ewen, deceased, to the line of John Williams, deceased; thence in a southeasterly direction along the line of John Williams, deceased, till it intersects the line of Hiram W. Davis, deceased; thence along the line of Hiram W. Davis, deceased, and the line of lands belonging to the estate of General Philip Kearny, deceased, and the line of Hiram W. Davis, deceased, and the line of Stephen K. Jerolamon, deceased, to the southwesterly corner of land belonging to John Dukes,

deceased; thence in a southeasterly direction along the line of John Dukes, deceased, till it intersects the westesly line of the Coppermines road; thence in directions southwesterly and southerly along the westerly line of the Coppermines road till it intersects the center line of the turnpike road leading from Newark to New York; thence in a westerly direction along the center line of said turnpike road to a point in range with the division line between the properties of William S. Ogden, deceased, and Mrs. Wright, deceased; thence in the direction of said line and along the line of division between lands of William S. Ogden, deceased, Mrs. Wright, deceased, Thomas Speer, deceased, and Caleb Speer, deceased, until it strikes the line of property belonging to the Morris and Essex railroad company; thence in a northeasterly course along the division line between lands of William S. Ogden, deceased, and lands of the Morris and Essex railroad company, to the line of lands belonging to the estate of William Wright, deceased; thence in a southeasterly direction along the division line between the Morris and Essex railroad company, the estate of William Wright, deceased, the New Jersey railroad and transportation company, and the estate of John G. Jackson, deceased, and continue in the same course to the middle of the Passaic river and Essex county line; thence following the heretofore established boundary lines of the township of Harrison, down the Passaic river and several courses thereof to Newark bay; thence up the Hackensack river, the several courses thereof, to the mouth of Saw Mill creek; thence up the middle line of Saw Mill creek, the several courses thereof, till it intersects the middle line of the turnpike road leading from Belleville to Jersey City; thence along the center line of the last above named turnpike road in a northwesterly direction, till it intersects the Essex county line, in the middle of the Passaic river; and thence down the Passaic river, the several courses thereof, to the northerly line of the Morris and Essex railroad company's bridge, and place of beginning (excepting from the territory embraced within the limits of the above description all that portion thereof bounded on the northerly side by the southerly line of the Newark and Hudson railroad, now

a part of the New York, Lake Erie and Western railroad system; on the easterly and southerly sides by the boundary lines between the township of Kearney, the borough of East Newark and the town of Harrison, in said county of Hudson, and on the westerly side by the boundary line between the counties of Essex and Hudson, being the territory embraced within the limits of the borough of East Newark), be and the same is incorporated into a town to be called and known by the name of the "Town of Kearny."

Corporate name.

2. The inhabitants of the Town of Kearny hereby created are hereby constituted a body politic and corporate in law under the name and style of "the Town of Kearny."

Acceptance.

3. This act shall take effect whenever the inhabitants of the said township of Kearney, in the county of Hudson, shall accept the provisions of the act entitled "An act to provide for the formation, establishment and government of towns" approved March seventh, one thousand eight hundred and ninety-five, and the supplements thereto, in the manner therein provided at any special or charter election held therein, and thereafter the town hereby created shall be governed under the provisions thereof.

Approved March 23, 1898.

CHAPTER 94.

An Act for the protection of reed-birds, rail-birds, and marsh-hens.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Protection to certain game.

1. It shall be unlawful to capture, kill, injure or have unlawfully in possession, except only between the twenty-fifth day of August and the first day of January in each and every year, any reed-bird, rail-bird or marsh-hen, under a penalty of twenty dollars for each

bird so captured, killed, injured or had unlawfully in possession.

2. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 95.

An Act to amend an act entitled "An act to amend an act entitled 'An act in relation to the appointment of sergeant-at-arms and criers to the several courts of the counties, and fixing the salaries for the same, approved April seventh, one thousand eight hundred and ninety,' which amended act was approved February twenty-first, one thousand eight hundred and ninety-three."

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section one of the act entitled "An act to amend an act entitled 'An act in relation to the appointment of sergeant-at-arms and criers to the several courts of the counties, and fixing the salaries for the same, approved April seventh, one thousand eight hundred and ninety,' which amended act was approved February twenty-first, one thousand eight hundred and ninety-three," be and the same is hereby amended to read as follows: Section amended.

1. The justice of the supreme court, to whom a judicial district has been or may be assigned, and which judicial district comprises a county of the first class, is authorized to appoint in his judicial district a suitable person as sergeant-at-arms, and also a suitable person as crier of the circuit court of the said judicial district, to hold office during the pleasure of said justice; the duties of said sergeant-at-arms and said crier shall be to attend daily upon the said courts in the county wherein appointed, during the several terms Justice of supreme court authorized to appoint sergeant-at-arms and crier.

Compensation.

thereof, for which services the said sergeant-at-arms and said crier, in all counties of the first class, shall each receive and be paid an annual compensation or salary of nine hundred dollars, in lieu of any per diem compensation, such annual compensation or salary to be paid monthly by the county collector; *provided, however*, that whenever it shall seem to be proper and advisable, under all the circumstances, to do so, the said justice of the supreme court may and hereby is authorized to order and fix, in lieu of the annual compensation herein provided for, for said sergeant-at-arms and said crier, such per diem allowance to them, or each of them, not exceeding five dollars per day, as shall appear to said justice, in the exercise of his discretion, to be fair and reasonable to allow, but said per diem allowance, if made, shall be made and taken in lieu of all fees, perquisites and allowances whatever.

Proviso.

2. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 96.

An Act to validate bonds hertofore issued by municipalities in this state in all cases where said bonds have been issued for public purposes of such municipalities and the proceeds thereof have been or are to be applied to such public purposes, and to authorize the issue of bonds where contracts for the issue and sale thereof have been made by any municipality, the proceeds of which bonds are to be applied to public purposes of such municipality.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Validating certain bonds, and proposed issue.

1. All bonds heretofore issued by any city, town, borough or other municipality in this state in all cases where said bonds have been issued for public purposes

of such city, town, borough or other municipality, and the proceeds thereof have been or are to be applied to such public purposes, be and the same are hereby authorized, validated and confirmed as the valid and legally binding obligations of such city, town, borough or other municipality; and that any city, town, borough or other municipality in this state, which has in good faith entered into contracts for the issue and sale of its bonds for public purposes of such city, town, borough or other municipality, the moneys received from which bonds are to be applied to such public purposes, be and the same is hereby authorized to make issue and deliver its bonds in pursuance of such contracts, and the said bonds so made, issued and delivered shall be and are hereby declared to be the valid and legally binding obligations of such city, town, borough or other municipality.

2. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 97.

A Further Supplement to an act entitled "An act to provide for the summary investigation of county and municipal expenditures," approved February eighteenth, one thousand eight hundred and seventy-nine.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. The first section of an act entitled "An act to provide for the summary investigation of county and municipal expenditures," approved February eighteenth, one thousand eight hundred and seventy-nine, be and the same is hereby amended so as to read as follows:

Providing for investigation of corporate expenditures.

1. If twenty-five freeholders in any incorporated village, borough, town or city, or in any township or county in this state, or in case there are not twenty-five freeholders in any such incorporated village, borough, town

or city, or in any township or county of this state, then in such case sixty per cent. of said freeholders shall present to any justice of the supreme court an affidavit, sworn to and subscribed by themselves, and setting forth that they are freeholders and have paid taxes on real estate within one year, and that they have cause to believe that the moneys of such incorporated village, borough, town or city, or of such township or county, are being or have been unlawfully or corruptly expended, it shall be the duty of such justice upon ten days' notice to the disbursing officer and the legislative body of such village, borough, town, city, township or county, to make a summary investigation into the affairs of such corporation, and at his discretion he may appoint experts to prosecute such investigation, and may cause the results thereof to be published in such manner as he may deem proper; it shall be the duty of the officers and the legislative body of any such corporation to obey any orders of such justice for facilitating such investigation, and any refusal or failure to obey such orders may be punished by such justice as for contempt; the costs incurred under this act shall be taxed by said justice and paid upon his order by the disbursing officer of the corporation, whose expenditure may have been investigated.

Experts appointed.

Costs.

2. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 98.

A Supplement to an act entitled "An act to secure to creditors an equal and just division of the estates of debtors who convey to assignees for the benefit of creditors," approved March twenty-seventh, anno domini one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Upon the application of the assignee or assignees of any debtor or debtors, who shall make or shall have

made a conveyance or assignment in trust for the benefit of creditors under the act to which this a supplement, to the orphans' court of the county with the surrogate of which the bond or bonds of said assignee or assignees shall be or shall have been filed, for an order of said court directing the distribution of the funds held by such assignee or assignees, the orphans' court of such county shall by its order or orders direct the distribution of the funds so held by such assignee or assignees among such creditors of such debtor or debtors as shall have duly filed their claims with said assignee or assignees.

Assignees to make application to court for order to distribute funds.

2. Where the individuals composing a copartnership shall make or shall have made, such conveyance or assignment of the copartnership property and estate of the firm composed of such individuals as well as of their respective individual properties and estates, to one and the same assignee or assignees by one and the same deed, the said orphans' court shall by its said order or orders of distribution ascertain and settle the priorities of the copartnership creditors and the creditors of the individuals who shall have joined in such conveyance or assignment; and in such cases the claims duly filed with such assignee or assignees against the copartnership estate by the copartnership creditors shall be held and considered by said court and said assignee or assignees as having been filed by said copartnership creditors against the individual estates of the parties composing said copartnership and who shall have joined in such a conveyance or assignment, as well as against the copartnership estate.

In case of copartnership.

3. The said order or orders so made by such orphans' court shall be a justification and discharge to said assignee or assignees for the disposition of such trust funds made in compliance with such order or orders.

Order of court a discharge to assignees.

4. This act shall take effect immediately, and shall apply to conveyances or assignments heretofore made as well as to those which may be hereafter made.

Application.

Approved March 23, 1898.

CHAPTER 99.

A Supplement to an act entitled "An act for the better enforcement in Maurice river cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, one thousand eight hundred and forty-six, and of the supplements thereto, which act was approved March twenty-first, one thousand eight hundred and seventy-one.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Unlawful to take certain sized oysters.

1. It shall be unlawful for any person or persons to take or gather oysters that shall measure less than three inches from hinge to mouth from the beds or waters of the Delaware bay, below a line extending in a southwesterly course from Nantuxet Point to the channel, along the south edge of Ben Davis' bed to a line known as the southwest line, and all old shells and all oysters measuring less than three inches from hinge to mouth shall be immediately returned to the ground whence taken; and that any person or persons who shall take or carry away from the lands or grounds described above oysters, shells, or other material containing over five per centum of oysters, shells, or other material which by the provisions of this section it is unlawful to take or carry away, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding three hundred dollars or imprisonment in the county jail for a term not exceeding six months, one-half of the proceeds of the said fine to go to the funds of the Maurice river cove and Delaware bay oyster association and one-half to the informer.

Penalty.

Taking clams or oysters prohibited at certain seasons.

2. It shall be unlawful for any person or persons to take or gather clams or oysters from the beds or waters

mentioned in section one of this act for and during the period from the fifteenth day of June to the first day of October, and from the thirty-first day of December to the first day of April; and any person or persons violating this section of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding three hundred dollars or imprisonment in the state prison not exceeding one year, or both, at the discretion of the court; and the canoe, flat, scow, boat or vessel, used in the commission of said offense, together with all her tackling, furniture and apparel, shall be forfeited and the same seized, secured and disposed of in the manner prescribed in the ninth and tenth sections of the act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, and in section eight of the act entitled "An act for the better enforcement in Maurice river cove and Delaway bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, one thousand eight hundred and forty-six, and all the supplements thereto. Penalty.

3. The upper line mentioned in the first section of this act, "running from Nantuxet Point to the channel," shall be designated by a line of stakes or buoys. Line designated.

4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. Repealer.

5. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 100.

A Supplement to an act entitled "An act to provide for the permanent improvement of public roads in this state," approved March twenty-second, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Boundary road or street may be improved.

1. Any road or street, or section of road or street, which constitutes the boundary line between two counties, may be acquired, improved and maintained in manner provided for in the act to which this act is a supplement.

Freeholders of adjoining counties may meet to consider improvements.

2. It shall be lawful for the board of chosen freeholders representing adjoining counties which are divided by any road, street or section of road or street, to jointly meet at such time and in such place, in either county, as they may agree upon, to consider and determine the question of acquiring, improving and maintaining said boundary road, or street, or section of road or street, according to the provisions of said act, to the best advantage of the public and the owners of property adjacent thereto; and to that end the said joint board are hereby authorized to prepare maps, plans and specifications, subject to the approval of the commissioner of public roads, for said improvement, which they shall deem necessary and proper for said purposes; the said joint board shall have power to employ a competent engineer or surveyor and such other assistance as they may deem necessary, and upon the completion of said maps, plans and specifications, duplicate copies thereof shall be filed in the office of the clerk of each of the counties affected thereby, and in the office of the commissioner of public roads.

Prepare maps.

Employ engineer.

Make contract.

3. The said joint board may adopt a resolution directing the improvement, as provided for in said act, to be

made, and thereupon said joint board shall have full power and authority to enter into contracts with responsible persons for doing the work and furnishing the necessary materials therefor; they shall advertise for proposals in at least two newspapers published in each county, for at least three weeks, and their contracts shall be awarded to and made with the lowest responsible bidder who will comply with the requirements of the joint board and will give ample security for doing the work and performing the contract, but said joint board shall be under no obligation to accept the lowest bid, in which case all other bids will be thrown out and new proposals advertised for in the manner hereinbefore provided.

Payment.

4. The said joint board shall, on the certificate of the engineer and surveyor, and on such other evidence as they may require as to the work done and materials used and furnished for said improvement, order payments to be made to the contractor or contractors in the manner provided in said act.

Expenses equally divided.

5. All costs and expenses incurred in the proceedings hereinbefore authorized shall be borne and paid by each county in equal proportion, and the said joint board shall, after the completion of the contract and acceptance of the improvement, divide the road into two equal sections, and shall designate the section which each county shall maintain and keep in repair, and therefore each of said counties shall maintain and keep in repair the section of the road so assigned to it.

Maintenance.

Method of transacting business by joint board.

6. Said joint board may choose a chairman and secretary and such other officers and may make such rules for government as shall be deemed advisable; the said joint board shall have power to meet and adjourn from time to time, and as often as in their judgment it shall be deemed necessary to fully carry into effect the provisions of this act; the votes of a majority of the members of the board of each county voting separately shall be necessary to decide any question, order, motion or resolution which may come before the said joint board; the secretary of said joint board and the engineer and supervisor appointed shall receive such compensation for their services as the said joint board shall, as aforesaid, determine to be just and proper; the members of said

Compensation.

board shall be entitled to the same compensation as is allowed to them as members of the board of chosen freeholders, and shall comply with the provisions of and receive the benefits from the act to which this is a supplement, as far as the same is consistent and practical.

7. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 101.

An Act to amend an act entitled "An act for the protection of the public health," approved March twenty-second, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. The fifth section of the act to which this is a supplement is hereby amended to read as follows:

Recovery of penalty.

5. Any penalty incurred under any of the provisions of this act may be recovered, with costs, in a summary proceeding, either in the name of the board of health of the state of New Jersey or in the name of the local board of health of the township, city, borough, town or other local municipal government within whose jurisdiction the penalty may have been incurred; it shall be the duty of any health inspector, registrar of vital statistics or member of any local board of health, who shall know or be informed of any violation of this act, whereby any penalty may have been incurred, to make, and any other person having such knowledge may make, under oath or affirmation, a complaint against the person incurring such penalty, setting forth the facts of such violation, which complaint shall be filed with the clerk of the district court or any justice of the peace of the county within which the offense may have been committed, or with any police justice or recorder of the township, city or municipality within which any local board

Duty of certain officers.

bringing suit shall have jurisdiction, and the clerk of the district court, the justice of the peace, police justice or recorder with whom any complaint shall be filed as aforesaid, setting forth facts sufficient to show that any penalty prescribed by this act has been incurred, is hereby authorized and required to issue process, either in the nature of a summons or warrant, which process, when in the nature of a warrant, shall be returnable forthwith, and, when in the nature of a summons, shall be returnable in not less than five nor more than fifteen days; on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace, police justice or recorder shall proceed to hear the testimony and to determine and give judgment in the matter without the filing of any pleadings, and, if judgment shall be given in favor of the plaintiff, execution shall be forthwith issued against the goods and chattels of the defendant for the amount of the penalty, with costs; the officers to serve and execute any process or execution issued as aforesaid shall be the constables of the county, which service and execution, in the case of any execution issued out of a district court, shall be made in the same manner and under the same liabilities as other executions issued out of said court are served and executed; the officers to serve and execute any process or execution issued by a justice of the peace, police justice or recorder shall be the constables of the county, which service and execution shall be made in the same manner and under the same liabilities as prescribed in cases of the service and execution of process and executions by the act entitled "An act constituting courts for the trial of small causes," and the supplements thereto; all moneys recovered in any such proceeding shall be paid to the plaintiff therein and applied by such plaintiff to any purpose for which it may be legally authorized to expend money.

In case of judgment.

Application of moneys recovered.

2. This act shall take effect immediately.

Approved March 23, 1898.

CHAPTER 102.

An Act empowering boards of health in any incorporated municipality in this state to pass and enforce ordinances regulating scavengers.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Enforce ordinances regulating scavengers.

1. In all incorporated municipalities of this state having a board of health, or other body possessing similar powers or functions, it shall be lawful for such board of health or other body to pass and enforce such ordinance or ordinances as to said board or other body may seem meet, for the purpose of regulating the business of emptying privy vaults, sinks, cesspools, in any such municipality.

Penalty.

2. All such boards of health or similar bodies are hereby empowered for the purposes of enforcing any such ordinances to provide a penalty for the violation of any of the provisions of any such ordinance, not exceeding fifty dollars, to be enforced in any court in any such municipality having the jurisdiction and power to enforce municipal ordinances and penalties incurred by any person for violation thereof.

3. This shall be deemed a public act and shall take effect immediately.

Passed March 24, 1898.

CHAPTER 103.

An Act for the better regulation of benevolent societies and associations.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Any society or voluntary association organized and carried on for the sole benefit of its members and their beneficiaries, and not for profits, whether they shall have filed certificates of incorporation or not, are hereby authorized to make, adopt and use, and from time to time alter, amend and change such constitution and by-laws for their government as to them shall seem right and proper; *provided*, that nothing therein contained shall be repugnant to the constitution or laws of the United States or of this state, and when so altered or amended shall be binding on all the members of such association, whether becoming such before or after such amendments and whether present or voting for the same or not. Voluntary associations may alter, etc., constitution and by-laws. Proviso.

2. Said constitution and by-laws and all amendments thereto shall be binding upon all beneficiaries, and all persons claiming any rights or duties from said associations by reason of the sickness or death of any member or any other person whether said beneficiary or claimant be a member of said association or not. Upon whom binding.

3. It shall be lawful for such associations to provide in their constitution and by-laws that members or beneficiaries whose dues are unpaid shall not be entitled to sick or funeral benefit for a given time after all arrearages are paid. Further rights.

4. This act shall take effect immediately.

Passed March 24, 1898.

CHAPTER 104.

An Act to prevent the introduction into and the spread of injurious insects in New Jersey, to provide a method for compelling their destruction, to create the office of state entomologist, to authorize inspection of nurseries and to provide for certificates of inspection.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Plants must be kept free f om injurious insects.

1. All gardeners, horticulturists, farmers, nurserymen and other growers of or dealers in plants or fruits of any kind upon their own or upon leased lands or premises shall free and keep freed all plants, shrubs, trees, cuttings, cions or buds grown, cultivated or dealt in by them, from all injurious insects that might spread from the plants infested to others on the public highways or upon lands adjoining or belonging to others.

State entomologist.

2. For the purposes of this act the entomologist of the agricultural college experiment station is hereby declared to be the state entomologist, to serve as such without pay or other allowance, except for such necessary and reasonable expenses as may be incurred by him or under his direction in carrying out the provisions of this act.

Duty of executive committee of state board of agriculture.

3. The executive committee of the state board of agriculture are hereby empowered, and it shall be their duty to appoint in each county in the state, not more than three (3) commissioners, who shall be entitled to such allowance for their services and expenses as may be made by such committee.

Notification of infestation.

4. Whenever the commissioners so appointed, or any one of them, shall discover or be notified that within the county for which they were appointed there exist, or have been introduced or are exposed for sale, plants, shrubs, trees, cuttings, cions or buds infested by injurious insects liable to spread, they shall notify the

owner or grower of or dealer in such infested plants, shrubs, trees, cuttings, cions or buds, in writing, of the fact of such infestation, specifying the insects complained of, and shall in such notice demand that they be cleaned, disinfected or destroyed immediately, or within a period of not more than five days from the date of the service of such notice; such notice may be left at any dwelling house, barn, office or other building on the land or premises containing the infested plants, shrubs, trees, cuttings, cions or buds, with any person found in or about such buildings, or, if no one be found, by attaching it to the door of any such building; if at the expiration of five days from the service of such notice the injurious insects have not been destroyed, or the plants, shrubs, trees, cuttings, cions or buds, have not been cleaned, disinfected or destroyed as demanded, the commissioner or commissioners shall certify the case in writing to the state entomologist.

Action of state entomologist upon receipt of certificate.

5. After receiving a written statement of facts from any county commissioner or commissioners, the state entomologist or some person deputized by him shall investigate the case and decide upon the measures to be adopted to prevent the spread, render harmless or destroy any injurious insects that may be discovered by him or by his deputy; and in making such examination or investigation may enter upon any lands, open or enclosed, upon which any plants, shrubs, trees, cuttings, cions or buds are grown, and into any building where they may be stored or exposed for sale; after examination made, the state entomologist shall notify the person or persons owning, growing, cultivating, dealing in or selling the plants, shrubs, trees, cuttings, cions or buds, in writing, of the character of the injurious insects discovered and of the methods that must be adopted to destroy or render them harmless; such notice and order may be served personally, or by depositing the same in the post-office, properly stamped, addressed to the owner or occupant of the land or premises upon or in which the infested plants, shrubs, trees, cuttings, cions or buds are found, and the directions for treatment may consist of a printed bulletin or report of the experiment station or an extract from the same; such notice and order shall also specify the time within which the

measures specified must be adopted; in case the notice and order served as aforesaid shall direct that any growing plant, shrub or tree shall be taken out and destroyed and the owner or grower of such plant, shrub or tree shall consider himself aggrieved thereby and the order unjust, he shall have the privilege of appealing within three days after the receipt of the notice to a committee of appeal composed of the director of the experiment station and president of the state board of agriculture; the appeal must be in writing, directed to either member of the committee, and contain a statement of the reason why the order of the state entomologist is deemed unjust; a notice of such appeal served by mail, in writing, upon the state entomologist, shall operate as a stay to all proceedings in the matter until the decision of the committee of appeal who shall, as soon as may be after appeal taken, investigate the matter and reverse, modify or confirm the order of the state entomologist; in case of a difference of opinion the order of the entomologist shall stand, and in all cases the decision of the committee shall be final; no appeal shall be taken from an order of the state entomologist directing the destruction of dangerously infested cuttings, cions or buds; a decision made by the committee of appeal shall be served and be enforced in the same manner as an order of the entomologist, and within a time to be specified by such entomologist.

Appeal may be taken.

Enforcement of order.

6. When an order made by the state entomologist is served as above set out, a copy of it shall be also mailed to the county commissioner or commissioners who originated the proceedings, and it shall be his or their duty to see that it is enforced; in case a proceeding is originated by the state entomologist without complaint from a county commissioner he shall notify one or more of the county commissioners residing nearest to the land or premises on which the infested plants, shrubs, trees, cuttings, cions or buds are situated, and he or they shall thereafter be empowered to act as if he or they had originated the proceedings.

Penalty.

7. Any person failing to obey the order of the state entomologist so served, within the period of time therein specified, shall be liable to punishment by a fine of twenty-five dollars, besides the cost of the suit, to be

sued for, recovered and collected by any one of the commissioners in his own name, adding thereto the name of commissioner without other words of designation, in any court of competent jurisdiction in the county in which the offense shall have been committed; in case the order of the entomologist specified the destruction of the certain plants, shrubs, trees, cuttings, cions or buds, the judgment of the court shall include a direction to the officer enforcing said judgment to seize and destroy the same in accordance with said order, which the said officer shall thereupon be fully authorized to do.

Fines paid into state treasury.

8. All fines and costs collected under the provisions of this act shall be paid into the treasury of the state, to defray the costs and expenses incident to the enforcement of this act; said expenses to include the allowance to said commissioners for their services in the premises.

Examination may be required by grower.

9. Any nurseryman or grower of plants for sale in the state of New Jersey may require the state entomologist to examine or have examined the nursery stock grown by him, or them, to ascertain whether or not injurious insects liable to spread on such stock occur thereon; *provided*, that such nurseryman or grower of plants for sale who may desire such an examination to be made for his benefit, shall pay, before the making of such an examination, all expenses connected therewith; in case no injurious insects liable to be spread on such nursery stock are discovered, such nurseryman or grower of plants for sale may demand a certificate that such an inspection has been made and that no injurious insects have been discovered; any person making fraudulent use of such certificate by applying or attaching it, or a copy of it, to any stock not actually examined by the state entomologist or his deputy is hereby declared to be guilty of a misdemeanor, to be punished by a fine of one hundred dollars, to be sued for and recovered as set out in section seven of this act.

Proviso.

Requirements as to plants brought into this state.

10. Any nurseryman or grower of plants, shipping the same into this state shall attach to each box, parcel, bale or package, containing plants, shrubs, trees, cuttings, cions or buds, a certificate or a copy of a certificate

obtained from such authority as is authorized to give the same by the laws of the state wherein they were grown, setting forth that they have been properly inspected or examined not more than six months before shipment, and have been found free from San Jose scale or other dangerous insects that might be transferred on nursery stock from the nursery to orchard; any such box, parcel, bale or package found at any station or warehouse in this state or in the hands of any common carrier, without such certificate, may be detained by any commissioner appointed under this act, or by the state entomologist or his deputy, until the same can be examined by such state entomologist or his deputy; and in case the contents thereof are found infested by San Jose scale or other insects considered dangerous by the state entomologist, the same may be destroyed or re-shipped to the original shipper, sender or dealer, in the discretion of said state entomologist, and at the expense of the common carrier bringing the same into this state; florists plants, flowers, vines, cuttings, cions and buds grown under glass, commonly known as florists stock, are exempt from the provisions of this act.

Appropriation.

11. The sum of one thousand dollars is hereby appropriated to the state board of agriculture for the purposes of this act; not more than five hundred dollars of which may be used for payment to an assistant or deputy to the state entomologist; *provided*, that no payments shall be made pursuant to this act until the amount thereof shall have been included in the annual appropriation bill.

Proviso.

12. This act shall take effect immediately.

Approved March 24, 1898.

CHAPTER 105.

An Act incorporating "the borough of Hawthorne," in the county of Passaic.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Portion of township set off.

1. All that portion of the township of Manchester, in the county of Passaic, and state of New Jersey, hereinafter more particularly described be and the same is hereby set off from said township and incorporated into a borough, by the name of "the borough of Hawthorne."

Boundaries.

2. The boundaries of said borough shall be as follows: beginning in the middle of the Passaic river where the centre line of Prescott avenue extended southerly would intersect the same, and running thence (1) north, eighteen degrees and nineteen minutes west, along said centre line so extended and the centre line of Prescott avenue two thousand nine hundred and fifty-five feet to a stake on the top of the hill; thence (2) north, thirty degrees and twenty-five minutes east, seven hundred and eighty-eight feet and six inches to a stake and stone-heap; thence (3) north, twenty-five degrees and ten minutes east, five hundred and forty-five feet and thirty one-hundredths of a foot to a cross-cut on a rock; thence (4) north, twenty-two degrees and two minutes east, six hundred and thirteen feet and six inches to a spike set in a rock; thence (5) north, thirteen degrees and twenty-three minutes east, four hundred and twenty-five feet and thirty one-hundredths of a foot to a cross-cut on a rock; thence (6) north, one degree and fifty-five minutes east, one hundred and fifty-two feet and ninety one-hundredths of a foot to a stake; thence (7) north, fifteen degrees and fifteen minutes east, three hundred and twenty-five feet and eighty one-hundredths of a foot to a cross-cut on a rock; thence (8) north, ten degrees east, two hundred

and ninety feet to a cross-cut on a rock; thence (9) north, seven degrees and forty-one minutes east, five hundred and seventy-eight feet and forty one-hundredths of a foot to a stake; thence (10) north, seventeen degrees and fifty-nine minutes west, two hundred and thirty-three feet and forty one-hundredths of a foot to a stake; thence (11) north, nine degrees and twenty-five minutes east, nine hundred and twenty-five feet and thirty one-hundredths of a foot to a spike set in a rock; thence (12) north, sixteen degrees and eight minutes east, two hundred feet to a stake; thence (13) north, twenty-two and a half degrees east, one hundred and fifty-four feet and forty one-hundredths of a foot to a stake; thence (14) north, twenty degrees and forty-one minutes east, one hundred and forty-three feet and twenty one-hundredths of a foot to a cross cut on a rock; thence (15) north, two degrees and thirty-three minutes east, four hundred and seventy-two feet and fifty one-hundredths of a foot to a cross-cut on a rock; thence (16) north, one degree and fifty-seven minutes east, four hundred and twenty-four feet to a cross-cut on a rock; thence (17) north, seven degrees and seventeen minutes east, two hundred and sixty feet and twenty one-hundredths of a foot to a cross-cut on a rock; thence (18) north, two degrees and nine minutes east, nine hundred and fifteen feet and twenty one-hundredths of a foot to a cross-cut on a rock; thence (19) north, six degrees and twenty minutes west, five thousand one hundred and eighty-eight feet and twenty-five one-hundredths of a foot to a stake standing in the corner of the county line between the counties of Passaic and Bergen; thence (20) along said county line north, thirteen degrees east, two thousand four hundred and eighty-five feet to a large stone lying on the south side of the Goffle Hill road near the residence of Abner Predmore; thence (21) still along said county line south, forty-three degrees and thirty-eight minutes east, seven thousand two hundred and seventy-five feet to the end of a stone wall near Coe's Hotel; thence (22) still along said county line south, forty-four degrees and thirty minutes east, two thousand nine hundred and ninety-seven feet to the centre of Cherry (formerly Goetschius') lane; thence (23) southwesterly along the centre line of

said Cherry lane to the middle of the Passaic river; and thence (24) westerly along the middle of the Passaic river the several courses thereof to the place of beginning.

Corporate name.

3. The inhabitants of said borough shall be and they are hereby constituted a body politic and corporate in law, and by the name of "the borough of Hawthorne" shall be entitled to all the rights, powers, authority, privileges and advantages, and be subject to the same regulations, government and liabilities as the other boroughs in this state are or may be entitled, or to which they may be subject by the general laws of this state.

4. This act shall take effect immediately.

Approved March 24, 1898.

CHAPTER 106.

A Supplement to an act entitled "An act to authorize the board of chosen freeholders of any of the several counties in this state to lay out, open, construct, improve and maintain a public road therein," approved April seventh, one thousand eight hundred and eighty-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Election of boulevard commissioners.

1. In any county in this state where any road has been, or shall hereafter be, built under the provisions of the above-entitled act, or any act supplementary thereto or amendatory thereof, there shall be elected at large in such county three commissioners, to be known as "boulevard commissioners of the county of ———" (inserting in said title the name of such county), who shall hold office for the term of three years from the first Monday in December next after their election, and until the election and qualification of their successors;

Term.

before entering upon the duties of their said office, they shall severally take an oath to well and truly perform the duties of said office to the best of their skill and ability; and shall give a bond to such county, conditioned for the faithful performance of their duties, the amount whereof shall be fixed and the same approved by the court of common pleas within such county; which bond and oath of office shall be filed in the office of the clerk of such county.

Oath.

Bond.

Duties.

2. All the duties which by said act, or any supplement thereto, devolve on any board of chosen freeholders of any such county, touching the maintenance, lighting, repair, or control of such road, shall hereafter devolve exclusively upon such commissioners, when elected, and all permits to open such road, disturb the surface thereof, or to lay sewers, drains, water, gas, or other pipes therein, shall be granted; all ordinances for the regulation and use of said road shall be passed by such commissioners, and not by the board of chosen freeholders.

Board, how elected.

3. That when any road constructed, or to be constructed, under the above entitled act, or any act supplementary thereto or amendatory thereof, is completed, at the election to be held for members of the general assembly of this state next succeeding the date of this act, in counties where there is now completed a road under said act, and next succeeding to completion of such road in counties which at this time have no road so constructed, such commissioners shall be elected, and the proceedings touching the nomination and election of such commissioners shall conform in all respects to the method of nominating and electing members of the general assembly of this state; they shall be voted for on the same ticket, but in order to secure minority representation on said board, no voter shall at any election vote upon his ballot for more than two commissioners of such board, and upon the canvass of the election the three persons receiving the highest number of votes for such position shall be declared elected, and the clerk of such county shall, on the qualification of such commissioners, give to each a certificate of his election and qualification; and until the first election and qualification of such commissioners,

the board of chosen freeholders in such county or counties shall control, maintain and repair such road or roads as heretofore.

Annual requisition.

4. On or before the first day of July, in each year, such commissioners shall make a requisition, in writing, on the board of chosen freeholders of such county, for the moneys necessary to enable said commissioners to carry out the purpose of this act; and such board shall cause the same to be raised and collected in the same manner as money for other county purposes are raised and collected, and the moneys thus raised shall remain a fund in the hands of the county collector, to be used for such purposes only, and to be drawn, on warrants signed by the president of such commission and the secretary thereof, and the board of chosen freeholders of any such county shall have no control over such fund.

Organization.

5. That said commissioners shall meet for organization on the first Monday in December next, succeeding the date of their said election and elect from their number a president and a secretary, who, in addition to the duties herein prescribed, shall perform the duties usually performed by such officers; and the said commissioners shall each receive as full compensation for all services to be performed under the provisions of this act, the sum of fifteen hundred dollars per annum, to be paid by the county collector of such county in equal quarterly installments out of the moneys appropriated to the use of such commissioners for the maintenance, lighting and repair of such road; and the president and secretary thereof shall, by virtue of their several positions, be entitled to receive as additional compensation the sum of two hundred and fifty dollars each; and said president and secretary shall be subject to removal at any time by a majority vote of said commissioners.

Compensantion.

Additional compensation.

Rights of board.

6. Said commissioners shall be entitled to the use and possession of all property and plant of such county used for maintaining, lighting and repairing such road and shall have full power to employ such agents, servants and employees as they may deem necessary for the proper performance of the work to be done under this act, and may fix their compensation, which compensation shall likewise be paid out of the fund appropriated

Proviso.

as aforesaid; *provided, however*, that during the first year in office of said commissioners, where the board of chosen freeholders of any such county has, or hereafter shall have, appropriated a sum for the maintenance, lighting and repair of such road, exclusive of salaries or compensation to employees, then such board of chosen freeholders shall, during said first year, if required so to do by said commissioners, pay such salaries and compensation for services, leaving to said commissioners the fund so appropriated by said board of chosen freeholders for the specific purpose of maintaining, repairing and lighting such road to be disbursed by said commissioners for said purposes.

In case of contract.

7. That should said commissioners determine to maintain, repair or light such road, or any part thereof, by contract, proposals for any such contract shall be published for two weeks in at least two of the newspapers in such county, to be selected by said commissioners; and such contract shall be awarded to the lowest responsible bidder, who shall furnish satisfactory security for the performance of the same, to be approved by said commissioners.

Board of freeholders to transfer money.

8. Upon the election and qualification of the first commissioners elected under this act, in any county in this state, it shall be the duty of the board of chosen freeholders in such county to transfer to the account of such commissioners, in the hands of the county collector of such county, the moneys appropriated by said board for the maintenance and repair of such road, or the unexpended balance thereof.

Report.

9. Said commissioners shall annually, on or before the first Monday of December in each year, file in the office of the clerk of the board of chosen freeholders of any such county, a report in writing containing a statement of the disbursements made by said commissioners during the fiscal year.

Application of this act.

10. This act shall apply to any and all roads, branch or connecting roads constructed, or to be constructed, or in course of construction under the act aforesaid, or any acts supplementary thereto or amendatory thereof; and also to all roads constructed, or to be hereafter constructed, as extensions to said roads, branch or connecting roads, where by law such extension road is to be con-

structed under the terms of the act aforesaid, or acts supplementary thereto or amendatory thereof.

11. The counsel to the county shall act as counsel to said commissioners without extra or additional compensation.

Approved March 24, 1898.

CHAPTER 107.

A Further Supplement to an act entitled "An act concerning the appointment of commissioners of assessment of taxes in certain cities," approved April third, one thousand eight hundred and eighty-nine.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The annual salary payable to the commissioners of assessment as provided in section one of the supplement to the act to which this is a supplement, approved April fifteenth, one thousand eight hundred and ninety, shall be and hereby is made payable to the said commissioners in monthly payments. Salary.

2. All acts and parts of acts inconsistent herewith be and they are hereby repealed. Repealer.

3. This act shall take effect immediately.

Approved March 24, 1898.

CHAPTER 108.

An Act to create a new township in the county of Bergen, to be called the township of Hillsdale.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All that portion of the township of Washington, in the county of Bergen, which is included within the Portion of township set off.

Boundaries.

limits of the boundaries which are as follows: Beginning at the northeasterly corner of the township of Washington, where the Hackensack river intersects the boundary line between the state of New York and New Jersey; thence running (1) northwesterly along said boundary line to the northeasterly corner of the borough of Mont Vale; thence (2) in a general southerly direction along the easterly line of said borough and the easterly line and southerly lines of the boroughs of Park Ridge and Woodcliff to a point in the westerly line of the township of Washington, which is in the southwesterly corner of the borough of Woodcliff; thence (3) southerly along the westerly line of the township of Washington to a point where said line intersects the Mill road; thence, still along said township line, through the Mill road to the point where said road passes into Orvil township; thence (4) in a northeasterly direction, in a straight line to the northwest corner of the borough of Westwood, to a large cedar tree standing in said corner, on the top of the hill, the same being five hundred and fifty-nine feet from the center of the road leading from Paskack to Westwood; thence (5) easterly along the northerly line of said borough to the Paskack brook; thence (6) easterly along said brook, the several courses thereof, to the point where the southerly line of the land of the late Garret S. Demarest intersects the same; thence (7) easterly along said line to the east side of the public road leading from River Vale to Old Hook; thence (8) in a northerly direction along the east side of the said public road to where line between the property of Mrs. Doxy and Mrs. Ann Tuers intersects the same; thence (9) in an easterly direction, along said line and continuing in a straight course, to the line between property of Mrs. Abram C. Holdrum and Mrs. John J. McHugh; thence along said line to the Hackensack river; thence (10) northerly along the Hackensack river (up stream), the several courses thereof, to the point of beginning; shall be and is hereby set off from the said township of Washington, and shall be and is hereby created a separate township to be called the township of Hillsdale.

Corporate name.

2. The inhabitants of the said township of Hillsdale shall be and they are hereby constituted a body politic

and corporate in law, and they shall be styled and known by the name of "the inhabitants of the township of Hillsdale in the county of Bergen," and they shall be entitled to all the rights, powers, authority, privileges and advantages, and be subject to the same regulations, government and liabilities, as the other townships in the county of Bergen are or may be entitled or subject to by the laws of this state.

3. This act shall take effect immediately.

Approved March 25, 1898.

JOINT RESOLUTION, NO. 2.

Joint Resolution relating to the purchase of a portrait of the late Mercer Beasley, chief justice of the supreme court of the State of New Jersey.

BE IT RESOLVED *by the Senate and General Assembly of the State of New Jersey:*

1. A committee of two, one senator and one member of the house of assembly, be appointed by the governor to purchase a life-sized portrait of the late chief justice Mercer Beasley, which shall be hung in some appropriate place in the state house, and that the expense of the same be defrayed by the state; *provided*, the expense shall not exceed the sum of four hundred dollars ($400). Committee to purchase portrait. Appropriation.

Approved March 25, 1898.

CHAPTER 109.

A Supplement to an act entitled "An act to provide for sewerage or drainage, or both, in townships," approved May ninth, one thousand eight hundred and ninety-four, and to amend the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

If unadvisable, further construction may be abandoned.

1. At any time when, in the judgment of the township committee, it shall become impracticable or unadvisable to construct sewers in accordance with any system theretofore adopted, or any extension thereof, the said committee may from time to time amend or repeal any ordinance or resolution providing for the construction of such sewer or extension thereof, and may from time to time abandon the construction of any portion of the sewers theretofore provided for.

Cost of completed work assessed.

2. The cost and expenses of constructing any sewer or completed section thereof, including all interest or discount paid on any notes, certificates or obligations issued on account thereof, shall from time to time, as the township committee shall determine by resolution, be ascertained and determined by commissioners, and assessed in accordance with the provisions of the act to which this is a supplement.

Sewers may be extended and cost assessed on lands benefited.

3. The township committee may at any time extend the sewers in said township in their discretion, and may issue bonds for the cost of such extensions in the manner hereinbefore provided, and the cost and expenses of such extensions or sections thereof shall be assessed upon the lands and real estate specially benefited in the manner provided by the act to which this is a supplement.

Section four amended.

4. Section four of the act to which this is a supplement, as the same is amended by the act entitled "An act to amend an act entitled 'An act to provide for sewerage or drainage, or both, in townships,'" approved

May ninth, one thousand eight hundred and ninety-four, approved April twenty-first, one thousand eight hundred and ninety-six, is hereby amended to read as follows:

4. It shall be lawful for the township committee to issue promissory notes or certificates of indebtedness of the township, in order to raise money to pay for any land or other property acquired for the construction of such sewer system, and to pay the cost of constructing the same; *provided*, that no note or certificate of indebtedness shall bear interest at a higher rate than six per centum per annum, nor be disposed of for less than its par or face value; that such notes or certificates of indebtedness may be renewed from time to time; that the township committee may from time to time, as said committee shall determine, issue registered or coupon bonds of the township to an amount sufficient to defray the cost of any sewer or section thereof, and the recital in said bonds that the same have been issued for the cost of constructing sewers shall be conclusive evidence that such bonds were actually issued to defray the cost of sewers; the bonds shall be authenticated by the corporate seal of the township and the signature of the chairman of the township committee, and the coupons thereto annexed, if any, shall be authenticated by the autograph or engraved signature in fac-simile of the treasurer of the township committee; said bonds shall be made payable within thirty years from their date, but part of the issue may be made payable at different times; no bond shall be sold for less than par, and no bond shall bear interest at a higher rate than six per centum per annum.

Promissory notes or certificates of indebted ess may be issued.

Proviso.

May issue bonds

Time.

Rate.

5. All acts and parts of acts inconsistent herewith are hereby repealed.

Repealer.

6. This act shall take effect immediately.

Approved March 25, 1898.

CHAPTER 110.

An Act to amend an act entitled "A further supplement to an act entitled 'An act to provide for the imposition of state taxes upon certain corporations, and for the collection thereof,'" approved April twenty-first, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Renewal of void charters.

1. If the charter of any corporation heretofore or hereafter created, shall become inoperative or void by proclamation of the governor, or by operation of law, for non-payment of taxes, the governor, by and with the advice of the attorney-general, may, at any time within two years thereafter, or after the default in the payment of such taxes, upon payment by said corporation to the secretary of state of such sum in lieu of taxes and penalties as to them may seem reasonable, but in no case to be less than the fees required as upon the filing of the original certificate of incorporation, permit such corporation to be re-instated and entitled to all its franchises and privileges, and upon such payment as aforesaid the secretary of state shall issue his certificate entitling such corporation to continue its said business and its said franchises.

Corporation not relieved from penalty.

2. Nothing herein contained shall relieve said corporation from penalty of forfeiture of franchises in case of failure to pay future taxes imposed, as in said act provided.

3. This act shall take effect immediately.

Approved March 25, 1898.

CHAPTER 111.

An act for the preservation of terrapin.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No person shall catch or expose for sale or have in his or her possession any of the species of turtle commonly called terrapin, for three years from the passage of this act, and thereafter no person shall catch or expose for sale or have in his or her possession after the same has been caught any turtle, commonly called terrapin, between the first day of April and the first day of November of each year, and any person so offending against this act shall be deemed guilty of a misdemeanor, and upon conviction shall be then punished by a fine of fifty dollars or six months in state prison, one-half of said fine to go to the informer. Protection to terrapin. Penalty.

2. It shall be unlawful for any person or persons at any time to catch or take any terrapin from any of the waters of the state by means of any trap, fyke-net, seine, weir or net of any description; any person or persons so offending shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of fifty dollars or six months in state prison, one-half of the said fine to go to the informer. Unlawful means of taking. Penalty.

3. No person or persons shall at any time catch, take or have in possession any terrapin measuring less than four inches lengthwise along the under shell; any person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of twenty-five dollars or three months in the county jail, one-half of the said fine to go to the informer. Size taken. Penalty.

4. Nothing in this act shall be so construed as to prevent any person or persons from having in possession any terrapin not caught in any of the waters of the state. Does not apply to terrapin caught outside state.

Protection to eggs.

5. No person or persons shall rob or destroy the eggs of any terrapin in this state, and any person so offending shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of twenty-five dollars or three months in the county jail of the county where such offence shall have been committed, one-half of the said fine to go to the informer.

Penalty.

Defense in case of prosecution.

6. In all prosecutions against offenders under this act it shall be competent for them to show that the terrapin came into possession in another state, or beyond the United States, at some place where the law did not prohibit such possession, and such evidence shall be a valid defense to the prosecution.

Repealer.

7. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Approved March 25, 1898.

CHAPTER 112.

A Supplement to an entitled "An act to establish a bureau of statistics upon the subject of labor, considered in all its relations to the growth and development of state industries," approved March twenty-seventh, one thousand eight hundred and seventy-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Additional duties.

1. The bureau of statistics provided for in the act to which this is a supplement shall, in addition to the duties prescribed in said act, collect and publish in the annual report of said bureau statistics showing the number of private firms and corporations engaged in the several industries in this state; the capital invested; amount of raw material used and its cost value; amount of goods manufactured and the selling price of said goods; the number of persons employed, by months, and distinguished as to sex; total wages paid; classifi-

cation of wages, and such other information as may be necessary to show the true condition of each of the said manufacturing industries.

2. The information secured shall be presented in the annual report by figures only; the names of persons, firms or corporations shall in no case be printed and the business of manufacturers, individually, shall not be divulged. Names, &c., not divulged.

3. The annual salary of the secretary of the bureau of statistics shall hereafter be the sum of fifteen hundred dollars. Salary.

4. This act shall take effect immediately.

Approved March 25, 1898.

CHAPTER 113.

An Act to establish a village for epileptics.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. There shall be established in this state a village for epileptics. Village for epileptics.

2. The governor shall appoint, by and with the advice and consent of the senate, six residents of this state, not more than three of whom shall be members of one and the same political party, to constitute a board of managers of the said village, two of whom shall hold office for one year, two for two years, and two for three years, as shall be indicated by the governor on making their appointment, and thereafter all appointments, except to fill vacancies in the said board, shall be for three years, and shall be made by the governor, by and with the advice and consent of the senate; whenever a vacancy occurs in the said board by death, resignation or removed, the governor shall appoint, in the manner aforesaid, a resident of the state to fill the unexpired term; the governor shall have power to remove any manager at any time, for cause, on giving to such manager a copy of the charges against him, and ample opportunity to be heard in his defense. Board of managers, and their appointment.

Annual report.

3. The managers shall, on the last day of October in each and every year, make a full and detailed financial and other report to the governor and legislature.

Expenses of managers.

4. The said managers shall receive no compensation for their time or services; but the actual and necessary expenses of each of them while engaged in the performance of the duties of his office, on being presented in writing, together with vouchers for the same, shall be paid by the treasurer of the board upon the order of the board at the regular meeting.

Organization.

5. It shall be the duty of the said board of managers, immediately after their appointment, to meet and organize by the election of a president, secretary and treasurer from their number, and within six months

Site.

after their appointment to select a suitably-located site, which may be the whole or any part of some of the lands the title whereto is now or may hereafter be vested in the trustees for the support of the public schools, or in the sinking fund of the state of New Jersey, and to provide such appropriate buildings and other accommodations and appliances as the said managers may deem

Proviso.

necessary; *provided*, the cost of the same, when completed, shall not exceed the sum of fifteen thousand dol-

Proviso.

lars; *and provided further*, that all plans for buildings or other accommodations, under the provisions of this act, shall first be submitted to and approved by the governor of the state; the treasurer of said board of managers shall give a bond to the people of New Jersey in the sum of at least five thousand dollars, or as much more as the governor may require, with securities to be approved by the comptroller of the state, which bond shall be filed in the office of the comptroller of the state;

Proviso.

provided, no proceedings shall be taken under this section until a specific appropriation thereof has been made in the annual appropriation bill.

Rules and regulations.

6. The said board shall draft by-laws for its government, and general rules for the government of the

Superintendent.

village, and shall appoint a superintendent, who shall, under the direction of the board, employ all assistants and make the regulations necessary for the proper management of the village.

Appropriation.

7. After an appropriation has been provided by the legislature for the purpose set forth in this act, the

treasurer of the state shall, on the warrant of the comptroller, pay the treasurer of the board of managers of the said village such sums as may be required for the purchase, equipment and maintenance of the said village, the said board of managers first specifying the items in writing to the comptroller and the purposes for which such sums are required.

Number of patients.

8. The board of managers shall admit no more patients than can be provided for out of the appropriations that may be granted by the legislature for this purpose, and shall admit none under five years of age; all applications for the admission of patients must be accompanied by the certificate of at least two reputable freeholders of the town or township in which the applicant resides, attested before a magistrate, and said certificate shall clearly set forth the age and circumstances of such applicant, and the ability or inability of the patient or patients, or guardian, of such applicant to pay any part of the expense of care and maintenance of the person in whose behalf such application may be made; such application shall also be certified to under oath by at least two physicians, setting forth the fact that in their opinion the person, in whose behalf the application is made, is an epileptic.

Admission.

Supplementary bill.

9. Said board of managers shall present in their first annual report for consideration by the legislature a supplementary bill, providing for admissions and discharges in the future, and this act shall take effect immediately.

Approved March 26, 1898.

New Jersey State Library

CHAPTER 114.

A Supplement to an act entitled "An act for the better enforcement in Maurice river cove and Delaware bay of the act entitled 'An act for the preservation of clams and oysters,'" approved April fourteenth, one thousand eight hundred and forty-six, and of the supplements thereto, approved March twenty-first, one thousand eight hundred and seventy-one (General Statutes 817).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*:

License necessary.

1. No boat or vessel of any kind or description shall be used or employed in or about the business or occupation of catching or planting oysters in the waters of Delaware bay or Maurice river cove without first being duly licensed thereto in the manner prescribed by the act to which this is a supplement, and the supplements thereto.

Boats, etc., may be seized.

2. It shall be the duty of the special officer and of all watchmen employed by the association formed under the provisions of the act to which this is a supplement, to seize and secure any boat or vessel used or employed by any person, persons or corporation in or about the violation of any of the laws of this state regulating the oyster industry in the waters aforesaid, or engaged in catching or planting oysters without a license as aforesaid, or in violating any of the provisions of the act to which this is a supplement, or of any of the supplements thereto or acts amendatory thereof or of this act, together with its tackle, furniture, apparel, dredges, tongs and other instruments and appliances, and all oysters on board thereof, and immediately thereupon give information thereof to a justice of the peace of the county where such seizure shall have been made, who is hereby empowered and required to appoint

a time and place for the trial thereof, and at the time and place so appointed, or at such time or place to which the hearing shall be adjourned, to hear and determine the same; and in case the same shall be condemned it shall be sold by the order and under the direction of said justice, who, after deducting all legal costs and charges, shall pay the proceeds thereof to the collector of said association.

Unlawful to catch during closed season.

3. During the periods designated by existing statutes of this state within which said bay or any portion or portions thereof are closed, it shall be unlawful for any person or persons to tong or dredge oysters or to throw or cast an oyster dredge or tong or other instrument for catching oysters on, upon or over any oyster bed or oyster ground or grounds, or bottom where oysters do or will grow, within the territory so closed, and any person offending against this provision of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two hundred dollars or by imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court, and, in addition, the boat or vessel used or engaged in the commission of said offense may be seized and sold in the manner prescribed in this act; *provided*, this section shall not apply to any natural beds specially reserved by any law of this state for the tonging of oysters.

Penalty.

Proviso.

Transplanting allowed.

4. For the further advancement of the propagation of natural or seed oysters, it shall and may be lawful for the executive committee of said association, under the waters of Delaware bay in this state, and for the same purpose, from time to time, during any period of the year, to remove shells from any bed or ground under the waters of Delaware bay to any other portion of said bay.

Time for catching oysters.

5. It shall not be lawful for any person, persons or corporation to catch or assist in catching oysters in the waters of the Delaware bay or Maurice river cove before sunrise or after sunset, and any person, persons or corporation so offending shall, for every such offense, forfeit and pay the sum of one hundred dollars, to be recovered, with costs, in an action of debt by any

Penalty.

person who shall sue for the same in any court in this state having cognizance of that sum; one half of said penalty to be paid to the collector of the oyster fund, and the other half to be paid to the person who shall sue for the same; and the canoe, flat, scow, boat or other vessel used and employed in the commission of such offense, with all the oysters, rakes, tongs, dredges, tackle, furniture and apparel thereto belonging, shall be forfeited and the same seized, secured and disposed of in the manner prescribed in the second section of this act.

Repealer.

6. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall be deemed a public act and shall take effect immediately.

Approved March 29, 1898.

CHAPTER 115.

An Act authorizing surviving trustees or directors of orphan asylums to call an election to fill vacancies.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Surviving directors may call meeting.

1. The surviving trustees or directors of any orphan asylums, whether a majority of the board of trustees or directors or not, and whether elected or ex officio members thereof, may call a meeting at any time for the election of trustees or directors to fill vacancies, however caused; *provided*, they shall give notice of the time and place of holding such election by publication in a newspaper printed and published in the county seat of the county in which such asylum was or is located, at least once in each week for two weeks successively.

Proviso.

2. This act shall take effect immediately.

Approved March 29, 1898.

CHAPTER 116.

An Act to authorize the refunding of the consideration received by the state in certain cases where title to the lands lying under water conveyed by it or sought to be conveyed has wholly or partially failed, and to provide for reconveying such title to the state and releasing claims against it.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. There shall be appointed by the governor of this state a commission to consist of three persons, who shall be citizens of this state, which commissioners shall have power, and it shall be their duty, to hear by petition or in any informal way, the claims of any person or persons, or their assigns, holding deeds to lands lying under water from the state of New Jersey, or under the authority of any law thereof, the conveyance of which deeds has failed and loss resulted thereform; and said commission shall also ascertain and determine what amount, if any, in their judgment, should be paid to such person or persons and make report thereon to the comptroller of this state, upon whose warrant to the treasurer of this state there shall be paid to such persons the amounts so ascertained and reported as aforesaid; *provided*, the same shall first be appropriated in the annual appropriation bill; *and provided*, the findings of said commission shall have first been approved by the governor, who may in his discretion, reverse, alter or change the same, or refer the same back to the commission for further ascertainment and report; *and provided further*, upon payment of the amount or amounts as aforesaid the state be released from any further claims, and the rights of such persons, if any, be reconveyed to the state.

Governor to appoint commission.

Commission to ascertain and determine amount to be paid.

Proviso.

Proviso.

Proviso.

2. This act shall take effect immediately.

Approved March 30, 1898.

CHAPTER 117.

A Supplement to an act entitled "An act to authorize the organization of corporations to construct dams in the rivers and streams within this state, or between this and any other state, for the purpose of generating, distributing and selling water power and electric power," approved May eighteenth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Make annual report of gross receipts and dividends.

1. Every corporation organized under the provisions of the act to which this act is a supplement, shall, on or before the first Tuesday of May, annually, make return to the state board of assessors of the gross amount of its receipts for light or power supplied within this state for the year preceding the first day of February prior to the making of such report, and the amount of dividends declared or paid during the same time.

License fee.

2. Each corporation organized under the act aforesaid shall pay to the state an annual license fee or franchise tax at the rate of one-half of one per centum upon the amount of its gross receipts so returned, or as ascertained by the state board of assessors, and five per centum upon the dividends in excess of four per centum declared or paid by said corporation, and the state board of assessors shall assess the said franchise tax in the manner and form prescribed by an act entitled "An act to provide for the imposition of state taxes upon certain corporations and for the collection thereof," approved April eighteenth, one thousand eight hundred and eighty-four, and its various supplements and amendments.

Repealer.

3. All acts and parts of acts inconsistent herewith are hereby repealed and this act shall take effect immediately.

Approved March 30, 1898.

CHAPTER 118.

An Act to authorize boards of chosen freeholders to widen, straighten, grade and otherwise improve highways under their control, and to provide for the construction of street railroads thereon.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The board of chosen freeholders of any county in this state shall have power to widen, straighten, change the grade or location of, or otherwise improve any public highway under its control, or part thereof, and to authorize the construction and operation of a street railroad thereon; and, after making and filing in the office of the clerk of the county a map showing the proposed widening, straightening or change of location of any such highway, it shall be lawful for such board to acquire by puchase in its corporate name any real estate in the county that may be necessary for that purpose; and in case such board and the owner of any real estate required for such purpose cannot agree upon the price or terms of sale thereof, it shall be lawful for the circuit court of the county in which said lands and real estate are situate, on application in writing made by or on behalf of such board, and on such notice to the owner or agent or legal representative of the owner of such land or real estate, as the court may prescribe, to appoint three disinterested freeholders as commissioners, who after hearing such owner or agent or representative if practicable, shall make an estimate and assessment of the damages that any such owner will sustain by the taking of said lands and real estate, with the appurtenances, for the purpose aforesaid; and the said court shall appoint other persons to fill vacancies in case it shall be necessary to do so; the said commissioners, before proceeding to discharge their duties, shall make,

Freeholders to have charge of roads.

Acquire land.

In case of disagreement.

Court appoint commissioners.

subscribe and file in the office of the clerk of the county an oath to make an impartial estimate and assessment of such damages, and they or any two of them shall make and present a report thereof to said court as soon as practicable; that in making such estimate and assessment of damages the said commissioners shall take into account the benefits conferred by the improvement on the remainder of any lot or tract of land partly taken; upon the filing of said report either said board or any party interested in said lands and real estate shall give notice of an application to confirm the same; and at the time fixed for hearing said application the said court shall consider said report and any objections that may be made thereto in a summary manner, and confirm the same or refer it back to the said commissioners or other commissioners to be appointed by the court to consider the subject-matter thereof; the said commissioners to whom the said report shall be so referred shall return the same report corrected and revised, or a new report, to be by them made in the premises, to said circuit court, within such time as said court shall by order direct, and the same, on being so returned, shall be confirmed or again referred by said court in manner aforesaid as right and justice shall require, and so from time to time, until a report shall be made which the said court shall confirm; and such report, when confirmed by said court, or a copy thereof duly certified by the clerk of the county, shall be plenary evidence of the right of the board to enter upon, take and use the said lands or real estate, with the appurtenances, provided said board shall first tender to the owner thereof, if residing in this state, the amount so awarded, and if any owner is not a resident of this state, or on due inquiry cannot be found herein, or is a lunatic or idiot, or under age, or is for any cause incapacitated to receive the amount awarded, or will not receive the same and sign a voucher or receipt therefor when tendered, an affidavit shall be made of the facts and filed in the office of the clerk of said court, and the amount so awarded shall be deposited with the said clerk, to be disposed of as said court shall direct, and thereupon said board shall have the right to take and use said lands and real estate for the purposes aforesaid.

Report

Confirmed report entitles board to take land.

Tender payment.

2. That whenever such board intends to widen, straighten, change the grade or location, or otherwise improve any public highway under its control, or part thereof, in order to provide for the construction and convenient operation of a street railroad thereon, that fact shall be stated in a resolution passed by the board, after filing said map, and published for at least two weeks, once a week, in two or more newspapers published in the county, and said resolution shall further state that at a time and place mentioned therein, and at least two weeks after the passage thereof, propositions to construct, maintain and operate a street railroad on the highway to be improved will be received and considered by the board, and all parties interested therein may be heard, or at some later date to which the board may adjourn; each proposition submitted in pursuance of such notice shall state (1) whether the party making the same intends to construct a single or double track street railroad, and if a single track road, the length and location of sidings and switches; (2) the motive power to be used; (3) the rate of fare to be charged; (4) the amount of money to be contributed for defraying the cost of improving the public highway, as proposed by said board, and the amount or percentage of receipts to be paid annually for the franchise, and (5) such other terms as the party making such proposition may be willing to agree to; and if any proposition to construct, maintain and operate a street railroad on such highway to be improved shall be accepted by said board, the party making the same shall forthwith give a bond to said board, conditioned for the faithful performance of such proposition in all respects; such bond to be approved as to form, amount and sufficiency of surety by the justice of the supreme court holding the circuit court in the county before any money shall be expended or obligation incurred in making the proposed improvement; *provided*, that no arrangement or agreement, made by or between the person or corporation making such proposition and the board of chosen freeholders in respect of taxation, shall be taken or construed to have the force of contract, nor shall any franchise be granted under this act for a longer term than seventy-five years; *and provided further*, that such

In case of constructing a street railroad.

Proviso.

Proviso.

board may reject any or all propositions, and re-advertise from time to time for other propositions, and proceed thereon as in the first instance; but nothing in this act shall be construed to authorize the construction of a street railroad on any public highway on which it is not lawful at present to authorize the construction of a street railroad.

Assent by ordinance necessary before commencing work.

3. Forthwith after the approval of such bond, a copy of such proposition, certified by the clerk of the board of chosen freeholders, shall be delivered to the chairman or other presiding officer of the council, committee or other governing body of every municipality in the county through or into which it is proposed to construct a street railroad on such highway, and the work of constructing such street railroad shall not be commenced or carried on in any municipality in the county until the governing body thereof shall by ordinance assent thereto.

Regarding contract.

4. No contract for any work or material required by this act shall be awarded or be valid for any purpose if awarded, unless a notice specifying the work or materials required and inviting bids or propositions to do or furnish the same shall have been published for at least two weeks, once in each week, in two newspapers published and circulating in the county; every such contract shall be based upon carefully prepared specifications of the work or materials required, to which reference shall be made in the contract, and no money shall be paid for any work done or materials furnished until the same shall have been done or furnished in strict conformity with the terms of the contract and specifications; and no contract shall be awarded or be valid for any purpose, if awarded, unless the person or party whose bid or proposition is accepted shall, at the time of signing the contract, execute a bond to the board, with sufficient surety, to be approved by the county collector, conditioned for the faithful performance of the contract; the penal sum of said bond shall be at least one-half the amount of the contract price for the work or materials; the said board may give the notice aforesaid and award contracts for parts or sections of the improvement to be made.

5. The compensation for services rendered by commissioners appointed in pursuance of this act and the necessary disbursements incurred by them in the discharge of their duties shall be fixed by order of the circuit court and paid by the board of chosen freeholders of the county. Compensation.

6. It shall be lawful for the board of chosen freeholders to borrow such sum or sums of money as may be necessary for the purpose of widening, straightening, changing the grade or location of or otherwise improving such highway, and to issue either registered or coupon bonds therefor; *provided*, that the said bonds shall be made payable at a period not longer than thirty years from their date, shall bear interest at a rate not exceeding five per centum per annum; *and provided further*, that it shall not be lawful to issue bonds or incur any obligations in pursuance of this act to an amount in excess of two per centum of the assessed value of the real estate in the county. Borrow money. Proviso. Proviso.

7. All acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately. Repealer.

Approved March 30, 1898.

CHAPTER 119.

An Act to amend an act entitled "An act concerning marriage licenses," approved May eighteenth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section eleven of said act is hereby amended so as to read as follows: Section amended.

11. If any minister, justice or other person shall perform any marriage ceremony between parties, both of whom at the time of such marriage are non-residents of this state, without the presentation to him of a license Penalty for performing marriages without license.

therefor, obtained in due time, in accordance with the provisions of this act, he shall be deemed guilty of a misdemeanor, and shall, upon conviction, be sentenced to pay a fine not exceeding five hundred dollars.

2. This act shall take effect immediately.

Approved March 30, 1898.

CHAPTER 120.

An Act to incorporate the borough of North Caldwell, in the county of Essex.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Boundaries.

1. All that portion of the township of Caldwell, in the county of Essex, described as follows: Beginning at the intersection of the westerly line of Verona township with the southerly line of Bloomfield avenue, thence along said southerly line of Bloomfield avenue westerly to the line of the borough of Caldwell; thence northerly along said borough line to an angle in the same; thence westerly still along the line of the borough of Caldwell to another angle in the same; thence northerly through the township of Caldwell to a monument standing on the southerly side of the Stager road at the corner of lands of John Francisco and Thomas Scindle; thence northeasterly to a point on the Passaic river, being the intersection of the southerly line of the township of Little Falls with the line of Caldwell township; thence easterly, following the line between the townships of Caldwell and Little Falls, to an angle in the same; thence southerly along said line to another angle in the same; thence easterly along said line to the westerly line of the township of Verona; thence southerly along the westerly line of the township of Verona to the southerly line of Bloomfield avenue and place of beginning; shall be and is hereby set off from the said township of Caldwell aforesaid, and is hereby created a borough, which shall be called and

known by the name of the "borough of North Caldwell."

2. The inhabitants of the said borough of North Caldwell shall be and they are hereby constituted and declared to be a body corporate, in fact and in law, by the name of the "borough of North Caldwell," and shall be governed by the general laws of this state relating to boroughs. Corporate name.

3. This act shall take effect immediately.

Approved March 31, 1898.

CHAPTER 121.

An Act to provide for the expenses of the assembly committee appointed February second, eighteen hundred and ninety-eight, to examine into and report upon the financial condition of institutions in this state doing business on the building and loan plan and the ability of such institutions to meet their obligations.

WHEREAS, the speaker of the general assembly, on the second day of February, eighteen hundred and ninety-eight, did appoint a committee of five members of the general assembly, pursuant to the resolution of the general assembly, passed on the first day of February, one thousand eight hundred and ninety-eight, to examine into and report upon the financial condition of institutions in this state doing business on the building and loan plan and the ability of such institutions to meet their obligations, and to report the result of their investigations to this house as soon as possible, with such recommendations as they deem proper, and said committee is about to commence such investigation; therefore, Preamble.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Upon the requisition of said committee, or a majority of them, the comptroller of the treasury shall Provision for expenses.

draw his warrants for, and the state treasurer shall pay all expenses which may be incurred in, such investigation for witness' fees, mileage, counsel fees, compensation of clerks, stenographers and others necessarily employed by said committee, and all other necessary expenses incurred by said committee in the course of their investigation, and all moneys necessary for said purpose are hereby appropriated out of any moneys in the treasury not otherwise appropriated; *provided*, that no such expenses shall be paid except upon the approval of the governor, the state treasurer and the comptroller.

Proviso

2. This act shall take effect immediately.

Approved April 1, 1898.

CHAPTER 122.

An Act to create a commission to inquire into the expediency of consolidating the various municipalities in the county of Hudson, in the state of New Jersey.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Commission; how constituted.

1. The governor shall appoint five persons, who, with one person to be designated by each of the following named authorities of the several municipalities of the county of Hudson, namely, the mayor of Jersey City, the mayor of Hoboken, the mayor of Bayonne, the councilman-at-large of West Hoboken, the chairman of the town committee of Harrison, the chairman of the township committee of Kearney, the chairman of the township committee of Weehawken, the chairman of the township committee of Guttenberg, the chairman of the town committee of the town of Union, the chairman of the township committee of Union township, the chairman of the township committee of the township of North Bergen, the mayor of the borough of East Newark, shall be commissioners to inquire into the expedi-

ency of consolidating the various municipalities in the county of Hudson, in the state of New Jersey, and to report from time to time their conclusions thereon to the legislature, with such recommendations as they may deem proper for adoption, and their reasons therefor; any vacancies occurring in the number of commissioners appointed by the governor, whether by failure to accept such appointment or otherwise, shall be filled by the governor, and the vacancies occurring among those otherwise appointed, whether by failure to accept or otherwise, shall be filled by the authority by whom the original appointment was made.

Report to legislature.

2. Said commissioners may appoint a president, vice-president and secretary, and may employ such persons as they deem necessary, and may gather such information and prepare such maps as may be needed to present their views intelligently, and may, with their report, present such bills for the action of the legislature as they may deem expedient; they shall receive no compensation for their services, shall not be pecuniarily interested, directly or indirectly, in any work or contract concerning their duty under this act, and shall incur no obligations beyond the amount authorized in the next section of this act.

Organization, duties, etc.

3. The governing body of the several municipalities above named, or any or either of them, may appropriate such sum of money, not exceeding in the aggregate of the appropriations of any or all of such municipalities combined three thousand dollars, as such municipality or municipalities may deem necessary to carry out the objects of this act, and the treasurer or treasurers, or other chief financial officer or officers of such municipalities, or any or either of them making such appropriation, shall pay so much thereof as may be certified by said commissioners to be necessary, on vouchers in form satisfactory to such treasurer or treasurers or other chief financial officer or officers as aforesaid; the several municipalities, or any or either of them aforesaid, shall have power under this act to borrow such sum or sums of money mentioned in this third section of this act, and shall provide for the repayment of the sum or sums so borrowed in the next tax levy after the same shall have been borrowed.

Appropriation by the municipalities concerned.

Duty of local officials

4. In furtherance of the objects of this act, the local officials of the several municipalities in said county of Hudson are authorized and directed to furnish said commissioners, when requested by them, any information or copies of records within their respective keeping, whenever it can be done without imposing any additional cost or expense to said several municipalities.

5. This act shall take effect immediately.

Approved April 1, 1898.

CHAPTER 123.

A Further Supplement to an act entitled "An act concerning taxes, approved April fourteenth, one thousand eight hundred and forty-six."

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Real estate held in an official capacity subject to taxation.

1. All lands and real estate that may be or may have been mortgaged to or owned by any officer of this state in his official capacity, or may be or may have been mortgaged to or owned by any official or person appointed by any court, or in any judicial proceeding had or taken in this state or elsewhere in his official capacity, and held in trust for the benefit of any person, shall be subject to taxation as in case of land held by other citizens of this state, and all taxes assessed in pursuance of this supplement shall be and remain a lien against such land and real estate as in case of taxes assessed against property of other persons, and it shall be lawful for the board or officer charged by law with the duty of collecting taxes in any municipality in which such land and real estate may be situate to collect the taxes so assessed out of the income, if any, of such land or out of money if any held subject to the same trust, and if such taxes cannot be collected out of the income of such land or from such other money, the same, or part of such land, sufficient to raise such taxes may be sold in the same manner that

other land may be sold for unpaid taxes; *provided* that actual notice shall be given of such intended sale to the person holding the same in trust. Proviso.

2. This act shall take effect immediately.

Approved April 1, 1898.

CHAPTER 124.

An Act concerning assessments for benefits for local improvements on lands that may be or may have been mortgaged to or owned by any officer of this state, or official or person appointed by any court or in any judicial proceeding, in his official capacity, and held in trust for the benefit of any person.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All lands and real estate that may be or may have been mortgaged to or owned by any officer of this state in his official capacity, or may be or may have been mortgaged to or owned by any official or person appointed by any court, or in any judicial proceeding had or taken in this state or elsewhere in his official capacity, and held in trust for the benefit of any person, shall be subject to assessment for benefits for local improvements as in case of land held or owned by other citizens of this state, and all assessments levied in pursuance of this act shall be and remain a lien against such land and real estate as in case of assessments imposed or levied against property of other persons, and it shall be lawful for the board or officer charged by law with the duty of collecting assessments in any municipality in which such land and real estate may be situate to collect such assessments in the same manner that other assessments for local improvements are or may be collected, and to sell such land in the same manner that other land may be sold for unpaid assessments; *provided*, that actual notice Proviso.

Real estate held by an officer, in his official capacity, subject to assessments for improvements.

shall be given of such intended sale to the person holding the same in trust.

2. This act shall take effect immediately.

Approved April 1, 1898.

CHAPTER 125.

An Act authorizing permanent street improvements and to provide for the cost and payment thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Issue bonds for street paving.

1. The common council or other legislative body, board of aldermen or any other board or body which is invested with power to issue bonds, may issue bonds for the purpose of obtaining money from the sale thereof for the permanent improvement of streets with Belgian block pavement, asphalt, brick, or other permanent and durable material, to be determined in each instance by the body or board of any city charged with the improvements of streets before the work is commenced, to an

Amount

amount not exceeding ten dollars per capita for each of the inhabitants of said city, according to the last state census, but not more than one-tenth of said total amount shall be raised by the issue and the sale of bonds in one year, that said bonds may be issued before or after the work is commenced, that the legislative body of any city or other body charged with the duty of improving the streets of any city may improve any street or avenue, or portion thereof, with such pavements as aforesaid with the money obtained from the sale of said bonds; the streets to be improved in any one year shall be designated by ordinance together with the kind of pavement proposed to improve them with; all work, how-

Contract

ever, to be given out upon contract to the lowest responsible bidder, and only after bids therefor have been solicited and received.

2. The bonds authorized to be issued as aforesaid shall be made payable at any time within ten years from the date of the same, and shall draw interest at a rate not exceeding five per centum per annum, and to be of such denomination as the board or legislative body hereinbefore authorized to issue the same may determine, and all such bonds shall be signed by the mayor and such other officer as the board or body issuing the same may determine, and they may either be registered or coupon bonds; all the bonds shall be numbered and a register of such numbers, date of issuing and the time of payment shall be made by the comptroller, or other proper financial officer, in a book to be provided for that purpose, and none of said bonds shall be sold for less than par; that the interest on the bonds shall be raised annually by taxation, and the principal of said bonds shall be paid by the city at maturity, and that money derived from assessments made as hereinafter provided for upon the property benefited by such improvements shall when collected shall be held as a fund towards the payment of the bonds issued for the purpose of making such improvements.

Bonds payable.

Rate.

Denomination.

Kind.

Interest.

Paid at maturity.

3. After the improvement or improvements are completed, and if, in the judgment of the said board charged with said work, the said improvement or improvements is likely to benefit and increase the value of lands and real estate bordering on the street or avenue so improved, the said board having charge of said work shall apply to the circuit court of the county wherein such city is situated for the appointment of commissioners to estimate and assess such benefits, of the time and place of which application notice shall be given by ten days' publication in two newspapers printed or circulating in such city, at which time and place, or at such other time and place as the court shall designate, said court shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of the city making the application, to estimate and assess the said benefits; the said court shall have power to remove any commissioner, and also to appoint and fill any vacancy that may occur in the office of any commissioner from any cause.

In case of increase of value by improvement.

Circuit court appoint commissioners.

Oath.

4. The said commissioners, before entering upon the execution of the duties required of them by this act, shall take and subscribe, before some person duly authorized to administer the same, an oath or affirmation that they will make all estimates and assessments required of them fairly, legally and equitably, according to the best of their skill and understanding, which oath or affirmation shall be attached to the report that they are hereinafter required to make.

Give hearing.

5. The said commissioners having thus qualified shall give notice under the direction of the said court of the time and place when and where they will hear any persons in interest, who may present themselves to be heard, and at such time and place and at such other times and places to which they may adjourn for that purpose, the said commissioners shall attend and shall give a public hearing to those persons who may desire to be heard; the said commissioners shall have power to examine witnesses under oath, to be administered by any one of them, and to enter upon and view any premises that they may deem necessary, and to adjourn from time to time at their discretion, or as directed by said court; they shall use diligent efforts to ascertain the names of the owners of the lands and real estate benefited by the improvements as aforesaid, and shall state the same in the report hereinafter mentioned, but the failure to so ascertain the name of any such owner or to state the same incorrectly, or the omission of any such name from the said report shall not be deemed to invalidate the said assessment nor to be a bar to the collection of the same.

Report.

6. After having given opportunity as aforesaid for a public hearing of the persons in interest, and having viewed the premises to be benefited by said improvement, the said commissioners shall make a report in writing of their estimates and assessments to the said court, accompanied by a survey and map prepared by the city surveyor or engineer, under their direction, showing the lots or parcels of land and real estate peculiarly benefited by such improvement; the said report shall state the cost of the whole work, the portion, if any, assessed upon the city at large, and shall give the names, so far as ascertained, of the owners of the

said lots or parcels of lands and real estate, and the amount of the assessment to each owner for each of such lots or parcels of land and real estate for the said benefits, which assessment shall in each case be in proportion as near as may be to an amount as will be equal to the amount of benefits actually acquired by the lands and real estate bordering on any street or highway or portion thereof so improved by reason of such improvement; in case the costs and expenses of such work shall exceed the amount of said benefits, the excess thereof shall be paid by the city at large and raised by general tax; in no case shall any property or owner thereof be assessed beyond the amount of benefit actually derived from said improvement.

Action of court.

7. Upon the coming-in of any such report, signed by the said commissioners, or any two of them, said court shall cause such notice to be given as it shall deem proper of the time and place of hearing any objections that may be made to such assessment, and after hearing any matter that may be alleged against the same, the said court, either by rule or order, shall confirm the said report, or shall refer the same to the same commissioners for revision and correction, or to new commissioners to be appointed by the said court, forthwith to consider the subject-matter thereof, and the said commissioners to whom such report shall be so referred by the court shall return the same corrected and revised, or a new report to be made by them in the premises to the said court, without unneccessary delay, and the same being so returned shall be confirmed or again referred by the said court in the manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned, which the said court shall confirm; such report when so confirmed shall be final and conclusive, as well upon the said city as upon the owners of any land and real estate affected thereby; the said court shall thereupon cause a certified copy of such report and the accompanying map to be transmitted to the clerk of the said city, with a certified copy of the rule or order of said court confirming the same, which shall be forthwith delivered by the said clerk to the officer of such city charged with the duty of collecting assessments for improvements.

Confirmed report final.

Assessments a first lien.

8. All assessments made under the provisions of this act shall be and remain a first lien upon the lands and real estate affected thereby, notwithstanding any error or omission in stating the name or names of the owner or owners of any lot or parcel of such land and real estate, to the same extent as taxes and assessments are now a lien under the general laws of this state, and shall bear the same rate of interest as other assessments for improvements made under the laws governing such cities,

Collection.

and shall be collected in the same manner that assessments are now collected under such laws; and in case of non-payment of such assessments the lands and real estate assessed therefor may be sold in the same manner provided for the sale of lands for the non-payment of assessments made under such laws; that the amount so assessed against the different lots or parcels as aforesaid may be paid as follows: one-fifth thereof in each year, with interest thereon, at the rate aforesaid.

Fees

9. The following fees shall be allowed for services under this act: to each commissioner, five dollars for every day he shall be actually engaged in the performance of the duties herein required of him; the foregoing fees shall be paid by the city in which the improvement is made.

10. That this act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 126.

An Act to incorporate the borough of Brooklyn, in the county of Sussex, and to fix the boundaries thereof.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Portion of township set off.

1. The inhabitants of that portion of the township of Byram, in the county of Sussex and State of New Jersey, hereinafter mentioned and described shall be and they are hereby set off from said township of

Byram, and they are hereby constituted and declared to be a body corporate in fact and in law by the name of "the borough of Brooklyn," and shall be governed by the general laws of this state relating to boroughs. Corporate name.

2. The boundaries of the said borough so set off and created as aforesaid shall be as follows, to wit: beginning at the outlet of lake Hopatcong where it enters the Musconetcong river, thence running down said river the several courses thereof the distance of twenty chains to a point in said river opposite a red maple tree standing on the west bank of said river and marked on two sides with a blaze and four hacks below each blaze; thence (2) north, ten and a half degrees west, six chains and three links to a point in the middle of the road leading from Brooklyn to Stanhope, twenty-five links north, ten and a half degrees west, from a cross cut on a rock lying in the fence on the south side of said road near the northeast corner of a small barn; thence (3) north, fifteen degrees and thirty minutes east, two hundred and twelve chains to a cross cut on the top of a large square rock lying on the south shore of Byram cove about one hundred feet east from the most southwesterly point or inlet of said cove; thence along the southerly shore of Byram cove and lake Hopatcong parallel with and extending one hundred and fifty feet from said shore at low-water mark into the waters of said cove and lake to a point in said lake one hundred and fifty feet from the point of land extending into said lake known as Bonaparte's landing; thence down the westerly shore of said lake and distant one hundred and fifty feet therefrom, at low-water mark, into the water of said lake to opposite A. B. Carter's dock on Elba Point; thence running across the mouth of the river Styx to a point in said lake opposite Sharp's rock, distant one hundred and fifty feet from said shore at low-water mark; thence running down the westerly shore of said lake and distant one hundred and fifty feet therefrom at low-water mark into the waters of said lake, the several courses thereof to the place of beginning. Boundaries.

3. That this act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 127.

An Act authorizing a firemen's home for the aged, indigent and disabled firemen of this state, and providing for the regulation and government of such home.

Preamble.

WHEREAS, The New Jersey state firemen's association at its annual meeting, held in the city of Trenton on the eighth day of September, one thousand eight hundred and ninety-seven, did authorize and direct the president of said association to appoint a committee of eleven persons, consisting of the president of said association, one member from each of the eight congressional districts of this state, and two other members to be chosen as might seem best for the firemen and the home proposed to be provided for them; and that such committee, when appointed, should be vested with full power to secure all necessary legislation and to do all other things necessary to the completion of a firemen's home, and that such committee should continue until its labors are completed, and report from time to time to the state association the progress made; *and whereas*, in pursuance of said authority and direction of said association, the president thereof has appointed said committee as follows, namely: the president of said association, Bird W. Spencer; from first congressional district, Benjamin W. Cloud; from second congressional district, William M. Jeffries; from third congressional district, William T. Corliss; from fourth congressional district, Charles N. Reading; from fifth congressional district, John McKiernan; from sixth congressional district, William H. Brown; from seventh congressional district, George T. Werts; from eighth congressional district, Egbert Seymour, and William S. Hancock, comptroller of this state, and William Bettle, commissioner of banking and insurance of this state; *and whereas*, the proposed firemen's home does not involve the ex-

penditure of any money by the state, and it is just and proper that the desire of the firemen of the state as above expressed should be effectuated and carried out,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Commission.

1. Said Bird W. Spencer, Benjamin W. Cloud, William M. Jeffries, William T. Corliss, Charles N. Reading, John McKiernan, William H. Brown, George T. Werts, Egbert Seymour, William S. Hancock, and William Bettle, and their successors as hereinafter provided, be and they are hereby appointed and constituted commissioners to provide a proper and suitable firemen's home for the aged, indigent and disabled firemen of this state, with full power and authority to make and enter into proper and necessary contracts for that purpose, pursuant to the provisions of this act; any vacancy occurring in said commission from any congressional district shall be filled by the governor by appointment from the active or exempt firemen resident in the district in which the vacancy happens; if the vacancy be that of the president of said association, such vacancy shall be filled by the senior vice-president in age of said association, who shall continue in office until said association shall regularly choose a new president, when such new president shall become a member of said commission; the comptroller of this state and the commissioner of banking and insurance of this state for the time being shall at all times be members of said commission.

Vacancies.

Ex-officio members.

Duty.

2. That said commissioners, or a majority of them, are hereby authorized and empowered to purchase a proper and suitable building and lands or to select a site and erect thereon a proper and suitable building, to be known as "The New Jersey Firemen's Home," for the use, care, support and maintenance of the aged, indigent and disabled firemen of this state as hereinafter provided; said commissioners shall have a chairman or president, a secretary and treasurer, and such other officers and committees as they may choose to appoint; they shall keep a correct and faithful record of their transactions, and the treasurer shall enter into bonds to said commissioners in such sum and sureties as they

Name.

shall require and approve for the due and faithful performance of the duties of his office.

Cost.

3. That the cost of said land and building, including the furnishing and equipping of the same ready for use and occupation, shall not exceed the sum of seventy-five thousand dollars ($75,000.00); *provided*, that said commissioners, or a majority of them, may accept the gift of a suitable site and building, or of a suitable site whereon to erect a building for said home, or may receive voluntary contributions of money or materials in aid of the purchase and erection of such home, other than those mentioned in sections five (5) and seven (7) hereof, and such gifts or contributions shall not be considered as part of the cost of said home or forming part of said seventy-five thousand dollars ($75,000.00).

Proviso.

No compensation; necessary expenses met.

4. Said commissioners shall serve without any compensation for their services, but may be reimbursed their actual expenses out of the sum raised or provided for the purchase of said home; and all other proper and necessary expenses and charges incident to the work of said committee appointed as aforesaid by the president of said association, or the work of said commission in carrying out the provisions of this act, shall be paid out of the same fund; all said expenses and charges to be considered part of the cost of said home.

Duty of commissioner of banking and insurance.

5. To raise and procure the said sum of seventy-five thousand ($75,000.00) dollars or so much thereof as may be necessary to provide said home and furnish and equip the same ready for use and occupation as aforesaid, the commissioner of banking and insurance, instead of paying to the treasurer of the several firemen's relief associations of this state as now required by law, the moneys now in his hands, received or hereafter to be received by him from fire insurance companies on account of the license and tax of two per centum and of all payments in lieu of said tax as now are or hereafter may be required by law to be paid by said insurance companies, shall, from and after the passage of this act, hold and retain said moneys in his hands for the uses and purposes of this act, and none of said moneys shall hereafter be paid over to said relief associations until the demands and requirements made upon the

same under this act as hereinafter provided, shall be met and satisfied.

Part payments.

6. The commissioner of banking and insurance shall, after the passage of this act, from time to time, upon the demand and requisition of said commissioners, pay over to the treasurer of said commissioners, from and out of the moneys mentioned in section five (5), so much thereof, not exceeding the sum of seventy-five thousand dollars ($75,000.00), as may be necessary and required to provide said home and furnish and equip the same ready for use and occupation; the said moneys so received the said commissioners shall use and disburse to provide, furnish and equip said home pursuant to this act.

Relief associations may contribute.

7. Each of the several firemen's relief associations of the state are hereby authorized and empowered to pay or contribute out of any money or securities now on hand or that may be on hand belonging to said association before said home is completed and furnished and ready for occupancy as aforesaid, such part or portion thereof as any such relief association may see fit to pay or contribute towards providing, furnishing and equipping said home as aforesaid; the same to be paid to the treasurer of said commissioners and to be used and applied by said commissioners to provide, furnish and equip said home pursuant to this act; and the aggregate amount of such payments or contributions by said relief associations shall be considered as forming part and parcel of the said sum of seventy-five thousand dollars ($75,000.00) required to provide, furnish and equip said home as aforesaid.

Report of commissioners to legislature.

8. Said commissioners shall report to the next legislature (and to succeeding legislatures, if their work be not sooner completed), a detailed statement of all gifts, moneys and securities received by them, from whom received and how the same have been appropriated, used, disbursed, applied or expended.

Report to governor.

9. When said home has been provided and furnished and equipped ready for use and occupation, pursuant to this act, the said commissioners shall so report to the governor; in addition to reporting the completion of their work, said report shall also contain the matters and things required by section eight (8) hereof; any

Balance.

balance of money remaining in the hands of said commission shall be paid over to the board of managers hereinafter provided for, and be by them used for the support and maintenance of said home.

Board of manages.

10. When said commissioners shall report said home ready for occupation, the governor shall thereupon appoint from the active or exempt firemen of the state,

Number.

eight persons, one from each congressional district of the state, who, with the president of the New Jersey state firemen's association for the time being and the

Ex-officio members.

commissioner of banking and insurance and comptroller of the state for the time being, shall be the board of managers of the New Jersey firemen's home; the members of said board of managers from the congressional

Term of office.

districts shall serve for the term of four (4) years, and their successors shall be appointed by the governor from the active or exempt firemen of the state; the president of the New Jersey state firemen's association for the time being and the commissioner of banking and insurance and comptroller of the state for the time being shall at all times be members of said board of man-

No compensation.

agers; the said managers shall receive no compensation for their services, but may be reimbursed their actual expenses out of the funds belonging to the home; any

Vacancies.

vacancy in said board of managers shall be filled by the governor from the active or exempt firemen of the congressional district in which the vacancy happens; all appointments to fill such vacancies shall be for the unexpired term only.

Duty of managers.

11. From and after the appointment of such board of managers the government, management, care and conduct of said home shall devolve upon and be vested in said board of managers, who shall have the general direction and control of all the property and concerns of such home, and make by-laws, rules and regulations for the government, management, care and conduct thereof, and determine the compensation, duties and term of service of its officers and other persons employed therein, subject to the approval of the governor.

Officers.

12. Said board of managers shall appoint, subject to the approval of the governor, a superintendent of said home and such other officers, assistants and attendants as may be necessary and proper; there shall be a chair-

man of said board of managers, a secretary and treasurer and such other officials as they may choose to appoint; the treasurer shall enter into bond to said board of managers for the faithful performance of the duties of his office, in such sum and with such sureties as said board of managers shall require and approve; said superintendent and all other officers of said home may also be required by said board of managers to enter into bond to said board in such sum and such sureties for the faithful performance of their respective duties as said managers may require and approve; the failure of such treasurer or other officer to give such bond as may be required of them as aforesaid shall vacate their respective offices.

Duty of superintendent.

13. The superintendent of said home shall be the chief executive officer thereof and shall have the general management and care of the same and of the building and grounds, with their furniture, fixtures and stock, and the government, direction, care and treatment of the inmates and patients, and of the officers, attendants and assistants, subject to the general control of the board of managers and in pursuance of the by-laws, rules and regulations by them established, and he shall keep a correct and proper diary and record of all his official acts and transactions.

Further duties.

14. The superintendent of said home shall be a competent accountant and the chief financial agent of said home; he shall purchase all necessary clothing, provisions, materials and other supplies for the said home, subject to the approval of the board of managers and their rules and regulations; he shall keep the accounts of the said home and of all receipts and disbursements and of all the financial transactions relating thereto; all purchases for the use of said home shall be made for cash and not on credit and a voucher for every purchase shall be taken, duly filled up at the time it is taken and an abstract of the vouchers verified on oath or affirmation, stating that the money was paid and the voucher taken and filled up at the time of its date shall be presented with the accounts of said superintendent, and said superintendent shall at all times reside at said home, as the board of managers may direct.

Terms of admittance.

15. Said board of managers shall establish the terms and conditions upon which any aged, indigent or disabled fireman of this state may be admitted into said home and their period of continuance therein; immediately upon their appointment said board of managers shall publish notice that said home is ready for the admission and reception of patients and inmates and shall also transmit a copy of such notice to each of the firemen's relief associations of the state, accompanied by circulars giving all necessary directions and information respecting the admission and support of inmates and patients.

Who shall be admitted.

16. No person shall be admitted into said home as a patient or inmate thereof, unless he be at the time of his admission or shall have been prior thereto an active firemen of this state, and be aged or indigent and necessitous and not of ability to procure the means sufficient for his comfortable support and necessary care and attendance and shall be at the time of his application for admission into said home a bona fide resident of said state; or any person may be admitted into said home, who, being a fireman of this state, shall be or shall have been permanently or temporarily disabled in the discharge of his duties as such fireman, or from sickness or other disability contracted in such service or in consequence thereof is necessitous and unable to secure the necessary means for his treatment, cure, comfortable support and proper care and attendance.

Benefits, &c.

17. Any person admitted to said home shall be entitled to all benefits thereof and be furnished with clothing, subsistence, medical and surgical attendance and with whatever may be suitable and necessary to promote his health or recovery and contribute to his comfort in accordance with the rules and regulations of the home; any applicant for admission or any inmate or patient may be rejected or removed by resolution of the board of managers for want of the proper qualifications to become or remain such inmate or patient or on his being restored to health or becoming of sufficient ability to promote or provide for his own support or for neglect to comply with the rules and regulations of the home or for gross immorality or insubordination.

Removal.

Visitations; duties at such times.

18. One of said managers shall visit said home at least once in every two weeks, and said board at least once in every three months; and said managers and each of them shall at all times have access to said home and to every part thereof, and to every patient and inmate therein, and to all the books, records, accounts, vouchers and papers of every kind pertaining to the same, and the free and full inspection and examination thereof, and said managers shall keep a book of minutes of their proceedings, and a book in which shall be entered the date of each visit, the condition of the patients and inmates and remarks upon the condition and management of the home to be signed by each of the managers present.

Annual report

19. Said board of managers shall annually on or before the first day of January in each year, report to the governor an estimate of the cost and expense of managing and conducting said home for the succeeding year; also a detailed statement of all moneys received, whence received and how disbursed or expended; also, of all gifts of supplies, materials or other things received, from whom received, and how the same were used or appropriated; also the number of patients or inmates for the preceding year, the average expense of such patients or inmates, the number deceased or discharged, and generally all matters and things relating to the government, management, conduct and control of said home.

Support of home.

20. To provide the money and means necessary to govern, manage, conduct and sustain said home, said managers may receive bequests or devises for the use and benefit of said home, and the same invest, sell, convey, use or otherwise apply for the benefit of said home, as said managers, subject to the approval of the governor, may deem proper; said managers may also receive voluntary contributions of money or any article of food or material or merchandise of any kind from any person or corporation, to be used and applied in and about the proper management, care and conduct of said home; in addition thereto, the commissioner of banking and insurance shall from time to time, in each and every year, out of the said moneys mentioned and referred to in sections five and six hereof, pay over to the treasurer of said managers,

Duty of commissioner of banking and insurance.

upon the demand and requisition of said managers, such sum or sums of money as said managers may by resolution demand and require for the proper government, management and conduct of said home and the care and comfort of its patients and inmates, provided such resolution be approved by the governor; after the demands and requirements of said home upon said moneys in any year shall have been met and discharged or provided for, the balance thereof remaining in the hands of the commissioner of banking and insurance shall be paid over to the several firemen's relief associations of the state as heretofore.

Proviso.

Balance.

21. This act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 128.

An Amendment to an act entitled "An act concerning judgments," General Statutes one thousand eight hundred and ninety-six, page one thousand eight hundred and forty.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Additional duties of public functionaries.

1. Every officer, magistrate, notary public or other public functionary, now authorized by the laws of this state to take the proof and acknowledgment of deeds for lands in this state by grantors residing or being out of the state at the time of such acknowledgment or proof, is hereby authorized in the same manner to take the acknowledgment and proof of warrants to satisfy judgments and other liens of record in the office of the various courts of this state; *provided*, that such acknowledgment or proof shall be in all respects in conformity with the laws of this state, and shall be certified and authenticated by the same officers and in the same manner as is required in the case of acknowledgments and proof of deeds taken out of this state for lands within this state.

Proviso.

2. All acknowledgments and proof of warrants for the satisfaction of judgments and other liens heretofore taken and certified in accordance with provisions of section one shall be as valid and sufficient as though taken within this state before a master in chancery or other person authorized to take acknowledgment and proof of such warrant. Acknowledgments so taken previously, valid

3. This act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 129.

A Supplement to an act entitled "An act to establish a system of public instruction" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The state superintendent of public instruction is hereby authorized and directed to procure architects' plans and specifications for a series of school buildings to cost sums ranging from six hundred to ten thousand dollars, together with full detail working plans and directions for the erection of the same; in the preparation of such plans due regard shall be given to the proper heating, lighting, ventilating and other hygienic requirements; said plans and specifications shall be approved by the state board of education, and shall be loaned to any district desiring to erect a new school building. State superintendent to procure plans. Approval.

2. In order that due care may be exercised in the heating, lighting, ventilation and other hygienic conditions of school buildings hereafter to be erected in this state, all plans for such buildings shall be submitted to the state board of education for suggestions and criticism before said plans are accepted by the board of education of the district in which it is proposed to erect a new school building. Plans for buildings to be submitted to board of education.

Regarding expense.

3. This act shall take effect immediately, but no expense for said plans and specifications shall be incurred by said state superintendent until the legislature has made an appropriation for that purpose.

Approved April 2, 1898.

CHAPTER 130.

An Act concerning the commitment of insane persons into hospitals for the insane, public or private, or any institution or retreat for the care and treatment of the insane in this state, and their confinement therein.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Action necessary to commit a person to an insane asylum.

1. No person shall hereafter be committed to or confined as a patient in any hospital for the insane, public or private, or in any institution or retreat for the care and treatment of the insane in this state except upon the filing with the medical director of such hospital, institution or retreat of a request in writing by a relative or other person interested in the admission therein of such person, stating the age and place of nativity, if known, the christian name, surname, place of residence and occupation of the person so intended to be admitted into such hospital, institution or retreat, and the degree of relationship, if any, or other circumstances of connection existing between the said person so intended to be admitted into such hospital, institution or retreat, and the person requesting his admission therein; nor except upon the certificates of two physicians, under oath, setting forth the insanity of such person; but no person so committed shall be held in confinement in any such hospital, institution or retreat, for more than fifteen days, unless the person or persons making the request for the admission of the alleged insane person into such hospital, institution or retreat, shall within that time present or cause to be presented

Present certificate, etc.

to a justice of the supreme court, or judge of the circuit court or court of common pleas of the county in which the person alleged to be insane resides, and if such person so alleged to be insane be a resident of another state, then to a justice of the supreme court, or judge of the circuit court, or court of common pleas of the county wherein the hospital, institution or retreat into which such person's admission is sought may be situate, the application and certificates aforesaid, or copies of the same, certified by such medical director, and obtain the approval of such justice or judge; such justice or judge may in his discretion upon presentation to him of such application and certificates, or copies of the same, certified by such medical director, institute inquiry and take proofs as to the alleged insanity of any such person whose admission into any such hospital, institution or retreat is sought, before approving or disapproving of any such certificates; and such justice or judge may, in his discretion, call a jury in such case to determine the question of insanity, and he shall have power to compel the attendance of witnesses and jurors; such approval or disapproval shall be certified by such justice or judge within five days after the presentation to him of such certificates; but if such inquiry cannot be conveniently made and concluded within that time, then and in that case, the said justice or judge shall so certify to the medical director of the hospital, institution or retreat, in which the patient concerning whom the inquiry is made is confined, that a longer period than five days is necessary to conclude such inquiry, and stating how much longer time is required, and shall order that the said patient remain in such hospital, institution or retreat where he is so confined, if he shall have been committed, until the inquiry shall have been concluded, and if upon such inquiry the justice or judge shall determine that the person concerning whom such inquiry is made is insane, he shall so certify to the medical director of said hospital, institution or retreat aforesaid, and said insane person shall be confined therein until he shall be restored to reason, or removed or discharged according to law; but if the said justice or judge shall determine that such person concerning

Take proofs.

Determination of court.

whom such inquiry is made is not insane, then he shall so certify to the medical director of such hospital, institution or retreat aforesaid, who shall thereupon discharge such patient from the same.

Who may certify as to insanity.

2. It shall not be lawful for any physician to certify to the insanity of any person for the purpose of securing his commitment to any hospital, institution or retreat for the insane in this state, unless the physician be of reputable character, a graduate of some incorporated medical college, a permanent resident of this state, and shall have been in the actual practice of his profession for at least five years; no certificate of insanity shall be made except after a personal examination of the party alleged to be insane, and according to forms approved by the managers of the state hospitals for the insane; and every such certificate shall bear date of no more than ten days prior to the commitment of the person named therein, and it shall contain a thorough description and identification of the alleged lunatic; *provided*, that a non-resident of this state may be committed as a patient to any hospital for the insane, public or private, or any institution or retreat for the care and treatment of the insane in this state upon the filing with the medical director of such hospital, institution or retreat of a request in writing, as provided for in the first section of this act, and upon the certificates of two physicians, residents of the state, from which such non-resident may be sent, which certificates shall be the same as required by said first section of this act; and said non-resident physicians shall have all of the qualifications required by the laws of the state of which they are residents to secure the commitment of patients resident in such state to any of the institutions aforesaid, located in such state; *and provided further*, that after the commitment of any such non-resident patient into any such hospital, institution or retreat in this state as aforesaid, his further commitment and detention shall be secured by certificates of resident physicians, and in all other respects according to the provisions of this act.

Forms.

Date.

Proviso.

Proviso.

Who may not certify as to insanity.

3. It shall not be lawful for any physician to certify to the insanity of any person for the purpose of securing his commitment to a hospital, institution or retreat for the insane in this state, of which the said physician

is either the superintendent, proprietor or an officer, or a regular professional attendant, nor in which he is financially interested, nor who is a near relative, either by blood or marriage, nor guardian or trustee of the person named in the certificate; and the physician's certificate in every case shall state the facts upon which his opinion is founded, and any facts that may be obtained concerning hereditary taint, previous attack or serious nervous disorder of the person named in the certificate.

Certificate to state certain facts.

4. Every medical director of a state hospital for the insane, and every superintendent or other head officer of a private hospital, institution or retreat for the care and treatment of the insane shall, within three days after the reception of any patient, make or cause to be made a descriptive entry of his case in a book exclusively set apart for that purpose; he shall also make entries from time to time of the mental state, bodily condition and medical treatment of such patient, together with the forms of restraint employed during such time as such patient remains under his care, and in the event of the discharge or death of such patient, the medical director, superintendent or other head officer aforesaid shall state in said case-book the circumstances appertaining thereto.

Keep case-book.

5. When any person residing in a county entitled to send patients to either of the state hospitals for the insane in this state may be insane and in indigent circumstances, application may be made in his behalf by request in writing hereinbefore provided for in the first section of this act, for the admission of such indigent insane person into the proper hospital, and the person making such request shall procure the certificates of two physicians aforesaid in his behalf, as provided for in said first section of this act; and the justice or judge aforesaid, making the inquiry as aforesaid, as provided for in said first section of this act, in the case of such indigent insane person, shall, in his certificate, find as well the fact of indigence as of insanity, and whether said person alleged to be insane has not sufficient estate to support himself and his family (or himself if he has no family) under such visitation of insanity; and if the said justice or judge shall find the

In case of application of an indigent person.

Action of court.

person concerning whom such inquiry is made, to be insane and indigent, and to have a legal settlement in the county from whence his admission to the said hospital is requested, he shall so certify, and shall file the proceedings had before him with the clerk of such county, who shall forthwith forward to the medical director of the hospital where such insane person is confined a copy of said proceedings and certificate under the seal of said county, and report the facts to the board of chosen freeholders of such county, whose duty it shall be to raise the money requisite to meet the expenses of his support in such hospital, and as soon thereafter as practicable to pay the same to the treasurer of such hospital; but if such justice or judge shall find the person concerning whom such inquiry is made not to be insane, he shall so certify, and shall likewise file said proceedings had before him with the clerk of such county, and if said person so alleged to have been insane shall have already been admitted into such hospital, the said clerk shall forthwith forward to the medical director of the hospital where the said person so alleged to be insane is confined, a like certified copy of said proceedings and certificate, and the medical director of said hospital shall forthwith discharge such person from the same; but if such justice or judge shall find the person concerning whom such inquiry is made to be insane, but not indigent, then he shall so certify, and shall likewise file said proceedings had before him with the clerk of such county, and the said clerk shall forthwith forward to the medical director of the hospital where such insane person is confined, a like certified copy of said proceedings and certificate, and the county from whence his admission is requested shall not be chargeable with his support, but his estate, or the persons chargeable by law with his support, shall maintain him in such hospital, and if his support cannot be procured in that way, then a like certified copy of said proceedings and certificate shall be sent by said county clerk to the state treasurer, and the state shall support him in such hospital; but if found to be insane and indigent, but not having a legal settlement in the county from whence his admission is requested, such justice or judge shall so certify, and shall likewise file said proceedings had before him

Duty of freeholders.

In case found sane.

Insane but not indigent.

When state shall support.

Non-resident of county.

with the clerk of the county from whence his admission is requested, and said clerk shall forthwith forward to the medical director of the hospital where such insane indigent is confined, a like certified copy of said proceedings and certificate, and also forthwith forward to the state treasurer a like certified copy of said proceedings and certificate, and the state shall pay the expense of his support, and as soon thereafter as practicable the state treasurer shall forward the same to the treasurer of such hospital, unless his settlement can be ascertained to be in some other county in this state than that from whence he was sent, or his admission requested, and in such case it shall be the duty of the overseer of the poor of the township in which such insane indigent resided, to immediately proceed to ascertain the legal settlement of such insane indigent, as nearly as may be, in the manner directed by the act entitled "An act for the settlement and relief of the poor," approved March twenty-seventh, eighteen hundred and seventy-four, and the several supplements thereto, and if upon such inquiry such insane indigent shall be found to have a legal settlement in some county in this state other than that from which he may have been sent, or his admission requested, then such county in which such insane indigent shall so be found to have a settlement, shall keep and maintain him in such hospital.

If non-resident of county, state to support.

Ascertain legal settlement.

Such county to support inmate.

6. Whenever the justice or judge before whom inquiry shall be made, under the first section of this act, touching the alleged insanity of any person, shall find such person to be insane, his certificate of such fact, or a certified copy thereof, as hereinbefore provided for, shall be a sufficient warrant and authority for the medical director, or other head officer, of the hospital for the insane, public or private, or institution or retreat for the care and treatment of the insane in this state, into which such insane person shall be or shall have been committed, to keep and detain such insane person in such hospital, institution or retreat, until he shall be restored to reason, or removed, or discharged, according to law.

Certificate of court sufficient warrant for detention.

7. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Repealer.

Approved April 2, 1898.

CHAPTER 131.

A Supplement to the act entitled "An act relative to the court of errors and appeals" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Compensation.

1. The compensation for the special judges of said courts shall be severally the sum of twenty dollars by the day for every day they shall respectively attend the court and while necessarily engaged in the examination of causes and in the writing of opinions to be filed in said court, such services to be certified by the president of said court; but they shall have no allowance for mileage for attending said court.

No mileage.

2. This act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 132.

An Act respecting the fees of surrogates, county clerks and county registers of deeds and mortgages in counties of the first class and providing salaries for such officers.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Fees, etc., for sole use of county.

1. The fees, costs, allowances, percentages and all other perquisites of whatever kind, which by law the surrogates, county clerks and registers of deeds and mortgages in counties of the first class in this state may

receive for any official acts or services rendered by such surrogates, clerks or registers of deeds and mortgages, respectively, or by any assistant, or other person in their office or employment, for any acts done or services rendered in connection with said offices, shall continue to be payable and shall be received and collected by the said surrogates, clerks and registers of deeds and mortgages, respectively, for the sole use of their respective counties as public moneys belonging to the said counties and shall be accounted for by said surrogates, clerks and registers of deeds and mortgages and paid over as such in manner hereinafter provided.

Keep account of moneys received.

2. The said surrogates, clerks and registers of deeds and mortgages shall respectively keep an account of all fees and moneys received by them pursuant to the provisions of this act for the use of their respective counties, and shall on or before the fifteenth day of each month make a full and itemized statement and return, verified by oath, to the county collectors of their several counties of the fees, costs, allowances, percentages and all perquisites of whatever kind received by them or by any assistant or other person in their office or employment, for any acts done or services rendered in connection with said offices, and all sums which may have been charged or taxed, or which shall have accrued or become payable for any such services during the month preceding the making of such statement; which statement shall be made under oath upon blanks containing a form of said statement to be furnished to the said surrogates, clerks and registers of deeds and mortgages by the county collectors, and shall be filed in the offices of the county collectors respectively, there to remain as public records; such statement shall be forthwith audited by the county auditors, or other proper county officers, and on or before the twentieth day of each month the said surrogates and county clerks and said registers of deeds and mortgages shall respectively pay over the amount of such fees and moneys to the county collectors of their respective counties, under penalty of one hundred dollars for each day's neglect to file such certificate or to pay over such moneys, to be recovered in the name of the board of chosen freeholders of such county where such default shall occur for the use of the

Monthly statement.

Statement audited.

Payment to county collector.

Penalty.

said county, in an action upon contract in the supreme court or in the circuit court of said county.

Officers personally liable for payment of fees, etc.

3. The said surrogates and county clerks, and the said registers of deeds and mortgages, shall be personally liable to their respective counties for the payment of all such fees and costs as are mentioned in the first section of this act, and for their own protection it shall be lawful for them to exact the payment of such fees and costs before filing any paper, entering and docketing any writ, order or judgment, recording any paper, making a copy or search, or performing any other services in their said offices for which costs, fees or compensation is allowed; and for convenience it shall be lawful for the said surrogates and clerks to receive from suitors and their attorneys reasonable deposits of money in advance to answer such fees and costs, rendering an account thereof to the person making such deposit at least once in four months; and it shall likewise be lawful for the registers of deeds and mortgages to receive from attorneys and others reasonable deposits of money in advance to answer like fees and costs for recording papers, making searches, or performing such other services in their said offices, rendering an account thereof to the person making such deposit at least once in four months.

Deposit may be made by interested parties.

Salary.

4. The said surrogates, county clerks and registers of deeds and mortgages of the counties of the first class of this state shall be paid an annual salary of seven thousand five hundred dollars, to be paid by the county collectors of their respective counties, in equal monthly payments, in full compensation for all services rendered by said surrogates, county clerks and said registers of deeds and mortgages in lieu of all fees and other compensation whatever heretofore provided or allowed by law; said surrogates and county clerks and said registers of deeds and mortgages shall select and employ the necessary deputies and assistants for said offices, respectively, who shall receive such compensation as shall be approved by the boards of chosen freeholders of their respective counties, and who shall be paid monthly by the proper disbursing officers of the said counties, on warrants authorized by the boards of chosen freeholders of their respective counties.

Compensation of assistants.

5. All acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect, so far as respects said offices, at the expiration of the terms of office of the present surrogates, county clerks and the present registers of deeds and mortgages, respectively. Repealer.

Approved April 2, 1898.

CHAPTER 133.

A Further Supplement to an act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. It shall not be necessary for any city in which proceedings shall have been taken, or shall be taken, under the act to which this is a further supplement, to apply the proceeds of adjusted taxes, assessments or water rates or water rents to the reduction of the bonded indebtedness of such city, unless the total of the bonded indebtedness of such city shall at the time of the actual receipt of such proceeds, or any part thereof, exceed the sum of five hundred thousand dollars. Application of proceeds of adjusted taxes, etc.

Approved April 2, 1898.

CHAPTER 134.

An Act empowering guardians, executors or trustees to mortgage lands or real estate in certain cases.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Chancellor may authorize loan made to save property of minor, &c.

1. Whenever it shall be made to appear to the chancellor, upon the application in the form of petition of the guardian of a minor, lunatic, insane or feeble-minded person, or of the executor or executors under a will, or the trustee or trustees under a will or deed, holding lands in trust for any person or persons, that the lands or real estate of such person or persons are likely to be disadvantaged, imperiled or sacrificed by reason of the sale of such lands or real estate, or where for any cause such lands or real estate can be saved to such person or persons, or in any way advantaged by said guardian, executor or trustee, as the case may be, being able to raise money upon security upon such lands or real estate, it shall be lawful for the chancellor to order and direct that the guardian of such minor, lunatic, insane or feeble-minded person, or that such executor or trustee as aforesaid, raise a loan or loans by bond secured by mortgage or other security upon such lands or real estate upon such terms as the chancellor may determine.

Chancellor make rules.

Proviso.

2. The chancellor may make such rules for the regulation of the practice and proceedings under this act as he may deem necessary or expedient; *provided*, they shall not be inconsistent with the provisions of this act.

3. This act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 135.

An Act regulating the practice of writs of habeas corpus sued out by or on behalf of persons confined in any hospital for the insane or lunatic asylum in this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Judge to hear facts regarding insanity.

1. In all cases where any writ of habeas corpus shall be sued out by or on behalf of any person confined in any hospital for the insane or lunatic asylum in this state, the justice of the supreme court or other judicial officer who shall award such writ of habeas corpus shall assign a place and a short day for the return of such writ and shall require the person suing out such writ to give such notice as such justice or other judicial officer shall direct to the party or parties upon whose application such person was committed to said hospital or asylum of the issuance of such writ, and the time and place of its return, and upon the return thereof, the fact of the sanity or insanity of such person so detained shall be inquired into, and the party or parties who procured the commitment of such insane person to said hospital or asylum, as well as such insane person, and also the medical director or other head officer of said hospital or asylum wherein any such person is confined, shall be entitled to appear and be heard on the return of such writ.

Take testimony.

2. At the time and place to which such writ of habeas corpus shall be returnable, the parties aforesaid shall proceed to take testimony before the justice of the supreme court, or other judicial officer before whom any such writ of habeas corpus shall have been sued out, touching the insanity of the person so confined, and after the proofs shall be submitted on both sides and counsel heard the justice of the supreme court or other

Judge shall determine

judicial officer aforesaid shall find and determine whether such person in whose behalf said writ of habeas corpus was sued out, is sane or insane; and no person so confined shall be discharged by the said justice of the supreme court, or other judicial officer granting the said writ, unless he shall find such person to be sane.

If found sane.

Jury may be summoned.

3. In all cases in the first section of this act provided for, the justice of the supreme court or other judicial officer before whom any such writ of habeas corpus shall be sued out, may in his discretion award a venire to the sheriff of the county in which said writ shall be made returnable, requiring him to cause to come before said justice or other judicial officer on the return of such writ, twelve good and lawful men of his county, qualified as jurors in the circuit court of such county under the laws of this state, who shall then and there, upon their several oaths or affirmations, inquire into the lunacy of the person on whose behalf said writ of habeas corpus shall be sued out.

Action of jury.

4. At the time and place to which such writ of habeas corpus shall be returnable, the said jury of summond shall be sworn or affirmed, as the case may be, and the parties shall proceed to take testimony before said jury, and after proofs shall be submitted on both sides and counsel heard, and after the court shall have charged the jury, the jury shall retire in charge of the sheriff, or under-sheriff, or one of the constables of the county, to deliberate upon their verdict, and the said jury shall return the fact whether they find such person to be sane or insane; and no person so confined shall be discharged by the justice of the supreme court, or other judicial officer granting said writ and awarding said venire, unless said jury shall find such person to be sane; and the verdict of such jury shall be required to be unanimous.

Approved April 2, 1898.

CHAPTER 136.

An Act authorizing the appointment of commissioners to consider the subject of the pollution of the rivers and streams within this state, to provide a plan for the prevention thereof, and for the relief of the persons and property affected thereby, and to provide for the expenses necessary for that purpose.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Governor to appoint commissioners, who shall report to legislature.

1. The governor of this state shall have power and authority to appoint and commission not less than three suitable persons, commissioners, to consider the subject of the pollution of any stream or river within this state, whose duty it shall be, after having duly investigated the cause, character and extent of such pollution, if they shall deem it necessary and expedient, to prepare and perfect a plan for the prevention thereof, and for the relief of the persons and property affected thereby, and to report their conclusions and present their plan to the legislature of this state, together with a bill providing therefor and for the expenses thereof.

Organization.

2. Such commissioners, when so appointed, shall organize by the selection of one of their number as chairman, and one to act as treasurer, and they are authorized to select a clerk, and to employ such other agents and assistants as may be necessary; the salary and compensation of such commissioners shall be fixed by the governor, and shall not exceed one thousand dollars each; and they shall have power and authority to fix the compensation of their agents and assistants.

Salary.

Compensation of agents.

Amount authorized to be raised and expended.

3. Such commissioners are authorized to raise and expend for the purposes of this act a sum not exceeding twenty-five thousand dollars, which sum, or such part thereof as may be required and be necessary, they are hereby authorized to apportion among the several local

municipalities which the said commissioners shall deem to be affected by such pollution, in proportion to the population of such municipalities, as shown by the last state or national census; and the sum or sums so apportioned shall be certified by the said commissioners under their hands to the assessors or other taxing officers of the said several municipalities; and it shall be the duty of the proper taxing officer or officers in each of the said municipalities to whom such apportionment is made, to proceed to have the same levied and assessed and collected in the same manner and at the same time as other taxes are levied and collected therein; and it shall be the duty of the collector or other equivalent officer of each of the said municipalities to pay over the said several sums of money, when so levied, assessed and collected, to the said commissioners, or to such person or persons as they may appoint to receive the same; and the said commissioners are authorized to use and disburse the same for the purposes of this act.

May issue certificates of indebtedness to anticipate money raised by taxes.

4. The commissioners appointed under the authority of this act shall have the power and authority to anticipate the collection and receipt of the sums of money hereby authorized to be raised by taxation, and may issue from time to time certificates of indebtedness, or other obligations, to be paid from the funds to be raised by taxation in the manner herein provided; and they are authorized to use the funds received from the sale or negotiation of such certificates or obligations authorized to be issued by this act.

Make report to governor.

5. Said commissioners are hereby required, at any time, on the order of the governor, to render to him a report and statement of their receipts and expenditures under the authority of this act.

Vacancies and removals.

6. Vacancies caused by the death or resignation of any commissioner appointed under the authority of this act, or from other cause, shall be filled by the governor; and the governor may remove any of the persons so appointed and appoint another commissioner in his place.

7. This act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 137.

An Act to amend an act entitled "An act respecting the leasing of railroads," approved May second, eighteen hundred and eighty-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended

1. The second section of the act to which this act is amendatory is amended so that the same shall read as follows:

Lease effected by contract.

2. If any corporation aforesaid shall desire to execute such lease or effect such union, consolidation or merger, as is mentioned in the first section of this act, it shall and may execute and effect the same by contract, to which contract the approval of the holders of two-thirds of the capital stock of any corporation of this state, party to such contract, must be obtained; such approval to be given either in writing or at a meeting of the stockholders thereof by vote; and such approval shall be sufficient to validate any such lease, union, consolidation or merger, as the case may be; *provided*, that such lease, union, consolidation or merger shall not be of any effect whatever until the consent of the legislature, given by an act passed for that purpose, shall be obtained to the exercise of such power, nor until the corporation or corporations, person or persons, parties to such proposed lease, union, consolidation or merger, shall first, and as a condition precedent to the same, file in the office of the secretary of state a copy of said lease and also an agreement, to be approved by the governor and attorney-general, surrendering to the state all rights of exemption from taxation and all privileges and advantages arising from any alleged contract establishing any special mode of taxation in respect to such parties, and agreeing, further, that such lease, union, consolidation or merger shall not in anywise affect or impair the right of the state to take the property of

Approval by stockholders.

Proviso.

such parties thereto under any existing law of the state, and that any law affecting such parties shall be subject to alteration or repeal by the legislature.

In case of dissenting stockholder.

2. Any stockholder dissenting from any such lease, union, consolidation or merger shall be entitled to have his damages estimated, found and awarded, and the market value of his stock appraised, and such damages or value paid in the manner provided in the "Act to authorize railroad companies incorporated under the laws of this state and adjoining states to merge and consolidate their corporate franchises and other property," approved March twenty-fifth, one thousand eight hundred and eighty-one.

3. This act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 138.

An Act giving consent to the New York, Susquehanna and Western railroad company to lease its franchises, railroad and property to Erie railroad company, or to merge its railroad, stock, property and franchises with those of Erie railroad company, or to do both.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Consent to lease.

1. Consent is hereby given to the New York, Susquehanna and Western railroad company to lease its franchises, railroad and property to Erie railroad company, a railroad corporation of the state of New York, for such time and upon the terms and conditions agreed upon between the said two companies, upon condition,

Approval.

however, that such lease shall have been approved by the stockholders of two-thirds in amount of the stock of said New York, Susquehanna and Western railroad company, by approval given either in writing or at a meeting of the stockholders by vote; or with like approval to unite, consolidate or merge the whole or

any part of its stock, property, franchises or railroad with that of Erie railroad company; or to do any or all of said acts.

Copy of lease, etc., filed with secretary of state.

2. No lease, consolidation or merger shall take effect under this act until a copy of the contract therefor shall have been filed in the office of the secretary of state, together with an agreement or agreements, executed by each of said companies and approved by the governor and attorney-general, surrendering to the state all rights of exemption from taxation, and all privileges and advantages arising from any alleged contract establishing any special mode of taxation in respect to said companies, and agreeing further that such lease shall not in any wise affect or impair the right of the state to take the property of said companies thereto under any existing law of the state, and that any law affecting such companies shall be subject to alteration or repeal by the legislature, but neither of the said railroad companies shall increase the present rate or rates of the freight or passenger traffic of the said companies in this state, subject to a penalty of the forfeiture of the said lease in case of a violation hereof.

Rates not to be increased.

Repealer.

3. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

4. This act shall take effect immediately.

Approved April 2, 1898.

CHAPTER 139.

An Act to regulate elections (Revision of 1898).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

TIMES AND PLACES OF ELECTIONS.

General election.

1. On the Tuesday next after the first Monday in November, in each year, an election shall be held in

each county, to elect for such county, such a number of persons to be members of the general assembly as such county shall be entitled to elect; which election shall be known as the general election.

Municipal elections.

2. All municipal, local or charter elections shall continue to be held on the days heretofore fixed or established by, or pursuant to, any law of this state applicable thereto.

Election of electors.

3. On the Tuesday next after the first Monday in November, in the year of our Lord one thousand nine hundred, and in each fourth year thereafter, an election shall be held to elect such a number of persons to be electors of president and vice-president of the United States, as this state shall be entitled to elect or appoint; each of whom shall be a male citizen of the United States, of the age of twenty-five years or upwards, and an inhabitant of this state, and shall have been a citizen of the United States seven years next preceding such election.

Polls open.

4. In all elections the polls shall open at six o'clock in the morning and close at seven o'clock in the evening, and shall be kept open during the whole day of election, between the hours aforesaid; *provided*, the board of election may adjourn such election from one o'clock until two o'clock in the afternoon, or for such shorter time, between those hours, as they shall see fit.

Proviso.

Notification that certain elections are to be held.

5. The secretary of state shall, between the first day of August and the first day of September, in every year wherein electors of president and vice-president of the United States, members of the house of representatives, a governor, or senator for any county, or any of them are to be elected, direct and cause to be delivered to the clerk of every county, wherein any such election is to be held, a notice stating that such officer or officers are to be elected at the ensuing election; and the clerk of such county shall, within fifteen days after the receipt of the said notice, cause a copy of the same, certified under his hand to be true and correct, to be delivered to the clerk of each township, city or other municipality in said county.

Term of office of certain county officials.

6. The sheriffs and coroners shall be elected by the people of their respective counties at the general election once in every three years; and the clerks, registers

of deeds and surrogates of counties shall be elected by the people of their respective counties, at the general election once in every five years; and it shall be the duty of the clerk of every county, between the first day of August and the first day of September, immediately preceding the expiration of the term of office of any such officer, to direct and cause to be delivered to the clerk of each township, city or other municipality in said county, a notice that such officer or officers, as the case may be, will be chosen at the ensuing election.

Clerk to give public notice of election.

7. The clerk of every township, city or other municipality shall, at least eight days prior to and within thirty days next preceding the day of election, put up, or cause to be put up, an advertisement in at least five of the most public places within such township, city or municipality, which advertisement shall make known the time, place and purpose of holding such election, and the office or offices to be filled thereat, and shall be signed by such clerk.

Clerk to procure suitable room for registration and election.

8. The clerk of every township, city or other municipality shall, prior to the date of the first meeting of the board of registry and election, procure for each election district in his township, city or municipality a suitable room in which said board shall meet to make and revise the register of voters, and also to hold the election; and said clerk shall immediately notify said board of the location of such room; and if any such clerk shall omit to procure such room, then the meetings of such board and such election shall be held at such place as a majority of such board shall designate; if in the judgment of said clerk it shall be inadvisable to hold the election in the place designated for holding the meetings of the board of registry, then it shall be lawful for such clerk to designate another place for holding such election, or to cause a building to be constructed in the street outside the curb line immediately in front of, or as near as possible to, the place of meeting of such registry board, in which to hold such election; *provided*, no election shall be held in the bar-room of any inn or tavern or saloon where intoxicating liquors are licensed to be sold.

Proviso.

ELECTION DISTRICTS.

In case votes cast exceed six hundred.

9. When at any election more than six hundred votes shall be or shall have been cast in any election district, such district shall forthwith be divided by the township committee or mayor and common council or other governing body of the municipality containing the same into two or more election districts, or in lieu thereof, the boundary lines of any existing election district or districts may be changed, or such districts readjusted; *provided, however*, that each of such districts, after such division, change or readjustment, shall not contain more than six hundred, nor less than one hundred and fifty voters.

Proviso.

Election districts may be changed.

10. The said township committee, mayor and common council or other governing body shall have power, from time to time, to change or readjust the boundary lines of any election district or districts, or consolidate two or more districts, whenever, by reason of change of population or alteration of municipal lines or otherwise, such action shall be deemed advisable; *provided*, that in every division, change or readjustment the geographical compactness of each district and the convenience of the voters shall be first considered.

Proviso.

Description of boundaries filed.

11. The township committee, mayor and common council or other governing body shall forthwith cause a description of the boundaries of such new election district or districts, and of the election district or districts affected by such division, change or readjustment, to be filed in the county clerk's office, and a duplicate thereof in the office of the clerk of the township, city or other municipality.

"Election district" defined.

12. For the purposes of this act the term "election district" denotes the territory within which there is a single polling place for all the voters therein.

COUNTY BOARDS OF ELECTION.

County boards of election; their appointment, term, vacancies.

13. There shall be in every county a county board of elections, to consist of four persons, to be appointed by

the governor in the month of July in each year, and who shall be legal voters within the counties for which they are respectively appointed; no more than two members of any such board shall belong to the same political party; the chairman of the state committee of each of the two political parties which at the last preceding general election cast the largest and next largest number of votes in the state for members of the general assembly, may, in the month of June, in writing, nominate two members of his own party in each county, qualified as aforesaid, for members of the county board of elections in and for such county; and if such nominations be made in said month of June, the governor shall appoint such nominees, provided that one of such members representing each political party shall be appointed for the term of one year from the first day of August next, and the remaining members shall be appointed for the term of two years from said first day of August; and thereafter one member of each political party shall be appointed annually, in the same manner, in the month of July, and shall continue in office for two years from the first day of August next after their appointment; in case of the death or disability of any member of any of said boards, the governor shall be forthwith notified thereof by the chairman or secretary of said board; the governor shall cause notice of such death or disability to be given the chairman of the state committee of the political party for which such member was appointed; and such chairman shall, within six days thereafter, nominate a successor, who shall thereupon be appointed by the governor; all appointments to fill any vacancies occurring in said boards shall be for the unexpired term only; if, in any case, either of said chairmen shall fail to make nominations to the governor within the time aforesaid, the governor shall make such appointments of his own selection from the same political party of which the delinquent chairman is a member; said county boards of elections shall be provided by the board of freeholders of the respective counties with a suitable office and furniture, in the court house of the county for which they are respectively appointed, or in a building as near as possible adjacent thereto.

Suitable quarters provided.

Organization.

14. Said county boards of election shall, at ten o'clock in the forenoon on the first Tuesday in August, or on such other day as they may agree on within the first ten days of August in each year, meet at the court house or other place provided as aforesaid in their respective counties, and organize by electing one of their number to be chairman and one to be secretary; but the chairman and secretary shall not belong to the same political party; in case of failure to elect such chairman for three ballots or viva voce votes, then the oldest (in years) of such board shall be the chairman thereof; and on failure to elect such secretary for three ballots or viva voce votes, the member of the board next oldest (in years) to the chairman of such board, and not of the same political party, shall be secretary.

DISTRICT BOARDS OF REGISTRY AND ELECTION.

Boards of registry and election; their appointment.

15. The county board of elections in each county shall cause to be made a complete registry of all the legal voters in their respective counties; and for that purpose shall appoint for each election district in the county four persons, legal voters and residents in such district, to be the board of registry and election for such district; not more than two of such appointees, in each election district, shall belong to the same political party; the said boards of registry and election shall be appointed during the first ten days of September in each year, upon nominations made in writing by the chairman of the county committee of each of the two political parties which at the last preceding general election cast the largest and next largest number of votes in said county for members of the general assembly; said nominations shall be made after the tenth and no later than the twentieth day of August in each year; and in event that either chairman shall neglect to file such nominations in the manner and within the time herein prescribed, the county board of elections shall immediately cause notice to be given to said chairman, and he may supply the deficiency in the list of nominations on or before September first next following; and the county board of elections shall appoint said nominees; *provided*,

Proviso.

however, that all nominees shall answer in writing, over their own signatures and to the satisfaction of the county board of elections, all reasonable questions which may be submitted to them or prepared for that purpose by the county board of elections, which refer to the efficiency, eligibility and character of the nominees, and bear upon their fitness to serve as members of the board of registry and election; and on failure so to do said board may by a majority vote reject such nominee, and thereupon shall immediately notify such chairman to nominate another member of such board; if the chairman of either of the said county committees shall fail to present in the manner and within the time herein specified, a list of nominees for appointment as members of the district boards of registry and election, the county board of elections shall supply any deficiency in the list of nominees from members of the political party of which the delinquent chairman is a member; *provided, also*, that the county board of elections may remove from office any member of any board of registry and election for neglecting or refusing to properly discharge the duties of his office at the time required by law, for intoxication, for incapacity or for deceit or falsehood exercised in securing his own appointment; and all police officers, constables, sheriffs and peace officers are hereby required to remove summarily, by force if necessary, any member of the board of registry and election in said county whose removal has been ordered in writing by the county board of elections, attested by the signatures of the chairman and secretary of such board; the vacancy so made shall be filled immediately by the county board of elections, but for the unexpired term only.

Proviso.

16. The members of said county boards of election and also the members of said district boards of registry and election shall, before entering upon the performance of their duties, severally take and subscribe an oath or affirmation, in writing, before a duly qualified officer, faithfully and impartially to discharge all their duties as such officers, to the best of their skill and ability; which oaths or affirmations shall be forthwith forwarded to the county clerk, and by him filed in his office.

Oath of office.

Term of boards of registry and election.

17. The terms of office of the members of the district boards of registry and election shall begin on September eleventh of each year, and expire on September tenth of the following year, or when their successors are appointed and qualified; all vacancies in the district boards of registry and election except those caused by the removal of a member from office shall be filled by the county boards of elections in the same manner as hereinbefore provided for the original appointment of such members, but for the unexpired term only; *provided, however*, that in case of a vacancy occurring in said board on the day of election, by reason of the absence or disability of a member, except in case of removal by order of the county board of elections, such vacancy shall be immediately filled by the member of the district board of the same political party as the member whose place has become vacant; such appointment shall be immediately reported to the county board of elections.

Proviso.

Meetings.

18. The district boards of registry and election shall severally meet within the district for which they are appointed, at such place as shall be designated by the clerk of the municipality, on the days hereinafter designated, for the purpose of making a registration of voters.

Organization.

19. Each of said boards shall at its first meeting elect one of its members as judge, who shall be chairman of such board, and another one of its members as inspector; such judge and inspector shall be members of opposite political parties, and the other two members of the board shall be the clerks of election, and shall perform all the duties required by law of the clerks of registry and election; in case of failure to elect a judge as herein provided, after balloting or voting three times, the member of the board oldest in years shall become judge, and in case of failure to elect an inspector, after balloting or voting three times, the oldest member of the board in years of the opposite political party shall become the inspector.

Public notice in newspapers.

20. The county board of election of each county shall, at least six weeks preceding the general election, cause a notice to be published in such of the newspapers of their county as they shall previously have designated for that purpose, not exceeding six in all, setting forth that

the boards of registry and election in and for each election district in such county will meet for the purpose of making a registration of voters on the days and between the hours hereinafter designated for that purpose; said notice shall be published, as nearly as may be, equally in newspapers of the different political parties, and so as to afford the widest possible information to all voters of every political party; and such notice shall be continued in such newspapers at least once a week for at least three weeks successively; *provided*, that such publication shall not be made in any daily newspaper more than twice in any one week; in cities of the first class, said notice shall include in the newspapers designated therein, a short description of the boundary lines of each election district therein, and the place of meeting of the board of registry and election therein. Proviso.

REGISTRATION FOR THE GENERAL ELECTION IN CITIES OF OVER FORTY THOUSAND POPULATION.

21. The district boards of registry and election in all districts in cities having by the next preceding census a population exceeding forty thousand, shall meet annually on Tuesday five weeks next preceding the general election, at one o'clock in the afternoon, and continue in session until nine o'clock in the evening, for the purpose of registering the names of all legal voters, residents of the election district for which they are appointed; after the board shall have organized, they shall proceed to make two lists or registers, arranged by streets in the alphabetical order of such streets, and by street numbers, if any there be, and if not, by the order of the houses as they occur upon any avenue, street or road in such district; they shall register the names of all persons in their respective election districts entitled to the right of suffrage therein at the next election, who shall personally appear before them for that purpose, and such other persons as shall be shown by the written affidavit of a voter residing in the same election district to be lawfully entitled to vote therein at the ensuing election; *provided*, that no person so applying shall be registered unless a majority of the board shall be satisfied, by affidavit or Method of registration. Proviso.

otherwise, that he will be entitled to vote in that election district at the ensuing election; on the day succeeding such meeting each of the clerks shall post a copy of the register, in hand-bill form, in some conspicuous place in such election district.

Duty of board at subsequent sessions.

22. The said district boards of registry and election in the aforesaid cities, shall again meet in the same place and at the same hour, on Tuesday four weeks next preceding the general election, and finally on Tuesday two weeks next preceding the general election, for the purpose of revising and correcting the registers, and of adding thereto the names of all persons entitled to the right of suffrage in that election district at the next election, who shall appear in person before them and establish to the satisfaction of a majority of the board that they are entitled to vote in that election district at the next election therein, or who shall be shown by the written affidavit of a voter residing in the same election district to be so entitled to vote; the district board of registry and election shall erase from such register the name of any person or persons who, after a fair opportunity to be heard, shall be shown by due proof not to be entitled to vote in such election district; three copies of the revised register shall be made by the board of registry and election, which shall be so written as to show opposite each name whether each voter appeared in person before such board or was registered by affidavit; if by affidavit, the name of the person making such affidavit shall follow the name of the person so registered in a space or column provided for that purpose; and such revised registers shall be arranged by streets and by street numbers in the same manner as is required with respect to the lists to be made on the first registry day; the register of names in each election district shall be made up annually for the general election as herein provided, and shall not be copied from the register of the previous year or of any previous election, either in whole or in part; on the day succeeding the completion of the register, one copy thereof shall be delivered by the chairman to the county board of elections, to be filed by them; one copy shall be posted at the place of registry in said district, for

Register made annually.

Three copies; their disposition.

public inspection, and one copy shall be retained by the judge for use by the district board on the day of election.

REGISTRATION FOR THE GENERAL ELECTION IN DISTRICTS OUISIDE OF CITIES OF OVER FORTY THOUSAND POPULATION.

Registration by canvassing.

23. The boards of registry and election in all election districts in the state outside of cities having a population exceeding forty thousand, shall meet annually, on Tuesday four weeks next preceding the general election, at ten o'clock in the forenoon, and having first organized shall proceed to ascertain and truly and accurately enter in canvassing-books, to be provided for that purpose, the names and residences and street numbers, if any, of all legal voters residing within their respective election districts entitled to vote therein at the next election, by making actual inquiry at every dwelling-house or habitation, or of the head of every family residing therein, and shall continue such enumeration of voters from day to day thereafter, on successive days, until the same be completed; *provided*, that such enumeration shall terminate on or before the Friday next succeeding; the name of every such voter, as aforesaid, whose place of abode shall be in any family or habitation, or who may be casually or temporarily absent therefrom when such enumeration is made, shall be entered in said canvassing-books; in making such enumeration the said boards of registry and election may divide their election districts in subdivisions, and any two of their number, not of the same political party, designated by the chairman, together and in company may make the enumeration in such subdivisions; no name shall be entered on such canvassing-books without the concurrence of both of said members, or, if said enumeration be made by the entire board, without the concurrence of a majority thereof; on Tuesday three weeks next preceding the general election said boards shall meet at the same place at ten o'clock in the morning, and continue in session until nine o'clock in the evening, but may take a recess from one to two o'clock during said time; and shall proceed to transcribe

Proviso.

Registers made from canvassing-books.

and make up from said canvassing-books, two lists or registers of the names, arranged in alphabetical order, together with the residences and street numbers, if any, of all persons in their respective election districts entitled to the right of suffrage therein at the next election, or who shall personally appear before them for that purpose, or who shall be shown to the satisfaction of such board of registry and election by the affidavit in writing of some voter in that election district to be a legal voter therein.

Duty of board at subsequent sessions.

24. When on the day of their meeting, as provided in the next preceding section, the board of registry and election shall have completed said two registers, they shall certify on each of them and announce publicly the number of names entered thereon; on the day succeeding such meeting, a correct list of the names entered on said registers, with residences and street numbers, if any, shall be posted by each of said clerks, in hand-bill form, in some conspicuous public place within such election district; both of said lists shall be certified by the board of registry and election, or a majority thereof, to be correct copies of the original registers; the said board of registry and election shall also meet on Tuesday next preceding the general election at the place of their former meeting, at the hour of one o'clock in the afternoon, and remain in session until nine o'clock in the evening, for the purpose of revising and correcting the original registers, of adding thereto the names of all persons entitled to the right of suffrage in that election district at the next election, who shall appear in person before them or shall be shown by the written affidavit of some voter in such election district to be a legal voter therein, and of erasing therefrom the name of any person who, after a fair opportunity to be heard, shall be shown not to be entitled to vote therein; *provided*, that no name shall be entered on said registers or either of them from said canvassing-books, or stricken therefrom, without the concurrence of a majority of all the members of said boards of registry and election; upon the completion of said registers the said board of registry and election shall publicly announce and certify on each register the number of names entered thereon, and one of said clerks, to be designated by the chairman of said

Proviso.

board of registry and election, shall prepare an additional copy of the names, residences and street numbers, if any, on such completed register, which additional copy, after being certified as aforesaid, shall be by said clerk, within two days after the said last-mentioned Tuesday, filed with the clerk of the township, city or other municipality within which such election district may be situate; on the day succeeding the completion of said registers, one copy thereof shall be delivered by the chairman of said board to the county board of election to be filed by them, and one copy shall be retained by him for use by the district board on the day of election. Additional copy filed.

MEETING OF THE COUNTY BOARD OF ELECTIONS BEFORE THE GENERAL ELECTION.

25. It shall be the duty of the several county boards of election to sit at the office so provided for them on Thursday and on Saturday next preceding the day of the general election, from eight o'clock in the forenoon till five o'clock in the afternoon of each of said days; and in case the name of any legal voter in any election district has been improperly or inadvertently left off the registry list, he may, on said days, apply in person to the county board of elections for the purpose of having his name placed upon the register; and the county board of elections, upon such application to them, and upon proper evidence satisfying them that such person is a legal voter entitled to vote at any such election, may give their certificate to that effect, and shall add his name to the proper register on file with them; such voter may present said certificate to the board of registry and election of the district in which he is entitled to vote, and said board shall receive and file said certificate and add his name to the register, provided said board shall be satisfied that he is entitled to vote in said district, and he shall thereupon be allowed to vote at said election, and no name shall be added to the said register after the last registry day preceding the day of election, except in the manner provided for in this section; *provided, however*, that certificates of Duty at such sessions. Proviso. Proviso.

transfer may be issued and shall be accepted in the cases hereinafter mentioned; said board may order erased from any register the name of any person who shall be shown to the satisfaction of the board, for any cause, not to be entitled to vote at the next election in the election district wherein he is registered; *provided*, that no name shall be ordered erased from any such register in the absence of the person to be affected thereby, unless it shall appear to the board by affidavit of some qualified voter that notice has been given such person, either personally or by leaving the same at his assigned place of residence, with some person above the age of fourteen years, at least two entire days before such meeting of the board, that at such meeting application would be made to have the name of such registered person stricken from the register, and the grounds on which said application would be based; when any name shall be stricken from any register as aforesaid, a certificate of such board, stating the name erased and the cause therefor, and from what election district, shall be given to the person applying to have such name erased, and such board shall erase the name of such person from the register on file with them, and on the delivery of such certificate to the board of registry, the name of such person shall be erased by them from the register in their possession, and his vote shall not be received if he presents the same.

Proviso.

REGISTRATION IN CITIES OF OVER FORTY THOUSAND POPULATION FOR CHARTER ELECTION.

Revision of register for charter election.

26. In each city of this state having a population exceeding forty thousand, it shall be the duty of the district boards of registry and election for all elections of municipal officers and all special elections to make, alter and revise, as the case may require, the register of voters within and for the several election districts of such city; *provided, however*, that where the election districts have remained unchanged, it shall not be necessary for said boards to make a new register of the voters for such election districts, but only to revise and correct the

Proviso.

register made for the last general election; and for that purpose the said boards shall meet at such places in their respective election districts as shall be designated by the clerk of such city, on Tuesday four weeks next preceding such election, and finally on the Tuesday two weeks next preceding the same; said meetings to begin at one o'clock in the afternoon and to continue until nine o'clock in the evening, for the purpose of revising and correcting the register and of adding thereto the names of all persons entitled to the right of suffrage in that election district at the said election, who shall appear in person before them and establish to the satisfaction of the majority of the board that they are entitled to vote in that election district at said election, or who shall be shown by the written affidavit of a voter residing in the same election district to be so entitled to vote; a separate affidavit shall be required for each person so registered, which shall contain the address of the affiant and shall be signed by him; on the day succeeding such first meeting, each of the clerks shall post in hand-bill form, in some conspicuous place in such election district, a copy of the revised register; and on the day succeeding such second meeting, one copy thereof shall be delivered by the chairman to the county board of elections to be filed by them; and one copy shall be retained by him for use by the district board of election.

Registers filed to be delivered to city clerk for use of district boards.

27. The county board of election shall deliver to the city clerk of the city in which an election for municipal officers or any special election is to be held, seven weeks at least prior thereto, the copies of the registers filed with said county board of elections at the previous general election, to be by the said city clerk delivered to the district boards of registry and election, six weeks at least preceding any such election.

Public notice given in newspapers.

28. It shall be the duty of the city clerk in each of the said cities to give notice by publication in at least two of the newspapers published in said city, of the time and place of the meetings of the district boards of registry and election, at least two weeks, once in each week before the first day upon which such boards shall meet in cities of the first class; the said notice shall include a short description of the boundary lines of each

election district and the location of the polling place therein.

REGISTRATION IN ALL OTHER MUNICIPALITIES FOR CHARTER AND LOCAL ELECTIONS.

Use of register in local elections; its correction.

29. In all cities of this state having a population not exceeding forty thousand, and in all townships, towns, boroughs and municipalities other than cities, there shall be no new registration required for any township, charter, local or special election; but the several boards of registry and election shall procure and use in their respective districts at such election the copy of the register filed with the clerk of the municipality within which such election district may be situate; said boards shall meet on the Tuesday next preceding such election, to revise and correct said register in the manner hereinbefore provided for the revision of the registers in cities having a population exceeding forty thousand; and each election clerk of every district shall cause at least three notices of the time and place of such meeting to revise and correct said register, to be conspicuously posted in public places within such district, at least one week before such meeting; no copy of such revised and corrected register need be posted, but a copy shall be filed with the county board of elections within one day thereafter.

MEETING OF COUNTY BOARDS OF ELECTION BEFORE CHARTER ELECTIONS.

Meeting preceding charter elections; duties.

30. It shall be the duty of the several county boards of election to sit on Thursday and also on Saturday next preceding any township, municipal, charter, local or special election in their respective counties, for the purpose of adding to the register the names of any legal voters entitled to vote at such election, and erasing therefrom the name of any person not so entitled to vote; and such county board shall proceed in all respects as is provided for the revision by them of the register for the general election.

In case of new districts or change of boundary.

31. Whenever the boundaries of any election district in any township, city or other municipality within this state shall have been changed, or any new district created between the time of holding the general election and the time of holding the next charter, local or special election, or where the boundaries of any election district shall not be the same as at the general election, it shall be the duty of the county board of election, on being notified thereof, to appoint a board of registry and election for such election district, in the manner hereinbefore provided for the appointment of district boards of registry and election; and such district board shall thereupon proceed to make and revise a register of all the names of the legal voters in such election district; such register shall be made and revised so far as is practicable at the times and in the manner hereinbefore provided for the making and revising of the register for the general election; in all newly-created municipalities, the registry for the first election shall be made as herein directed, unless otherwise provided by any general law relating to such newly-created municipalities.

PROCEEDINGS APPLICABLE TO ALL REGISTRATIONS.

Proceedings public.

Registration by affidavit.

32. The proceedings of every board of registry shall be open to the public, and all persons entitled to the right of suffrage in the election district shall be entitled to be freely heard in relation to the revision and correction of the registers; whenever a voter shall be registered by affidavit a separate affidavit shall be required for each person so registered, which shall contain the address of the affiant and be signed by him; such affidavits shall be preserved in the custody of the member of the board of registry and election acting as judge until the completion of the registry; all such affidavits shall then be delivered by such judge to the county board of elections, who shall give a receipt for the same, stating the number received; and the said county board of elections shall preserve such affidavits for six months after election or until required to pro-

duce the same, by any court or tribunal authorized to require their production as evidence in such court or tribunal.

Only persons registered allowed to vote.

33. No person, except as hereinafter provided, shall be allowed to vote unless his name shall be found on the register; and if any member or members of the board of registry and election shall willfully refuse to enter in the canvassing-books or upon the registers the name of any person legally entitled to vote, or shall register the name of any person contrary to the provisions of this act, or on the day of election shall receive the vote of any person whose name shall not appear on the revised and corrected register, unless such name shall have been ordered added thereto in the manner herein provided, such member or members shall be punished, on conviction, by a fine not exceeding one thousand dollars, or by imprisonment not exceeding two years, or both, in the discretion of the court.

Refusal to register a name, &c.

Penalty.

False registration.

34. Any person who shall cause or procure his name to be registered in more than one election district, or shall cause or procure his name or that of any other person to be registered, knowing that he, or the person whose name he has procured to be registered, is not entitled to vote in the election district wherein said registry is made, at the next election to be held therein, or who shall falsely personate any registered voter, shall be punished for each offence by a fine not exceeding one thousand dollars, or imprisonment for a term not exceeding five years, or both, at the discretion of the court.

Penalty.

Registration by affidavit.

35. Every board of registry and election shall place upon said registers the name of any person who shall appear before them and satisfy them by an affidavit in writing that such person will, on the day of the next ensuing election, be entitled, under the constitution and laws of this state, to exercise the right of suffrage in that election district; and any person swearing falsely in any such affidavit shall be guilty of perjury, and incur the penalty thereof; every such affidavit shall within two days be forwarded to the county board of elections to be by them kept as provided in the thirty-second section of this act.

Disposition of affidavits.

In case of removal after registering.

36. If any person shall, after being registered in one election district, move into another election district in the same county, he may apply to the board of registry and election, on election day, to have his name erased from the register and a certificate given him to that effect, which certificate shall be signed by said board or a majority thereof, and on presentation of such certificate to the board of election of the district where he then resides, his name and residence (including street and number if any) shall be placed on the register of such district, where he shall then be allowed to vote; *provided*, that said latter board may require him to make a statement, under oath, to satisfy themselves of his right to vote; the presentation of such certificate shall be noted on the register and the certificate preserved, and at the close of the election attached to the register and filed therewith with the county clerk.

Proviso.

If election falls upon registration day.

37. Whenever the time fixed by law for holding any municipal, local or charter election falls upon the day fixed by law for the meeting of the boards of registry to prepare a register for the ensuing general election, such meeting of the boards of registry shall be held upon the day following such municipal, local, or charter election.

NOMINATION BY CONVENTION.

Nomination of candidates.

38. Any convention of delegates or nominating body of a political party as hereinafter defined, and also individual voters by petition, to the number and in the manner hereinafter specified, may nominate candidates for public office, whose names shall be printed, written or placed upon the ballots as hereinafter provided and directed; a "convention of delegates" or "nominating body of a political party," within the meaning of this act is an organized assemblage of delegates or voters, representing a political party which, at the general election next preceding the holding of such convention or nominating body, polled for members of the general assembly at least two per centum of the total vote cast in the state, county or other division or district in and for which the nomination is made.

"Convention of delegates" and "nominating body of a political party" defined.

Nominations certified.

39. All nominations made by any such convention of delegates or nominating body shall be certified in a written or printed, or partly written and partly printed, certificate of nomination, which shall contain the name of each person nominated, his residence and post office address, the office for which he is named, and shall designate, in not more than three words, the title or name of the party or principles which such convention or nominating body represented; said certificate shall be signed by the presiding officer and secretary of such convention or nominating body, who shall add to their signatures their respective places of residence and post office addresses; and severally make oath before an officer qualified to administer the same, that the affiants were respectively such officers of such convention or nominating body, and that said certificate and the statements therein contained are true as they verily believe; and a certificate that such oath has been taken shall be made and signed by the officer administering the same and indorsed upon or attached to such certificate of nomination.

In case of division in any party.

40. In case of a division in any party and claim by two or more factions to the same party name or title, the secretary of state or the county or municipal clerk, as the case may be, shall give the preference of name or title to the convention of delegates or nominating body held at the time and place designated in the call of the regularly constituted party authorities; and if the other faction shall present no other party name or title, the secretary of state or county or municipal clerk, as the case may require, shall select a name or title and place the same at the head of the list of candidates of said faction on the ballot; if two or more conventions be called by authorities or bodies claiming to be the regularly constituted authority or body of any party, the secretary of state or county or municipal clerk, as the case may require, shall select suitable names or titles to distinguish the several factions, and the ballots shall be printed accordingly.

NOMINATIONS BY PETITION.

Nomination by petition.

41. Besides the nomination of candidates by a convention of delegates or nominating body of a political party, as hereinbefore provided, candidates for public office may also be nominated by "petition" in manner following: Such petition shall be addressed to the secretary of state or clerk of said county, city or other municipality, as may be proper, and shall set forth the name or names and places of residence and post-office addresses of the candidates for the offices to be filled, the office for which each candidate is named, and that such petitioners are legally qualified to vote for such candidates; said petition may also designate, in not more than three words, the title of the party or principle which the candidates therein named represent, and shall be signed by legally qualified voters of the state, residing within the district or political division in and for which the officer or officers nominated are to be elected, equal in number to at least two per centum of the entire vote cast for members of the general assembly, at the last preceding general election in the state, county, district or other political division in and for which the nominations are made; *provided*, that Proviso. when the nomination is for an office to be filled by the voters of the entire state, eight hundred signatures in the aggregate for each candidate nominated in said petition shall be sufficient; *provided*, also, that not more Proviso. than one hundred signatures shall be required to any petition for any officers to be elected, save only such as are to be voted for by the voters of the state at large; in case of a first election to be held in a newly-established election district, county, city or other political division, the number of fifty signatures to a petition shall be sufficient to nominate a candidate to be voted for only in such election district, county, city or other political division; every voter signing a petition shall add to his signature his place of residence, post-office address and street number, if any; such voter may sign one petition for each officer and no more, but all the names need not be signed to one petition; before any petition shall be filed as hereinafter provided, at

least five of the voters signing the same shall make oath before a duly qualified officer that the said petition is made in good faith, that the affiants verily believe all the signatures thereto to be genuine and those of duly qualified voters; and a certificate that such oath has been taken shall be indorsed upon or annexed to the petition by the officer before whom the same is made.

CERTIFICATES OF NOMINATION AND PETITION.

Certificates of nomination filed.

42. All certificates of nomination, and all petitions naming candidates for office to be filled by voters of the entire state, or of any congressional district, or of any political division greater than a single county, shall be filed with the secretary of state, at least twenty days previous to the election at which the candidates nominated are to be voted for; all certificates and petitions naming candidates to be voted for by all the voters of a single county, or more than a single political division thereof, or where said candidates are to be voted for upon the county ticket, shall be filed with the clerks of the respective counties wherein the officers nominated are to be voted for at least ten days prior to such election; all other certificates and petitions shall be filed with the clerks of the respective municipalities wherein the candidates nominated are to be chosen at least eight days before the election whereat they are to be voted for; all certificates and petitions, when filed, shall be open, under proper regulation, for public inspection, and the same shall be preserved for one year; candidates nominated for any office in any certificate or petition shall manifest their acceptance of such nomination by a written acceptance thereof, signed by their own hand, upon or annexed to and filed with such certificate or petition; or if the same person be named for the same office in more than one petition, then annexed to one of such petitions; the name of any candidate who shall fail in such manner to signify his acceptance of the nomination shall not be printed upon the ballots; it shall be the duty of the county clerks to certify to the secretary of state, within five days prior to the general election, the names, places of residence, and post-office

Candidates to signify their acceptance.

address of the several candidates nominated for senator and members of the general assembly, together with the title of the party nominating said candidates, and whether by convention or petition, with the dates of holding such conventions and of the filing of certificates of nominations and petitions.

Duty of secretary of state.

43. It shall be the duty of the secretary of state, at least ten days before any election whereat any candidate nominated in any certificate or petition filed with him is to be voted for, to make and certify, under his hand and seal of office, and forward to the clerks of the several counties of the state, a statement of all the candidates nominated by certificate or petitions filed in his office for whom voters within any such county may be by law entitled to vote at such election; such statement, in addition to the names of the candidates for president and vice-president of the United States, if any such have been included in any certificate or petition filed with him, shall also contain the names and residences of all other candidates, the offices for which they are respectively nominated, and the names of the parties by which or the political appellation under which they are respectively nominated; candidates nominated by petition, without distinctive political appellations, shall be certified as independent candidates.

In case of declination.

44. Whenever any person nominated for public office by any of the modes in this act provided, shall, at least ten days before the day of election, in a writing signed by him and duly acknowledged, notify the officer with whom the original certificate of his nomination was filed that he declines such nomination, the same shall be void and his name shall not be printed upon the ballots; the officer to whom such notification is given shall forthwith inform, by mail or otherwise, the chairman and secretary whose names are attached to the original certificate of nomination, if the nomination was by certificate, that such nomination has been declined; or if the nomination was by petition, then the officer to whom the notification or declination is given shall forthwith, by mail or otherwise, inform at least five of the persons who signed the petition nominating such candidate that such nomination has been declined.

Provision for filling vacancies.

45. Should any person so nominated die before election day or decline the nomination as in this act provided, or should any certificate or petition of nomination be insufficient or inoperative, the vacancy or vacancies thus occasioned may be filled in the manner required for original nominations; if the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancies, proceed to fill the same; the chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination; the certificate so made shall be executed and sworn to by the chairman and secretary of such committee in the manner prescribed for the original certificate of nomination; and shall, upon being filed at least eight days before election, have the same force and effect as an original certificate of nomination; when such certificate shall be filed with the secretary of state, he shall, in certifying the nominations to the various county clerks, insert the name of the person who has thus been nominated to fill a vacancy, and in the event that he has already sent forward his certificate he shall forthwith certify to the clerks of the proper counties the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted.

Certificates deemed valid, unless, &c.

46. All certificates of nomination which are in apparent conformity with the provisions of this act, shall be deemed to be valid, unless objection thereto shall be duly made in writing and filed with the officer with whom the original certificate was filed within two days after the filing of the said certificate; in case such objection is made, notice thereof signed by said clerk shall forthwith be mailed to all candidates who may be affected thereby, addressed to them at their respective places of

residence as given in the said certificate of nomination; the said officer with whom the original certificate was filed shall in the first instance pass upon the validity of such objection, unless an order shall be made in the matter by a court of competent jurisdiction, and file his determination in writing in his office at least five days before the election, which determination shall be open for public inspection; and the justice of the supreme court holding the circuit court in and for the county in which any certificate of nomination shall be filed, on the application or complaint, duly verified, of any candidate setting forth any invasion or threatened invasion of his rights under the certificate of nomination filed with any county or municipal clerk, is hereby empowered and required to determine upon said application or complaint in a summary way and make such order thereupon as will protect and enforce the rights of such candidate.

Determination of validity of objection.

47. When electors for president and vice-president of the United States are to be voted for, and the names of the candidates for president and vice-president, for whom the electors named in any certificate or petition are nominated to vote, may be included in such certificate or petition; and when so included the names of such presidential and vice-presidential candidates, together with the party names and political appellations, names of other candidates for any offices, if any, designated in the certificate or petition, shall be printed upon the ballots in the manner hereinafter directed.

When electors are certified.

OFFICIAL BALLOTS AND ENVELOPES.

48. All ballots cast at any election shall (except as herein otherwise provided) be printed and distributed at public expense, and no ballots shall be cast or counted at any such election except such as are by this act provided for.

Ballots furnished at public expense.

49. Except as in this act otherwise provided, separate printed ballots of the kind and description hereinafter directed shall be provided for each party or group of petitioners having candidates to be voted for at any election; the county clerk of each county shall provide

Separate party ballots; how provided.

said ballots in all cases where the names of any candidates to be voted for at any election to be held within his county, are certified to him by the secretary of state or included in any certificate or petition of nomination originally filed with him as such county clerk; in cases of election within and for a single municipality of any county where the certificate or petition of nomination is pursuant to this act to be filed with the clerk of such municipality, such municipal clerk shall provide said ballots; said county and municipal clerks in providing said ballots shall cause the same to be printed in manner and form following: the nominations of each party or group of petitioners shall be printed on separate tickets underneath the title or name of the party or petitioners making such nominations, as designated by them in their certificate or petition, so that all the candidates of each party or group of petitioners shall be and appear on its own separate ticket or ballot, or if there be no designation of name or title, then under the title of "independent nominations"; such clerk shall not be required to print any name upon any ballots when such name was not included in any certificate or petition filed with him at least eight days before the election; all ballots prepared by any county or municipal clerk shall be printed with black ink on plain white paper; and shall be of uniform size, quality and type, and of such thickness that the printing thereon cannot be distinguished from the back of the ballot; and without any mark, word, device or figure thereon except as in this act provided; there shall be printed on each ticket the name of but one candidate for each office to be filed, designating such office, and no ballot shall contain a greater number of names of persons, as designated to any office, than there are persons to be chosen to fill such office.

Style of ballot.

Back of ballot.

50. On the back of each of the said ballots to be provided by the county or municipal clerks shall be printed the words "official ballot for ———"; after the word "for" in each case shall follow the designation of the county, township, municipality, ward or other political division for which the ballot is prepared; then shall follow the date of the election and a fac-simile of the signature of the county or municipal clerk by whom such ballot shall be prepared; the county or municipal

clerk shall provide for each political party for each election district in his county or municipality, two hundred and fifty ballots for every one hundred, or fraction of one hundred, of the total votes cast therein at the last preceding election for members of the general assembly; in cases of independent nominations, or of nominations by any party, organization or petitioners that cast no votes for any candidate or candidates at the last preceding election for members of the general assembly, the number of ballots to be provided at public expense shall be equal in number to double the total number of votes cast in the election district or precinct at the last preceding election for members of the general assembly; when an election district shall be divided or the boundaries changed or a new district created, the county or municipal clerk shall ascertain as nearly as possible the number of voters in the new district and shall provide therefor a sufficient number of ballots in the above proportion. Number of ballots for each election district.

51. The said county and municipal clerks, in all cases in which they are required to provide the official ballots shall also provide official envelopes of the size, kind and description hereinafter prescribed, wherein the ballots to be voted at such election shall be enclosed and voted, as hereinafter directed; all such envelopes shall be of the same quality and kind of plain blue paper, so as to be readily distinguishable from official ballots; and shall be three inches in length by two and one-eighth inches in width, with the flap thereon ungummed; on the face of each of said envelopes shall be printed the words, "official envelope for ———"; after the word "for" in each case shall follow the designation of the county, township, municipality, ward or other political division for which the envelope is prepared; then shall follow the date of the election and a fac-simile of the signature of the county or municipal clerk by whom such envelope shall be provided; there shall be no mark, word, figure or device of any kind placed on said envelopes, except as herein directed; all printing on said envelopes shall be with black ink, in type of the same style and description, so that one envelope cannot be distinguished from another; there shall be provided for each election district so many official envelopes as will be equal to double the number of all the votes cast in such election district at Envelopes

Style.

Number of envelopes.

the last preceding general election therein; the distribution and use of such envelopes shall be confined exclusively to the polling-room, in the manner hereinafter directed; should any voter to whom any official envelope has been furnished as hereinafter provided, spoil or render the same unfit for use, he may obtain another from the board of election on returning the one so spoiled or unfitted for use; but no more than two official envelopes, one at a time, as herein provided, shall be furnished any voter; when an election district shall be divided, or the boundaries changed, or a new district created, the county or municipal clerk shall ascertain, as nearly as possible, the number of voters in such district or districts, and provide therefor official envelopes on the basis above described.

In case envelope is unfitted for use.

When a question is submitted.

52. Whenever a question or proposition is to be submitted to the people of the state or any political division thereof at any election, such proposition or other question shall be printed upon each official ballot beneath the list of candidates thereon; if such question or proposition be marked off or defaced upon the ballot it shall be counted as a vote against the same; if it be not marked off or defaced it shall be counted as a vote in favor thereof.

Ballots ready and open to inspection.

In case of error.

53. All official ballots shall be printed and in possession of the county or municipal clerk at least five days before the election and subject to inspection and examination by the candidates and their agents; if any mistake is discovered it shall be the duty of the county or municipal clerk to correct the same without delay, by causing new ballots to be immediately printed in place of those found to be inaccurate or incomplete; and those found to be inaccurate or incomplete shall be immediately destroyed; whenever it shall appear that any error or omission has occurred in the printing of the ballots by any county or municipal clerk, any voter resident in the county or municipality may present to a justice of the supreme court, a verified petition setting forth such error or omission; and said justice being satisfied thereof, shall thereupon summarily, by his order, require the county or municipal clerk to correct such error or show cause before said justice, at the

shortest possible day, why such error should not be corrected.

Distribution of ballots and envelopes.

54. The county clerks of the several counties, three days prior to any election, for which they are required by this act to provide the ballots, shall cause to be delivered to the clerk of each township, city or other municipality within their respective counties, the number of ballots and envelopes hereinbefore required to be provided for each election district within his township, city or municipality at such election; the same shall be sent in sealed packages, one for each election district of said township, city or other municipality, with marks or directions on the outside of each clearly stating the election district for which it is intended, together with the number of ballots and envelopes inclosed; receipts for ballots and envelopes thus delivered shall be given by the clerk receiving the same and filed with the county clerk, who shall also keep a record of the time when and the manner in which each of said packages was sent; the said township or other clerk shall, on the day preceding any such election (but on the Saturday preceding when such election occurs on a Monday), deliver to one of the clerks of each election district within his township, city or other municipality, the ballots and envelopes by him received from the county clerk for such election district, and take the receipt of such election clerk therefor, which last-mentioned receipt the clerk of such township, city or other municipality shall file and preserve; said election clerk shall, on the morning of election and before proclamation of the opening of the polls, deliver the packages of ballots and envelopes by him received, to the election board of his election district, with the seals thereof unbroken, and shall take a receipt therefor from said election board, which receipt said election clerk shall carefully preserve for at least one year; in cases of elections within and for a single municipality of any county, where under this act the ballots and envelopes are required to be provided by the clerk of such municipality, the duties by this section imposed upon the county clerk with reference to the delivery of the ballots and envelopes, shall, the necessary changes being made, devolve

upon and be performed by the clerk of such municipality.

In case official ballots and envelopes are not to be obtained.

55. If at any election the ballots to be furnished therefor shall not be delivered at the time above mentioned, or if after delivery they shall be destroyed or stolen and other official ballots cannot be obtained in time for such election, the clerk of such township, city or other municipality, or the board of election, as the case may require, shall cause other ballots to be prepared as nearly in the form heretofore prescribed as practicable, but without the indorsement on the back thereof; and upon the receipt of ballots thus prepared from the clerk of such township, city or other municipality, accompanied by a statement, under oath, of the person preparing the same, that the same have been so prepared and furnished because the original ballots have so failed to be received or have been destroyed or stolen, and that other official ballots could not be obtained in time for such election, or where such board of election has caused such unofficial ballots to be prepared, the board of election shall cause the ballots so substituted to be used at the election; if from any cause neither the official ballots nor ballots otherwise prepared as herein prescribed shall be ready for distribution at any polling place, or if the supply of ballots shall be exhausted before the polls are closed, unofficial ballots, made as nearly as possible in the form of the official ballot, may be used; where unofficial ballots are used in pursuance of this section they shall be inclosed in the official envelopes, if such envelopes are to be had, otherwise no envelopes shall be used; should the official envelopes provided for any election district be lost, stolen or destroyed, the official ballots, if such are being used at such election, shall be voted by folding the same so as to disclose the official stamp on the back thereof without inclosing the ballot in any envelope; where the use of the official ballots and envelopes, or either of them, is, for any of the reasons aforesaid, dispensed with, the mode and manner of voting shall, nevertheless, in all respects conform as nearly as possible to the mode and manner of voting hereinafter prescribed.

Ballots furnished before election.

56. If any duly-qualified voter residing in any county or municipality shall, at least seven days before any election, notify the clerk of such county or municipality in writing that such voter requires a specified number of the official ballots, not less than fifty in number, of any party, organization or petitioners for an election district or districts to be designated, and requesting the same to be furnished him, it shall be the duty of such county or municipal clerk to cause such official ballots, to the number and for the election districts requested by such voter, to be printed and ready for delivery to such voter or his agent, at the office of such county or municipal clerk, at least four days before the election at which said ballots are intended to be used; *provided*, that said county or municipal clerk shall not cause any ballots to be printed for any voter requesting the same to be furnished, unless at the time of delivery to him of the written notification and request for such ballots the voter presenting the same shall pay to such county or municipal clerk a sum of money sufficient to pay for the printing of the same, which money paid shall be used by said county or municipal clerk in payment for the ballots printed at the request of such voter.

Proviso.

Use of ballots purchased.

57. Such ballots so as aforesaid printed for and delivered to any such voter may be distributed before election day, and the same may be voted by any voter desiring so to do under the restrictions and regulations hereinafter prescribed.

Distinguishing mark on ballot or envelope renders it void.

58. If any ballot voted at any election shall have thereon, either on its face or back, any mark, sign, designation or device whatsoever, other than is permitted by this act, whereby such ballot can or may be identified or distinguished from other ballots cast at such election, such ballot shall be absolutely void, and shall not be canvassed or counted for any candidate named thereon; and if on the face or back of any envelope inclosing any ballot, there shall be any mark, sign, designation or device whatsoever other than is permitted by this act, whereby such envelope can or may be identified or distinguished from any other official envelope used at such election, the ballot inclosed in such envelope shall be absolutely void, and shall not be counted for any candidate named thereon.

How voter may alter ballot.

59. Nothing in this act contained shall prevent any voter from erasing from his ballot any name or names thereon printed, or from writing or pasting thereon the name or names of any person or persons for whom he desires to vote for any office or offices; the ink or lead pencil to be used in writing any name or names upon the ballots shall be black in color, and the use of any other colored ink or pencil shall invalidate the entire ballot; and all pasters used shall be printed with black ink on white paper only, and the use of any other kind or style of pasters shall invalidate the entire ballot.

BALLOT-BOXES.

Ballot boxes.

60. The board of chosen freeholders of each county shall provide and keep in good repair ballot-boxes for the use of each election district, which box shall be made at least one foot in depth, width and length, measuring the same on the exterior thereof; and when new boxes are required may provide a ballot-box known as the "safety ballot-box" of Camden, New Jersey; no sum in excess of twenty-five dollars shall be paid for each ballot-box; said ballot-box shall be so constructed as to have four glass sides, supported by four upright columns, and no bolts, screws or other attachments by which the box is held together shall be exposed on the outside; and the said ballot-box shall be secured by three patent locks, no two keys of which shall be alike; and these locks in turn shall be covered by an outer door, connected by a rod running to a dial in front of the box, which is sealed and in full view of the voter, so that each vote cast will be recorded in figures plainly visible in the front of the box.

ELECTION BLANKS AND BOOKS.

Election blanks, &c., furnished by secretary of state.

61. The secretary of state shall at the expense of the state, in all cases where the ballots are provided and furnished by the county clerks for any election, provide proper and sufficient canvassing-books, poll-books, register-books, copies of the election laws then in force,

pamphlet of instructions for election officers and voters, blanks for the official oaths and for election returns for the proper carrying into effect the provisions of this act; and furnish a sufficient supply of the same to the clerks of the different counties of the state, for use in such counties, at least thirty days before the same shall be required for use; and the said county clerks shall cause the same to be delivered to the different boards of registry and election in their respective counties at such times and in such quantity as will enable the provisions of this act to be fully carried out; *provided, however*, that the secretary of state shall forward to the county clerks of the several counties the necessary blanks for election returns for use at elections for justices of the peace, on or before the fifteenth day of February in each year, to be delivered by the said clerks to the several district boards of registry and election in their respective counties. Proviso.

62. The clerk of every township, city and other municipality shall provide and furnish for use at all local, municipal and special elections, all necessary canvassing-books, poll-books, registry-books, blanks for election returns, and all other blanks and supplies necessary for the proper carrying into effect the provisions of this act; and said clerk shall cause the same to be delivered to the boards of registry and election in each election district, at such times as will enable the provisions of this act to be fully carried out. Election blanks, &c., furnished by municipal clerk.

CHALLENGERS.

63. The chairman of the county committee of any political party that has duly nominated any candidate for public office to be voted for at any election, by all the voters within said county or any political division thereof greater than a single municipality; or where the election is within and for a single municipality only, or any subdivision thereof, then the chairman of the committee of the political party making such nomination within and for such single municipality, or such division thereof, may appoint an agent for each election district Party agents.

in his county or municipality, as the case may be; and any candidate duly nominated by petition for any office, whose name may appear upon the ballot to be used in any election, may likewise appoint an agent for each district; *provided, however*, that only one agent shall be allowed for each election district, to represent all the candidates nominated in and by the same petition or group of petitioners; such agents shall be the authorized agents and challengers for their respective parties and candidates, and shall be at liberty to challenge the right to vote therein of any person claiming such right; the appointment of agents shall be made in writing, under the hand of the person making the appointment, and shall specify the names and residences of the agents and the election districts for which they are severally appointed; such appointment papers shall be filed with the county board of elections, five days before the election, who shall thereupon issue, under their hands, to the persons named in such appointment papers, permits for them to act as agents of their respective parties or candidates at the election district specified; such permits shall be filed by the persons named therein with the board of election in the district named therein, as evidence of their authority to be present in the polling place; and such permits may be issued and revoked and others issued in their stead at any time up to, and including the day of election; *provided, however*, that when a permit shall be revoked, the new permit in the place thereof shall be issued upon the nomination of the same person or officer upon whose nomination the original permit was issued; said agents may be present inside the railed inclosure while the votes cast at any election at which they were agents are being counted, and hear and see said ballots counted.

Proviso.

Proviso.

METHOD OF CONDUCTING ELECTIONS.

Conduction of all elections.

64. The boards of registry and election shall, in their respective election districts, hold and conduct all general, municipal, local and special elections to be held throughout the state.

Custody of ballot-box keys.

65. At the opening of the election, each of the keys of the locks of the ballot-box shall be taken by a different member of the board, who shall keep the same until a statement of the result of the election shall be made and certified, as directed by this act, and who shall not during that time suffer either of the other members of the board, or any other person, on any pretense, to take or have the same; and in all cases in which the members of such board are directed to lock the ballot-box, each of the locks thereof shall be locked by the member of the board who shall have the key belonging thereto, as directed by this act.

Declaration at opening of election.

66. The boards of registry and election, before they receive any vote shall make public proclamation of the opening of the election, and of their readiness to receive the votes of voters; immediately before proceeding to receive the votes, such board shall, in an open and public manner, exhibit the ballot-box, so that those present may see that there is nothing contained therein, and thereupon shut and lock the same, leaving open the aperture in the lid thereof, and thereupon the election shall be opened.

Exhibit ballot-box

Clerk of election to keep poll-book.

67. One of the members of the board acting as clerk of election, to be designated by the judge, shall keep at such election a poll book, in which he shall record the names of the persons whose votes shall be received, in the order in which they shall be received; and shall as he records such names number the same from one onward, until the election shall be closed; and such clerk shall write a heading to the list of names so recorded in the following or like form: "Names of voters at an election held in the ——— district of ——— in the county of ——— on the ——— day of ——— in the year of our Lord one thousand ——— hundred and ———, for ———" (naming the offices to be filled), and filling up the blanks in the form above given to conform to the facts of the case.

Form.

Entry on poll-book.

There shall be entered on the poll-book the place of residence of each person voting; and every person at the time of offering his vote shall truly state the street in which he resides; and if the house, lodging or tenement in which he resides is numbered, the number thereof; and in case of refusal to make the statement

aforesaid, the vote of such person shall not be received; the other member of said board acting as clerk of election to be designated by the judge, shall keep the register on the day of election, checking off the names written thereon when the voters deposit their ballots, and after the canvass of the votes, the register so kept and checked shall be filed by him with the clerk of the county, and the poll-book shall be deposited in the ballot-box as herein required, and the keys of each ballot-box deposited with the county clerk.

Keeping of register.

Keys.

Right to vote.

68. Every person qualified to vote in any election, shall at any time, after the opening of the same, except during any period for which the board of election shall have adjourned, be at liberty to claim his right to vote therein in such district, and such person shall claim such right in person before such board; and on such claim being made, one of such board shall audibly and publicly announce the name of the claimant; and the ballot of such claimant shall remain in his own hand until such board shall have decided to receive the same.

Where to vote.

69. Every person possessing the qualifications required by the constitution, and being duly registered as required by this act, shall be entitled to vote in the election district in which he actually resides, and not elsewhere.

Freedom from arrest.

70. No person who shall have a right to vote at any election shall be arrested by virtue of any civil process on the day on which such election shall be held.

Those not entitled to vote.

71. No person shall be entitled to vote who shall have been convicted of any crime which excludes him from the right of suffrage under the constitution of this state, viz., blasphemy, treason, murder, piracy, arson, rape, sodomy, or the infamous crime against nature committed with mankind or with beast, polygamy, robbery, conspiracy, forgery, larceny of above the value of six dollars, perjury or subornation of perjury, unless he shall have been pardoned or restored by law to the right of suffrage; if a person be challenged as convicted of any of the above-named crimes, he shall be required to answer in relation to such alleged conviction; and if he shall admit that he has been so convicted, he shall not be permitted to vote unless he shall make oath that he has been pardoned or restored by law to the right of

In case of challenge of a convicted person.

suffrage; but if he shall deny that he has been so convicted, no proof of such conviction shall be received, other than the duly authenticated record thereof, except such proof as may be necessary to establish his identity with the person named in such record, or may be adduced by him to rebut the evidence of identity produced on behalf of the challenge; but if any person so convicted shall vote at any such election, unless he shall have been pardoned or restored by law to the right of suffrage, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding two hundred dollars, or imprisonment at hard labor not exceeding two years, or both.

Penalty for convicted person voting.

72. The members of the boards of registry and election, respectively, shall, at such election, challenge every person who shall claim to have a right to vote therein, whom they shall know, suspect or believe not to be qualified or entitled to vote therein.

Duty of board to challenge certain persons.

73. If any person shall be challenged, as not qualified or entitled to vote, and the person challenging him shall specify a ground for such challenge to be that the person so challenged is an alien, the judge of election may forthwith tender to him an oath or affirmation, in the following form:

Challenged as an alien.

"You do swear (or affirm, as the case may be), that to the best of your knowledge, information and belief, you were born a citizen of the United States, and that you do not owe allegiance to any foreign prince, potentate, state or sovereignty"; and if the person so challenged shall refuse to take the oath or affirmation so tendered to him, he shall be deemed and taken to be an alien, unless he shall produce at the time of claiming his vote, to such board, a lawful certificate, issued out of and under the seal of some court of record, having authority to admit aliens to the rights of a citizen of the United States, showing, in case the person producing the same shall claim to be the person named therein, that he has been admitted to the rights of a citizen of the United States, or, in case the person producing the same shall claim to have derived the rights of such citizen through the naturalization of his parent, then that the person alleged to be such parent has been admitted to the rights of such citizen; and in the

Form of oath.

former case the said judge shall tender to the person so challenged an oath or affirmation in the following form:

"You do swear (or affirm, as the case may be), that you are the person named in the certificate of naturalization which you have produced to the board"; and in the latter case, an oath or affirmation, in the following form:

"You do swear (or affirm, as the case may be), to the best of your knowledge, information and belief, that the person named in the certificate of naturalization which you have produced to this board was your parent, and that you were at the time of the naturalization of your parent under the age of twenty-one years, and resident in the United States"; and if the person so challenged shall, in either case, refuse to take the oath or affirmation so tendered to him, he shall be deemed and taken to be an alien.

Challenged as not qualified or entitled to vote.

74. If any person shall be challenged, as not qualified or entitled to vote, the said judge may forthwith tender to the person so challenged an oath or affirmation, in the following form:

Form of oath.

"You do swear (or affirm, as the case may be), that you are a citizen of the United States; that you have resided in this state one year, and in this county five months next before this election, and not elsewhere; that you are now a resident in this election district; that, as far as you know and verily believe, you are twenty-one years of age, and in all respects qualified to vote in this election, in this election district, and that you have not voted elsewhere in this election"; and if the person so challenged shall refuse to take the oath or affirmation so tendered to him, he shall be deemed not to be qualified or entitled to vote.

Board's right to satisfy itself regarding right to vote.

75. The board of registry and election shall in no case receive the vote of any person, unless they shall be satisfied that such person is in all respects qualified and entitled to vote; and, for the purpose of satisfying themselves as to the right of any person who shall claim a right to vote, they shall have power to examine such person, and any other person or persons, under oath or affirmation, touching such right, except as hereinbefore restricted; and if any member of such board shall receive, or assent to receive, the vote of any person chal-

lenged, without requiring such person to take the oath or affirmation hereinbefore prescribed to be made upon such challenge, and such person shall not be qualified and entitled to vote, such member so receiving, or assenting to receive, such vote shall be deemed and taken to have received the same knowing it to be illegal.

Board to question challenged person.

76. Upon any question or challenge of a voter duly registered it shall be the duty of the board of registry and election, and the privilege of all its members, to put all such questions as are proper to determine the right of such voter to vote; and the question as to the admission of this vote shall be put in the following form: "Shall this voter's ballot be received by this board?"

In case of adjournment.

77. Whenever, before the close of the election, an adjournment shall be ordered by the said board, they shall state in the poll-book, immediately after the last name therein, in words, written at full length, the whole number of the names of the voters in the poll-book, to which the members of such board shall sign their names; and shall unlock and open the ballot-box, place and secure the bar or bolt in the lid thereof, in such manner as to prevent the insertion in the ballot-box of any ballot or other thing, place therein the poll-book, and shut and lock the same; and when the period of adjournment shall have expired, such board shall unlock and open the ballot-box, take therefrom the poll-book, remove such bar or bolt, so as to leave open the aperture in the lid thereof, and shut and lock the same; and during every such adjournment the ballot-box shall remain in the possession and under the care of one or more members of such board, to be appointed by such board for that purpose, who shall keep the same, during such adjournment, in public view.

Polling-booths; arrangement, &c.

78. The clerks of the several townships, cities or other municipalities, charged with the duty of providing in each election district a suitable room in which to hold the election, shall have constructed therein and ready for use before each election day, booths or compartments with swinging doors, so arranged that some part of the person of the voters standing in said booths may be seen from the outside of the booths when the door is closed; in which booths voters shall prepare their ballots secretly and screened from the observation of others; each booth

shall contain a counter or shelf suitably placed to enable voters to place their ballots thereon while preparing the same for voting; the number of such booths shall not be less than one for every one hundred votes cast at the next preceding general election held in such district, and not less than two such booths shall be provided in any polling place; said booths shall be erected within a railed inclosure separating the same from the remainder of the room; not more than one person, except as hereinafter provided, shall be permitted to enter or be in the same booth at one time; the said booths shall be so arranged and constructed that all the officers conducting the election can see whether more than one person enters or is in any booth at the same time; each booth shall be kept, provided by said election board, with a sufficient supply of official ballots of each party, organization or set of petitioners, and with lead pencils; the ballot-boxes at every polling place shall be within said railed inclosure, and so placed that the voter may deliver his ballot to the election officers after emerging from the booth, before leaving the railed inclosure within which the booths and ballot-boxes are placed; such railed inclosure shall be provided with a single entrance, by which voters shall enter, and a single exit by which they shall leave the same; said booths shall be at all hours well and sufficiently lighted to enable voters to read and prepare their ballots with ease; except as in this act otherwise provided, no person shall be allowed within said railed inclosure while the election is in progress, other than the election officers and voters entering the same for the purpose of preparing their ballots and voting at such election; but not more than two of such voters in excess of the total number of booths shall be allowed within such railed inclosure at one time; and no person shall be allowed or permitted to be present in the polling-room outside such railed inclosure, during the progress of the election, except the officers connected with the election, the several candidates, the duly authorized agents of the candidates of political parties, such voters as are present for the purpose of voting, and such officers as may be duly detailed to be present, pursuant to this act, for preserving the peace or enforcing the provisions hereof; after the

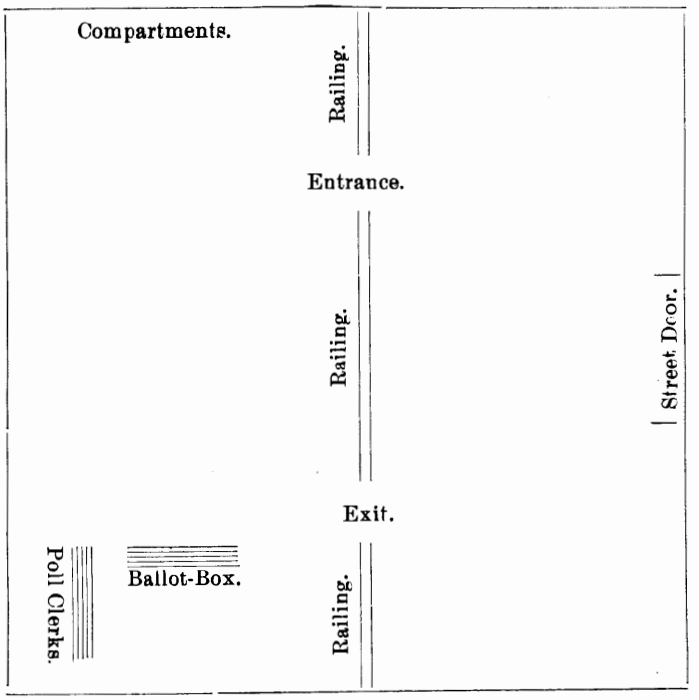
Who allowed within inclosure.

Who allowed in polling-room.

hour fixed for closing the polls no voter shall be admitted within the railed inclosure, but voters already within such inclosure shall be permitted to prepare and cast their ballots; the arrangement of such polling place shall, as to said railed inclosure, and the entrance thereto and exit therefrom, and the location of the booths and ballot-box within such inclosure, be substantially as shown in and by schedule A and forming a part hereof.

79. SCHEDULE A.

Polling-room.



Voter supplied with ballots and one envelope.

80. Immediately on entering said railed inclosure, and before entering any booth, each voter shall be furnished by the inspector of election, to be stationed in close proximity to the entrance of said railed in-

closure, with one of each of the official ballots provided for said election, and with one, and only one, of the official envelopes provided for such election; *provided*, that in those cases where, by the provisions of this act, a sufficient number of official ballots for that purpose shall not have been delivered to the board of election by the county or municipal clerk for any organization, party or group of petitioners, it shall be lawful for such organization, party or group of petitioners to deliver to the board of election official ballots, in number sufficient to furnish one of such ballots to each voter; and it shall then be the duty of such board of election to provide each voter with such ballots in the manner provided for in this section; no person shall be permitted to vote at said election until after he shall have received said ballots and envelope in manner aforesaid, and carried the same with him into one of the booths; having obtained said ballots and envelope, the voter shall, with the same in his possession, without delay and without leaving said railed inclosure, retire alone to one of said booths and enter the same and close the door thereof, and remain therein such length of time, not exceeding five minutes, until he shall have inclosed in said official envelope the ballot he intends voting, in such manner as to conceal all printing, writing or pasters on the face of said ballot, whether said ballot was procured from said election officer or within said booth or elsewhere; on leaving the booth the voter shall forthwith and before leaving said railed inclosure, deliver his ballot, inclosed in said envelope as aforesaid, unsealed but with the flap thereof turned down so as to conceal the ballot therein, to the judge of election at the ballot-box, who shall immediately deposit the same in the ballot-box, in the presence of the voter; after which the voter shall, without unnecessary delay, leave the polling-room; and no ballot (except as in this act otherwise provided) shall be counted unless the same shall be inclosed in an unsealed official envelope, in the manner herein prescribed; *provided*, that in no case shall the ballot be deposited by such judge until the board of election shall have decided to receive the same; nor shall the ballot or envelope, in any case, be by any member of said board opened, marked or examined, or

Proviso.

Duty of voter after receiving ballots.

Proviso.

permitted to be opened, marked or examined, before the same shall be deposited in the ballot-box; and each envelope enclosing a ballot shall be separately deposited in the ballot-box.

In case of disability of voter.

81. Any voter at any election who declares under oath, and establishes to the satisfaction of a majority of all the members of the board of election, that by reason of blindness or other physical disability, he is unable to enter and remain in a booth or to prepare his ballot therein, for voting as aforesaid without assistance, shall be permitted to bring with him to such booth a person of his own selection, who may retire with such disabled voter to the booth and assist him in the preparation of his ballot and inclosing and folding the same in the said envelope as the disabled voter shall direct, in order that it may be cast by such disabled voter as his ballot; the poll-clerk shall make a memorandum on the poll-book of every instance when an oath was administered to a voter as herein provided, stating briefly what facts were sworn to, and the name of the person or persons who aided the voter in preparing his ballot; no voter shall divulge to any one within the polling-place the name of any candidate for whom he intends to vote; nor shall he ask for and receive the assistance of any person within the polling-place in the preparation of his ballot except as prescribed in this section; no person who assists a voter in the preparation of his ballot, as herein provided, shall reveal to another the name of any candidate for whom the voter has voted, or anything that took place while he was assisting such voter in preparing said ballot for voting; this section shall not apply to the case of any person intoxicated or unable to read and write.

In case an applicant finds his name checked off.

82. When any legal voter shall apply to the board of registry and election in the district in which he resides, and shall find that his name upon the registry list is already checked as having voted, it shall be lawful for the board of registry and election to receive his vote, upon due proof to them that he is a lawful voter in such district and has not voted in said election.

Preservation of peace and good order.

83. The boards of election of every election district shall preserve the peace and maintain good order in their respective polling-places, during the progress of all

elections and the counting of the votes cast thereat, and to that end each member of every election board, during the progress of any election and the counting and canvassing of the votes, shall be and hereby is invested and charged with all the powers and duties of constables of this state in criminal matters; said election boards, or any two members of them, may, by writing under their hands whenever in their opinion it shall be necessary so to do, request the municipal authorities of any municipality within which their election district is situate, or the body or officer having charge and direction of the police force in such municipality, to detail one or more policemen to assist in preserving the peace and good order in and about such polling-place, which request shall forthwith be complied with as far as possible by the body or officer to whom the same is made.

Member of board not eligible to elective office.

84. No member of any board of registry and election shall be elected to any office to be filled at the election in which he shall serve; and if any such member shall be voted for in any such election, the person or persons, to the number to be elected therein, who shall, by law, be qualified for the office or offices to be filled at such election, for whom the greatest number of votes shall have been given therein, other than such member, shall be deemed and taken to be elected, and the votes which shall be given to such member shall be deemed and taken to be null and void.

LOCAL OR CHARTER ELECTIONS IN TOWNSHIPS AND MUNICIPALITIES OTHER THAN CITIES.

Application to state and city elections, but not to certain local elections.

85. The provisions of this act relating to the nomination of candidates and the use of official ballots and envelopes shall apply to all general elections throughout this state and to the charter, local or special elections in all of the cities of this state, but shall not apply to any township, local or municipal election in any township, town, borough or other municipality of this state; but

Manner of conducting elections other than city.

every township, local or municipal election in any township, town, borough or municipality, other than cities, shall be held and conducted in the following manner: the clerk of every such township, town, borough or

other municipality shall, before election day, arrange the room by him provided for such election, with booths and railings, in all respects as is required in and by this act; the ballots to be used at such elections shall not be official, but shall be furnished or provided by candidates or other interested parties; such ballots shall be printed with black ink on plain white paper, after the manner and style hereinbefore provided; it shall and may be lawful for any voter at such election to erase from his ballot any name or names thereon printed, and to write or paste thereon the name or names of any person or persons for whom he may desire to vote for any office; the ink or lead pencil to be used in writing any name or names upon the ballots to be black in color, and the use of any other colored ink or pencil shall invalidate the entire ballot; all pasters shall be printed with black ink on white paper, and the use of any other kind or style of paster shall invalidate the entire ballot; for said election such clerk shall provide and furnish, at the expense of the township or municipality, official envelopes of the size, color and style hereinbefore mentioned; said envelopes shall have printed upon the face thereof the words "official envelope for ———," after the word "for" shall follow the designation of the township or other municipality for which the envelope is prepared; then shall follow the date of the election and a fac-simile of the signature of such clerk; the distribution and use of such official envelopes shall be confined exclusively to the polling-room, in the manner hereinafter directed; such clerk shall provide, and on the day preceding the election furnish to some member of the board of registry and election of each election district in every such township or municipality, so many official envelopes as will be equal to double the number of all the votes cast in such election district, at the last preceding election therein; which envelopes so furnished shall be by the officer receiving the same, delivered to the board of registry and election on the day of election, before the opening of the polls; it shall be lawful for any candidate or other person at any such election, to deliver to the board of registry and election the ballots of any party or faction having candidates to be voted for at such election; which ballots so supplied, the

No official ballots.

Official envelope.

board of registry and election shall receive and cause to be furnished to each voter, together with the official envelope; if on the face or back of any ballot or envelope inclosing any ballot, there shall be any mark, sign, designation or device whatsoever, other than is permitted by this act, whereby such ballot or envelope can or may be identified or distinguished from any other ballot or envelope used at such election, the ballot enclosed in such envelope shall be absolutely void and not counted for any candidate named thereon; the conduct of such election, the manner of voting, and of counting and canvassing the votes cast, shall conform in all respects to the provisions of this act regulating the general election, and shall be subject to all the restrictions, conditions and penalties applicable thereto.

Distinguishing mark on ballot or envelope renders same void.

CANVASSING THE VOTE.

Statement in poll-book at close of voting.

86. In all elections held pursuant to this act before proceeding to estimate and canvass the votes which shall have been received, the clerk of the board of election keeping the poll-book, shall state therein immediately after the last name, in words written at full length, the whole number of the names of the voters in the poll-book, in the following, or like form: "The whole number of the names of the persons whose votes have been received during this election is ———"; filling up the blank to conform to the fact; and the members of such board shall sign their names thereto.

Counting the ballots.

87. Such board shall thereupon unlock and open the ballot-box; the envelopes containing the ballots shall then be taken singly and separately therefrom by the judge of election, who shall remove the same from the envelope, and while each ballot shall remain in his hands, he shall audibly and publicly read the same; and before taking another ballot from the box, shall deliver the ballot open with the official envelope to the inspector, to be examined and numbered; the inspector shall take and examine the same; and thereupon if he shall be satisfied that the same has been correctly read, write on the back thereof the number of such ballot from one onward, in the order in which the same shall

have been taken from the box, and shall write a corresponding number upon the envelope from which the same was taken; the ballot shall then, before another envelope is opened, be returned to the envelope wherefrom it was taken; the inspector shall string the envelope and ballot as one ticket in the order in which the same shall be taken from the box and numbered, by means of a needle and twine to be provided for that purpose.

Duty of clerks.

88. The clerks of such board, under the inspection and direction of such board, shall each make a list of the names of all persons for whom one or more votes shall have been given, designating the office which such person shall be voted for; and as each ballot shall be read he shall write the figure "1" opposite the name of each person whose name shall be contained therein, as designated for any office; when all the votes which shall have been received shall have been read, examined, numbered and strung, as above directed, such board shall carefully and truly cast up the votes given for each person for any office to be filled at such election.

Signing returns, examination of tally-sheets, and announcement of result.

89. No member of any board of registry and election shall sign any returns of election until after the completion of the counting of votes, and his personal examination of the tally-sheets to determine the results; the counting of the votes shall commence immediately upon the closing of the polls on the day of election; the board shall proceed to read and count the votes received, and shall complete the same without delay and without adjournment, and after completing the same shall audibly and publicly announce the result thereof, particularly specifying the whole number of the voters in the poll-book, the name of each person for whom any vote shall have been given for any office to be filled by such election, and the number of votes given for each person for the office designated for him by said votes; the counting of all ballots at any election shall be open and public, but not to the extent that the number present shall hinder, delay or inconvenience the election officers in counting the ballots and ascertaining the result.

Majority to decide questions.

90. The decision of a majority of the board of registry and election on any question, shall be deemed and taken to be the decision of such board, and final; and if any member of such board shall dissent from any decision of the same, and shall desire to protect himself from the consequences which may result from such decision, it shall be lawful for such member to record his dissent, in cases relating to registration, in the register, and in all other cases, in the poll-book of such election, signing his name to such record with his own hand, and unless he shall so do, he shall be deemed and taken to have assented to the decision so made.

Dissent may be recorded.

In case of excess of ballots.

91. If, in canvassing and estimating the votes, the number of ballots shall be found to exceed the number of the names of the voters in the poll-book, then the ballots which shall remain in the box, after canvassing and estimating as many ballots as there are such names, shall be deemed and taken to be null and of no effect; if on opening any envelope it shall be found to contain more than one ballot, or if any ballot shall be wholly blank, then and in every such case such ballots shall be deemed and taken to be null and of no effect; and in every case in which a ballot shall be declared null and of no effect, the same shall not be canvassed, estimated or numbered, but all such ballots shall be returned to the envelope wherein they were found, and on the face of such envelope shall be written the words "rejected ballot"; and the said envelope and ballot shall then be strung in the same manner in which the other envelopes and ballots are directed to be strung, but on a different twine.

Excess of names.

92. If, in canvassing and estimating the votes, any ballot or ballots shall be found to contain more names for any office than there are persons to be elected to fill such office, then in every such case the ballot or ballots shall be deemed and taken to be null and of no effect, so far as respects the office for which there are more names than there are persons to be elected to fill such office, and no further.

Plurality to elect.

93. At every election the person or persons, to the number to be elected therein, who shall by law be qualified for the office or offices to be filled at such election, and for whom the greatest number of votes shall

have been given therein for such office or offices, shall be deemed and taken to be elected to such office or offices; and whenever an equal number of votes shall have been given to two or more persons to fill any office for which they shall by law be qualified, the said office shall be deemed and taken to be vacant.

Equal vote renders office vacant.

STATEMENT OF RESULT OF ELECTION.

94. In every township or municipality (other than cities) containing but one election district, the members of the district board of election conducting any township, local or charter election therein, shall, upon the close of the election, ascertain and determine the result thereof; and in every such township or municipality containing more than one election district, the members of the district boards of election conducting any such election shall meet on the day after holding the same, at the hour of two o'clock in the afternoon, at the polling-place in the district in which the township or municipal clerk may reside, and when so met shall ascertain the votes polled in the several districts, and determine what officers have been elected; *provided*, that when such township or municipality contains more than two election districts, two members only from the board of election of each district (not of the same political party), to be designated by the board, shall meet in like manner, and ascertain the votes polled, and determine what officers have been elected; such determinations shall be written out and signed by the election officers making the same, and forthwith delivered to and filed by the township or municipal clerk.

Determination of result.

Proviso.

95. In all elections which shall be held for state and county officers, the board of registry and election shall make duplicate statements of the result thereof, and certificates to the same, in the following or like form:

Duplicate statements of result.

"A statement of the result of an election held in the ——— election district of the ——— of ———, in the county of ———, on the ——— day of November, in the year of our Lord one thousand eight hundred and ———, for a member of the senate, members of the

Form.

general assembly, a sheriff and three coroners, for said county; (or as the case may be,)

The whole number of names on the poll list is———;
The whole number of ballots rejected is ———;
For member of the senate,
received votes;
received votes;
For members of the general asssembly,
received votes;
received votes;
For sheriff,
received votes;
received votes;
For coroners,
received votes;
received votes;

We do certify that the foregoing is a true, full and correct statement of the result of the election above mentioned, and that the same exhibits the whole number of the names on the poll-book and of the ballots rejected, the name of each person for whom any vote or votes were given for any office designated for him in such vote or votes, and the number of votes given for each person for the office or offices as designated for him.

In witness whereof, we have hereunto set our hands, this————day of November, in the year of our Lord one thousand eight hundred and ————

} Board of Registry and Election."

Making under each head a list of the names of all the persons for whom any vote or votes were given for the office or offices designated therein; and stating opposite to the same, in words written at full length, the number of votes given for each person for such office or offices, and filling up all other blanks in the form above given to conform to the facts of the case; and in every other election, the board of registry and election shall make statements of the result thereof, and certificates to the same, in a form similar to that above given, as far as the nature of such election will admit.

Disposition of statements.

96. The judge of election, or such one of their number as the board of registry and election shall designate, shall within two days next after every election, deliver or safely transmit one of said statements of the result of such election to the clerk of the county, who shall forthwith file the same; and whenever an election shall be held for senator, members of assembly or for any county, township, city or other municipal officers, such judge or member so designated shall within two days next after such election, deliver or safely transmit the other of said statements to the clerk of the township, city or municipality wherein such election is held, who shall forthwith file the same; but whenever an election shall be held for member of the house of representatives or for electors of president and vice-president, or for governor, separate statements of the result of such election for representative, electors or governor shall be made and certified by said board, and such judge or member so designated shall within two days next after such election deliver or safely transmit one of said statements to the clerk of the county, and shall enclose, seal up and transmit the other statement to the secretary of state by mail, directing the same in the following manner: "To the secretary of state of New Jersey, Trenton, New Jersey," and the secretary of state on receiving such statement shall forthwith file the same in his office.

Failure to deliver statement.

Penalty.

97. If any member of a board of registry and election who shall have been appointed by such board to deliver or transmit the statement of the result of such election shall neglect or fail to deliver or safely transmit the same within the time herein required, such member shall forfeit and pay to the county collector of such county, for the use of the county, the sum of one hundred dollars, to be sued for and recovered by such collector, with costs, in any court of competent jurisdiction; and it shall be the duty of the clerk of the county to certify to the county collector the names of all members so failing to deliver or transmit such statement; and the said county collector shall forthwith institute proceedings to recover said penalty.

Failure of election officer to deliver statement.

98. If any election officer shall fail to deliver or transmit the statements of the result of any election to

the person or place, and within the time herein required, any member of the county board of elections may apply to any justice of the supreme court for an order to compel the immediate delivery of said statements, and the said justice, upon presentation of the facts which satisfy him that the said election officer has failed to deliver or transmit the same as herein required, may make an order requiring the immediate delivery thereof by said officer, and in case of failure on the part of said officer to produce the same within twenty-four hours after being served with such order, the said officer shall be deemed and considered in contempt of court, and shall be punished accordingly.

DISPOSAL OF BALLOT-BOXES.

Contents of ballot-box; its disposition.

99. As soon as the election shall be finished, all ballots which have been cast, whether the same have been estimated and canvassed or rejected for any cause, the poll-list and tally papers, all unused and all spoiled official envelopes (which shall be tied up in one package), shall be carefully collected and deposited in the ballot-box; and such ballot-box, after being locked and bound with tape and sealed, shall, in all cities in this state, be immediately taken in charge by the two clerks of election, and by them forthwith carried to the office of the city clerk of the city in which such election may be held, by the most direct route, and without delay; and said clerks shall not stop at any place between the polls and the city clerk's office; the clerk of such city shall attend at his said office on election day, or appoint one of the clerks in his office to act for him, and keep his office open from the time the polls shall be closed, until all the ballot-boxes used at the various polls in said city at such election shall have been delivered at his office; the clerk of such city or his subordinate whom he may have appointed to act in his stead, shall enter in a book to be kept for that purpose, the exact time when each ballot-box may be delivered at said office, the district whence it was brought, the names of the clerks delivering it, and the name of the police officer or other witness who may accompany them, and such other particu-

Duty of city clerk.

lars as he may deem important; said book shall be filed in the office of the city clerk; in all townships and municipalities other than cities, such ballot-box shall remain in the township or other municipality, under the care and in the custody of the clerk thereof, to whom it shall be forthwith delivered by the clerks of election in the manner above directed.

Preservation of boxes and ballots.

100. Every city, township or other municipal clerk to whom said ballot-boxes shall be delivered, shall thereupon keep the same with their contents, but shall not have the keys thereof in his possession until required for the next ensuing election, and shall not open or permit to be taken or opened any ballot-box deposited as aforesaid for the space of three months after the same has been so deposited, except when he shall be called upon by some court or other tribunal authorized to try the merits of such election, or to take testimony regarding the same; and after such trial or investigation, it shall be the duty of the clerk to have said box or boxes returned to his custody; *provided*, that when any election is required to be held for any purpose within the time that said ballot-boxes are required to remain in the custody of said clerk, it shall be lawful for the judge of the circuit court of the county upon application of the city council, township committee or governing body of any municipality to direct the contents thereof to be removed and carefully preserved, and the said ballot-boxes to be used at such election.

Proviso.

Penalty for interfering with clerks taking box to clerk's office.

101. Any person who shall willfully obstruct or interfere with the clerk or clerks on the way from the polls to the office of the city clerk, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor for any term not exceeding two years, or both.

BOARD OF COUNTY CANVASSERS.

Board of county canvassers.

102. For all general and special elections in this state, and for all local or municipal elections in the several cities of this state, the county board of elections in each county shall hereafter be and act as a board of county

canvassers; the clerk of the county shall be the clerk of the said board.

Time of meeting.

103. Such board shall meet on the Friday next after any such election, at twelve o'clock, noon, at the court-house of such county, at which time and place the clerk of such county shall attend and bring with him the statements of the result of such election which have been filed in his office.

Absence of clerk.

104. If the clerk of such county shall be absent at such meeting, at the time appointed therefor, the board shall forthwith proceed to appoint a fit person to be the clerk of such board, who shall obtain such statements from the office of said clerk, and before proceeding to canvass and estimate the votes, the chairman of the board shall administer to the clerk thereof, and the clerk thereof shall take, an oath or affirmation, in the following form:

Oath.

"You do swear (or affirm, as the case may be) that you will faithfully execute the duties of clerk of this board according to law."

In case quorum is absent, adjournment may be had.

105. If on the day appointed for the meeting of such board, a major part of such board shall not attend at the court-house of such county at the hour of twelve o'clock, noon, or if at that time the statements of the result of such election from every election district in such county shall not be produced, the members of the board then present shall adjourn to some convenient hour on the next day; and at the hour to which such adjournment shall have been ordered, the member or members then present may proceed as hereinafter directed, or may again adjourn for a period not exceeding three days, at which time the member or members then present shall proceed as hereinafter directed.

In case all statements are not filed.

106. If at the time fixed for the meeting of such board the statements from every election district have not been filed with the clerk of the county, then such clerk shall forthwith, by a special messenger or otherwise, at the expense of such county, obtain such statement or statements as shall be lacking, in time to be produced to such board at their next meeting, and for this purpose either the statements directed to be filed with the county clerk or the statements directed to be filed with the clerk of any township, city or municipality wherein such election

was held, or a copy certified by the secretary of state, of the statements transmitted to him, shall be sufficient; and the clerk of such board shall lay before such board, at their subsequent meeting, all such statements and certified copies as he shall have obtained as above directed.

Protection of statements during adjournment.

107. Whenever any board of county canvassers shall find it necessary to adjourn, as herein provided, all statements of the result of an election which shall have been delivered to such board, or to any member thereof, shall, in the presence of such board, and before it shall adjourn, be securely inclosed and sealed and delivered to the county clerk for safe keeping until the next meeting of such board.

Duty of board of canvassers.

108. The members of said county board of canvassers shall proceed to examine the statements and copies of statements which shall be produced before them, and shall canvass and determine the votes cast at such election; and shall forthwith make two statements of the result of such election; each of which statements shall contain the name of each election district, the number of names of the voters on the poll-books of each election district, and of the ballots rejected, and the whole number of such names and rejected ballots in all of said election districts; the number of votes given in each election district for each person for whom any vote or votes shall have been given for any office to be filled by such election, mentioning the office for which each person shall have been designated and the name of such person (which numbers of names and numbers of votes given, and of ballots rejected, may be in figures), and the whole number of votes which shall have been given for each person for any such office, mentioning the office for which each person shall have been designated, and the name of such person (which numbers of votes and the names of persons and election districts shall be in words, written at full length), and each of such statements shall be certified to be true and correct by a certificate which shall be appended to the same, signed by the members of such board making such canvass.

Form of statement.

109. The statement and certificate shall be in the following, or like form:

"A statement of the result of an election held in the county of ———, on the ——— day of November, in the year of our Lord one thousand ——— hundred and ———, to elect a member of the senate, members of the general assembly, a sheriff and coroners of said county [naming the officers as the case may be], made by the board of county canvassers of said county:

Names of persons voted for and the offices designated for each.	Names of election districts and the number of votes given for each person in each district.							Whole number of votes in the county.	Whole number of votes received by each person.
For member of senate, ...									
For members of assembly, ...									
For sheriff, ...									
For coroners, ...									
Number of names on the poll-book of each district, ...									
Number of ballots rejected, ...									

I do hereby certify that the foregoing is a true, full and correct statement of the result of the election above mentioned, as the same is exhibited by the statements produced and laid before the board of county canvassers according to law, and that the same exhibits the number of the names of the voters in the poll-books of the election districts respectively, and of the ballots rejected, the whole number of the names of the voters in the poll-books of the several election districts, the name of each person for whom any vote or votes were given, the number of votes given for each person in each election district, and the whole number of votes given for each person for each office designated for him, as they appear by the statements so produced and laid before the said board. In witness whereof, I have here-

unto set my hand, this ——— day of ———, in the year of our Lord one thousand ——— hundred and ———.

Chairman of the board of canvassers.

Attest: Clerk."

And the blanks in the form above given shall be filled up to conform to the facts of the case.

Disposition of statements.

110. Such board shall deliver one of the said statements to the clerk of the county, who shall forthwith file the same; and in case of an election, held for members of the house of representatives, or for electors of president and vice-president, or for governor, or for senator, members of assembly, or for any county officers, the chairman of such board shall enclose and seal up the other statement and deliver or safely transmit the same so enclosed and sealed up, to the secretary of state at Trenton, so that he shall receive the same within three days next after the meeting of such board; and the secretary of state shall forthwith file the same; and in case of any municipal election in any city of this state the chairman of such board shall forthwith deliver or safely transmit such other statement to the clerk of such city, who shall file the same.

Duty of board regarding election of county or city officers

111. The board of county canvassers, in case of an election for a member of the senate, members of the general assembly, or for any county or city officer or officers, shall proceed to determine the person or persons who shall, by the greatest number of votes, have been duly elected to the office or offices for which he or they shall have been designated; and thereupon such board shall make a statement of their determination, certified to be true and correct, by a certificate appended to the same, and signed by the chairman of such board, in the presence of the clerk of such board; and the clerk of such board shall attest the signing of the same by such chairman, by signing his name thereto; and the statement of such determination, and the certificate thereto, shall be annexed to the statement of the result of the election, and shall be delivered therewith to the clerk of the county, and filed in his office; in case of an election for any city officer or officers, another copy of such determination, as to such officer or officers, shall

be made, signed and attested in manner aforesaid and forthwith filed with the clerk of such city.

Form of statement.

112. The statement of the determination of such board shall be in the following or like form:

"A statement of the determination of the board of county canvassers relative to an election held in the county of ——— on the ——— day of November, in the year of our Lord one thousand ——— hundred and ———, for the election of a member of the senate, members of the general assembly of this state, and a sheriff and coroners for said county (naming the officers as the case may be).

The said board do determine that, at the said election, ——— was duly elected a member of the senate of this state; ——— were duly elected members of the general assembly; ——— was duly elected sheriff, and ——— were duly elected coroners for said county (as the case may be).

I do certify that the foregoing is a true, full and correct statement of the determination of the board of canvassers therein mentioned.

In witness whereof I have hereunto set my hand this ——— day of November, in the year of our Lord one thousand eight hundred and———.

Chairman of the board of canvassers.

Attest

Clerk."

In special elections.

And in case of a special election to fill a vacancy or vacancies, the statement of the determination of such board, and the certificate thereof, shall be in a form similar to that above given, as far as the nature of the case will admit.

In certain cases make statement and determination.

113. The board of county canvassers, in the case of an election for a member of the senate, members of the general assembly, county or municipal officers, or any of them, shall make a statement of the result thereof, and their determination as to the person or persons who shall be elected therein; and in all other cases shall make only a statement of the result of the election in such county upon the statements and copies of statements which shall be produced and laid before the board, as directed in this act.

In other cases make statement only.

Duty of county clerk.

114. The clerk of such county, in the case of an election for senator, members of the assembly, or any county officer, shall make as many copies of the statement of the determination of such board, and the certificate appended thereto, as may be necessary, and shall certify such copies to be true, full and correct, by a certificate appended to each of them, and shall sign his name thereto, and affix thereto the seal of the county, and shall without delay deliver one of the same to each person who shall be so elected and shall inclose, seal up and transmit another copy of the same to the secretary of state, at Trenton, within five days next after the meeting of such board; and the said secretary shall file the same in his office.

Certified copies prima facie evidence.

115. The senate and general assembly shall convene and hold their sessions in the state-house, at Trenton; and in the organization of each house the certified copies of the aforesaid statements of the determination of such board shall be deemed and taken to be prima facie evidence of the right of the persons therein mentioned to seats in the houses, respectively, to which they shall have been so determined to be elected.

All statements filed in county clerk's office.

116. All the statements and copies of statements which shall be produced and laid before such board shall, by such board, be delivered to the clerk of such county, and shall be by him filed in his office.

Proceedings public—majority to determine.

117. All the proceedings of such board shall be open and public, and a decision of the major part of the members thereof, who shall be present at such meeting thereof, shall be deemed and taken to be the decision of such board; and if any member shall dissent from a decision of the board, and shall desire to protect himself against any consequences which may result from such decision, he shall state his dissent in writing, and deliver the same to the clerk of such county, who shall file the same in his office.

In case of dissent.

BOARD OF STATE CANVASSERS.

In case statements are not received from county canvassers.

118. In case of any election for one or more members of the house of representatives, or for electors of president and vice-president, or for governor, if it shall so

happen that the secretary of state shall not, on or before the seventh day after the time appointed for the meeting of the board of canvassers in the several counties, have received the statements of the result of such election in every county, which are hereinbefore directed to be delivered or transmitted to him by the chairman of such board, such secretary shall forthwith, by a special messenger or otherwise, obtain such statement or statements as are lacking; and for this purpose a copy of the statement directed to be filed with the clerk of the county, certified by such clerk, shall be sufficient; and whenever and so soon as such secretary shall receive or obtain any statement of the result of such election, in any county, in the manner hereinbefore provided for, he shall ascertain whether or not such statement includes the statement of the result of such election in every election district of such county; and if it shall appear to him that the statement of the result of such election in any election district is not exhibited by or included in the statement of the result of such election, in such county, he shall forthwith ascertain whether or not a copy of such lacking statement has been received in his office; and if it shall appear to him that such copy has not been so received, he shall forthwith, by a special messenger or otherwise, obtain a copy of the statement directed to be filed with the clerk of such county, certified by such clerk, which shall be sufficient; and such secretary shall, on the twenty-first day next after the day of such election, produce and lay before the board of state canvassers all such statements and copies as shall relate to such election, which shall have been received or obtained by him as hereinbefore provided for.

State board of canvassers.

119. The governor shall attend at Trenton on the twenty-first day next after the day of election, and summon to attend him on that day four or more of the members of the senate, provided said members of the senate shall represent each political party, for the purpose of canvassing and estimating the votes given for each person for whom any vote or votes shall have been given for one or more members of the house of representatives, or for electors of president and vice-president or for governor, and of determining and declaring the person or persons who shall, by the greatest number of

votes, have been duly elected to such office or offices; and such members of the senate as shall be summoned, shall attend at Trenton on that day for that purpose; they shall meet in the chamber of the senate, or some other convenient place at Trenton, at the hour of two o'clock in the afternoon, and shall constitute a board of state canvassers; and the governor shall be the chairman thereof, and the secretary of state shall be the clerk thereof.

Oath.

120. The chairman of such board shall administer to each member thereof, and each member thereof shall take an oath or affirmation in the following form:

"You do swear (or affirm, as the case may be) that you will faithfully and impartially execute the duties of a member of this board according to law"; and thereupon one of the members of such board, to be appointed by such board for that purpose, shall administer to the chairman thereof, an oath or affirmation in the same form as that which shall have been taken by the other members.

In absence of secretary of state a clerk may be appointed.

121. If the secretary of state shall be absent from such meeting at the time appointed therefor, such board shall forthwith, after the oaths or affirmations shall have been administered and taken, proceed to appoint a fit person to be the clerk of such board; and before proceeding to canvass and estimate the votes, the chairman of such board shall administer to the clerk thereof, and such clerk shall take an oath or affirmation in the following form:

Oath.

"You do swear (or affirm, as the case may be) that you will faithfully execute the duties of clerk of this board."

Number of board.

122. Such board shall consist of at least five persons, including the chairman thereof; and if a number of the members of the senate, who shall have been summoned as members of such board, sufficient to constitute such board, shall not attend the meeting thereof, it shall be the duty of the governor to summon as members of such board, as many fit persons, who shall possess the qualifications required for members of the senate, as shall be necessary to complete the number required to constitute such board.

Secretary of state to produce statements.

Duty of board.

123. The secretary of state shall thereupon produce and lay before such board all statements and copies relating to such election, which he shall have received or obtained; and such board shall then forthwith proceed to make a statement of the result of such election in the state; which statement shall contain the whole number of the names of the voters in all the poll-books in the state, the names of all the persons for whom any vote or votes shall have been given for any office or offices to be filled at such election, and the whole number of the votes which shall have been given to each person for any such office or offices, mentioning the office or offices for which each person shall have been designated, and shall contain the name of each county, the number of names in the poll-books in the counties respectively, the number of votes given for each person in each county for any such office or offices; and in such statement the name of each person for whom any vote or votes shall have been given, the whole number of votes given for each person, and the name of each county, shall be in words written at full length; and the whole number of the names of the voters in all the poll-books in the state, the number of the names in the poll-books in the counties respectively, and the number of votes given for each person in each county, may be in figures, and such statement shall be certified to be true and correct, by a certificate appended to the same; and the chairman of such board shall sign his name thereto, in the presence of the clerk of the board, and such clerk shall attest the signing of the same by such chairman, by signing his name thereto; and the statement and certificate appended thereto shall be in a form similar to that hereinbefore prescribed for the board of county canvassers, as far as the nature of such election will admit; and when the statement and certificate above mentioned shall have been made and subscribed, such board shall proceed to determine the person or persons who shall, by the greatest number of votes, have been duly elected to the office or offices for which he or they shall have been designated; and thereupon such board shall make a statement of their determination; and such statement shall be certified to be true and correct by a certificate, which shall be appended to the same;

Statement certified.

Determination of result certified.

and the chairman of such board shall sign his name thereto, in the presence of the clerk thereof, and such clerk shall attest the signing of the same by such chairman by signing his name thereto; and the statement of such determination, and the certificate appended thereto, shall be in a form similar to that hereinbefore prescribed for the board of county canvassers, as far as the nature of such election will admit, and shall be annexed to the statement of the result of such election; and both of such statements and certificates shall forthwith be delivered to the secretary of state, who shall file the same in his office.

Duty when messenger applies for statement.

124. The clerk or member of the board of election of any election district, the clerk or the chairman of the board of canvassers of any county, or any other person who shall be in possession of any statement, or copy of any statement, which shall have been made and subscribed under the provisions of this act, shall forthwith, on application by any messenger who shall have been dispatched for the same by the secretary of state, deliver to such messenger such statement or copy; and the member of the board of election of any election district, or any clerk or other person who shall be in possession of any statement, or copy of any statement, which shall have been made and subscribed under the provisions of this act, shall forthwith, on application by any messenger who shall have been dispatched for the same by the clerk of such county, deliver to such messenger such statement or copy; and such messenger, in either case, shall be commissioned as such in writing, under the hand and official seal of the officer by whom he shall have been dispatchad, and shall exhibit his commission to the person to whom he shall apply for such statement or copy; and when he shall have obtained such statement or copy, shall forthwith deliver the same to the officer who shall have dispatched him.

Neglect of secretary of state.

125. If the secretary of state shall neglect to produce and lay before such board any such statement or copy received or obtained by him, or shall withhold any such statement or copy, the chairman of such board shall forthwith summon such secretary to appear and produce and lay before the board such statement or copy, and

thereupon such secretary shall forthwith produce and lay the same before such board.

Statement of result.

126. Such board shall make the statement of the result of such election in the state, and their determination as to the person or persons who shall have been elected therein, upon the statements of the result of such election, or the copies of such statements which shall have been made by the board of county canvassers in the several counties, and laid before such board; *provided*, that if it shall appear, by any such statement from any county, that the statement of the result of such election in any election district of such county is not exhibited by or included in such statement, such board shall give full force and effect to the statement of the result of such election in such district, or the copy of such statement, which shall be laid before such board by the secretary of state, as is hereinbefore directed.

Proviso.

Official notification of election.

127. The secretary of state shall make as many copies of the statement of the determination of such board, and the certificate thereto, as there shall be persons thereby declared to be elected; and shall certify such copies to be true, full and correct, by a certificate appended to each, and shall sign his name thereto and affix thereto the seal of the state, and shall, without delay, deliver one of the same to each of the persons who shall be so elected.

All statements filed in office of secretary of state.

128. All the statements and copies of statements which shall have been produced and laid before such board shall be delivered to the secretary of state, and be by him filed in his office.

Proceedings public.

129. The proceedings of such board shall be open and public, and the decision of a majority of the members thereof shall be deemed and taken to be the decision thereof; and if any member shall dissent from such decision, and shall desire to protect himself against any consequences which may result therefrom, he shall state his dissent in writing, and deliver the same to the secretary of state, who shall file the same in his office.

In case of dissent.

Certification of election of members of the house of representatives.

130. In case of an election for one or more members of the house of representatives, the secretary of state shall prepare a general certificate of the election of such member or members, and lay the same before the governor, who shall sign his name thereto, in the presence

of such secretary; and such secretary shall attest the signing of the same by the governor, by signing his name thereto, and shall thereupon affix the seal of the state thereto, and transmit the same forthwith to the clerk of the house of representatives, if they shall then be in session, and if not in session, then at their first meeting; and in case of an election for electors of president and vice-president of the United States, such secretary shall prepare a general certificate of the election of such electors, and lay the same before the governor, who shall sign his name thereto, in the presence of such secretary; and such secretary shall attest the signing of the same by the governor, by signing his name thereto, and shall thereupon affix the seal of the state thereto, and deliver the same to the president of the college of electors of this state, on the day and at the time and place appointed for the meeting of such college.

In case of election of electors.

THE ELECTORAL COLLEGE.

131. The electors of president and vice-president shall convene at the state-house at Trenton, on the day appointed by congress for that purpose, at the hour of three o'clock in the afternoon of that day, and constitute an electoral college; and, after choosing a president and secretary from their own body, shall proceed to perform the duties required of them by the constitution and laws of the United States.

Meeting of electors.

132. When any vacancy shall happen in the college of electors of this state, or when any elector shall fail to attend, by the hour of three o'clock in the afternoon of the day fixed by the congress of the United States for the meeting of the college of electors, at the place of holding such meeting, those of the said electors who shall be assembled at the said hour and place shall immediately after that hour proceed to fill, by a majority of votes, all such vacancies in the electoral college; *provided*, that if the members of the electoral college shall have been nominated and elected as representing different political parties, any vacancy occurring shall be filled by the elector or electors representing the same political party

Vacancy filled.

Proviso.

as the absent elector; and if there shall be no elector present representing the same political party as the absent elector, then such vacancy shall be filled by a majority of the electors present, who shall choose some person of the political party which the absent elector represents.

ELECTIONS TO SUPPLY VACANCIES.

Filling of vacancies in legislature.

133. Whenever any vacancy shall happen in the representation of any county in the senate or general assembly, the house in which such vacancy happens shall direct a writ of election for supplying the same, unless such house shall be of the opinion that the services of a person in the office then vacant will not be required during the unexpired period of the legislative year; but if such vacancy happens during the recess of the legislature, or after the annual election, and not less than fifteen days before the commencement of the legislative year (or a shorter time before such commencement, if the board of chosen freeholders make the requirement hereafter mentioned), it shall be the duty of the governor forthwith to issue a writ of election to fill the said vacancy, unless he shall be of opinion that the services of a person in the office then vacant will not be required during the legislative year, or the residue thereof; but the neglect of the governor to issue a writ for filling such vacancy shall not preclude the house in which such vacancy may have happened from causing the same to be filled, if they judge it advisable; *provided*, that if the board of chosen freeholders of such county shall signify in writing to the governor, in case such vacancy occurs during the recess of the legislature, or after the annual election, and before the commencement of the legislative year, or to such house, when in session, the desire of such board that the vacancy shall be filled, then such house, or the governor, as the case may be, shall forthwith, after such signification, issue such writ.

Proviso.

What constitutes a vacancy.

134. If any person who shall be elected a member of the senate or general assembly of this state shall neglect or refuse, for ten days next after the commencement of

the session of such house, to take his seat therein, or to send to such house a satisfactory excuse, or shall, during any session of such house, be absent unremittingly for ten days (unless expressly excused by such house from attendance thereon), or shall remove from and cease to be a resident of this state, or of the county for which he may have been elected, his office shall be deemed vacant.

Vacancy in house of representatives.

135. Whenever any vacancy or vacancies shall happen in the representation of this state in the house of representatives, it shall be the duty of the governor forthwith to issue a writ of election to fill such vacancy or vacancies, unless the term of service for which the person or persons whose office or offices shall become vacant will expire within two months next after the happening of such vacancy or vacancies.

Issue of writ of election.

136. Every writ of election which shall be issued under the provisions of this act shall be of the nature of a proclamation, and be signed by the governor or by the president of the senate or the speaker of the house of assembly, as the case may be; and shall specify the cause and purpose of such election, the name of the officer in whose office the vacancy has occurred, and the day on which such election shall be held, which shall not be less than fifteen days, nor more than forty days, from the date of such writ.

Writ delivery to secretary of state; his duty.

137. Every such writ shall, by the officer issuing the same, be delivered forthwith to the secretary of state, who shall forthwith affix thereto the seal of this state, and file the same in his office; and in case such vacancy or vacancies shall have happened in the representation of any county, in the senate or assembly, he shall make, or cause to be made, a copy of such writ, certify the same to be true and correct under his hand, and cause such copy thus certified to be delivered to the clerk of such county, and in case such vacancy or vacancies shall have happened in the representation of this state in the house of representatives, he shall cause as many copies of such writ to be made as there shall be counties or parts of counties in such vacant congressional district or districts, certify each of the same to be true and correct under his hand, and cause one of such copies to be delivered to the clerk of each of said counties.

Notice by county clerk.

138. The clerk of each of said counties shall, forthwith after the receipt of any such copy, cause the same to be published, at least once a week, until the time of such election, in at least four of the newspapers which shall be printed or published in such county; and if such election shall be held to fill a vacancy or vacancies in the representation of such county in the senate or assembly, such publication shall be made at the expense of such county; and if such election shall be held to fill a vacancy or vacancies in the house of representatives, such publication shall be made at the expense of this state.

Expense of publication, how met.

Vacancy in county office.

139. Any vacancy happening in the office of sheriff, coroner, clerk, register or surrogate of any county, shall be supplied at the general election next succeeding the happening thereof, unless such vacancy shall happen within fifteen days next preceding such election, in which case such vacancy shall be supplied at the second succeeding general election.

Conduction of special elections.

140. Every special election shall be conducted by the same election officers and in the same manner as the general election is or may be conducted; nominations shall be made for the offices to be filled at such special election in the manner herein provided for the nomination for such offices at the general election, and the register used at the election next preceding such special election shall be used thereat, subject to revision and correction in the same manner as is herein provided for the revision and correction of the register at charter or local elections, with such modifications, if any, as to the times of meeting of the registry boards, as the county board of elections may deem necessary.

CONTESTED ELECTIONS FOR GOVERNOR.

Notification of contest.

141. Any person intending to contest the election of governor, shall, within thirty days next after such election, give notice in writing to the person whose election he intends to contest, stating such intention, and setting forth the facts, charges and specifications upon which he means to rely; which notice shall be delivered to such person, or be left open at his usual place of resi-

dence, with a member of the family over the age of fourteen years.

Notice sent president of senate.

142. The said contestant shall address and cause to be delivered to the president of the senate, as soon as that body shall be organized by the election of a president, a petition in writing, setting forth that the said petitioner intends to contest the said election of governor, and the facts, charges and specifications upon which he means to rely, and praying that a joint committee of the two houses of the legislature may be appointed to try the same; which petition shall be accompanied by the affidavit of the petitioner, that the facts, matters and things in said petition contained are true, as he verily believes; and shall be also accompanied by due proof that the notice mentioned in the preceding section has been given as is therein directed.

Legislature notified.

143. Upon the receipt of such petition, verification and proof, the said president shall immediately give information thereof to both houses of the legislature, who shall, on a day and hour to be agreed upon between them, not exceeding ten days from the delivery of such petition, convene in the senate chamber, and proceed to appoint such committee.

Selection of names for committee.

144. The president of the senate shall preside at such meeting; the names of the members of each house shall be called over, and thereupon the names of the members of the senate present shall be written on distinct pieces of paper, as nearly similar as may be, and each rolled up and put into a box by the clerk of the assembly, and after being shaken and intermixed, shall be placed on the president's table; and the secretary of the senate shall then draw from the said box the papers so rolled up, and deliver them singly to the speaker of the house of assembly, who shall open and read them aloud as he receives them, and deliver them singly to the president of the senate, who shall place them open on the table; and the clerk of the house shall take down the names as they are so called, in writing, until the number of ten names be drawn, when the drawing shall cease; the names of all the members of the house of assembly who are present shall then, in like manner, be written on similar distinct pieces of paper, and each rolled up and put into a box by the secretary of the senate, and after

being shaken and intermixed, shall be placed on the president's table; and the clerk of the house shall then draw from the said box the papers so rolled up, and deliver them singly to the president of the senate, who shall open and read them aloud as he receives them, and deliver them singly to the speaker of the house, who shall place them open on the table, and the secretary of the senate shall take down the names as they are so called, in writing, until the number of twenty-nine names shall be drawn, when the drawing shall cease.

Selection of joint committee.

145. When the names of ten members of the senate and twenty-nine members of the house of assembly shall have been so drawn, a list of the members so selected shall be given to each of the parties, or their counsel, who shall immediately withdraw to some adjoining room, with a clerk or member appointed by the joint vote of the members present, where they shall proceed alternately to strike off the names upon the said list, the contestant striking first, until the number shall be reduced to four members of the senate and nine members of the house of assembly; and within one hour from the time of so withdrawing, shall deliver to the president of the senate the names of the said thirteen members remaining on the list, who shall constitute a committee to try the matter in controversy, and shall respectively take an oath or affirmation, to be administered by the president of the senate, to try the matter of the petition, and to give true judgment thereon according to evidence; and the time and place for the meeting of the select committee so appointed shall then be directed by the joint vote of the members of both houses, which shall be within twenty-four hours of the appointment.

Oath.

Balance of names drawn.

146. As soon as the lists shall have been delivered to the parties aforesaid, the clerk of the house of assembly shall proceed to draw out, one by one, the names of the remaining members of the senate and deliver them singly to the speaker of the house, who shall unfold and read them aloud; and then the secretary of the senate shall in like manner draw out the names of the remaining members of the house of assembly and deliver them singly to the president of the senate, who shall unfold and read them aloud; and if any unfairness or mistake shall be discovered therein, then the whole proceeding

shall be set aside, and the business be renewed in manner and form as is hereinbefore directed.

Organization, &c.

147. The committee so chosen shall, on their first meeting, elect a chairman from among themselves, and some competent person as clerk, and in case of the sickness, death, resignation or inability to act of either, may choose another in his place; and in case of the refusal or inability of any member of the committee so chosen to act, the committee shall, by a majority of votes, fill such vacancy by choosing a member to supply his place, if he be a senator, from the senate; if a member of the assembly, from the house of assembly; *provided*, that no member who was stricken from the list of names drawn shall be eligible to be chosen; *and provided*, that such vacancy shall be filled before the committee shall have entered upon the hearing of the case.

Proviso.

Proviso.

Continuance of sessions.

148. The said committee shall sit from day to day, Sundays excepted, and attend exclusively to the business before them until they shall have finally decided the case.

Power of committee.

149. The said committee shall have power to send for persons, papers and records, to examine all witnesses who may come before them, upon oath or affirmation, to be administered by the chairman; and any person guilty of taking a false oath or affirmation before them, or of procuring another to do so, shall, upon conviction, be liable to the same punishment as persons convicted of perjury are liable to by law; the committee may require the production of ballot-boxes with their contents, and may examine and recount, if necessary, the ballots cast in any district or districts.

Determination of committee.

150. All determinations of the said committee shall be by a majority of votes; as soon as the said committee shall have determined whether the election or return referred to them is legal and valid, or the contrary, and who, if any one, is duly elected to the said office of governor, the chairman shall make two reports thereof in writing, one of which he shall deliver to the president of the senate and the other to the speaker of the house of assembly; which reports shall be entered on the journals of the respective houses, and shall be final and conclusive, and the person adjudged to be

elected shall be entitled to the office; and if no one shall be adjudged to be elected, then the office shall be declared vacant.

Proceedings public.

151. The proceedings of the committee shall be conducted publicly; the parties shall be at liberty to appear before them in person, or by counsel, and examine and cross-examine the witnesses produced, and be heard upon the questions that arise in the case.

Witness fees, clerk's compensation, expenses.

152. Witnesses attending by order of the committee, shall have the same fees as are allowed at law; the clerk of the committee shall be allowed compensation at the rate of ten dollars per diem, but no fees; and all expenses incurred shall be taxed by the committee and paid by the treasurer on the certificate of the chairman.

CONTESTED ELECTIONS FOR MEMBERS OF THE LEGISLATURE AND CONGRESS.

Notification of contest.

153. If any person shall intend to contest the right of any person who shall have been declared to be duly elected a member of the senate, a member of the general assembly or a member of the house of representatives of the United States, to a seat in the house of which he shall have been declared to be elected a member, the person so intending shall, within thirty days next after the day of such election, give notice in writing of such intention to the person whose seat he shall intend to contest; which notice shall be delivered to such person, or shall be left open at his usual place of residence, with one of the family above the age of fourteen years, and such notice shall particularly set forth the ground or grounds on which such seat will be contested.

Issuance of subpœna.

154. The judges of the court of common pleas, the commissioners to take bail and affidavits in the supreme court, and the masters in chancery, respectively, shall have power, and are hereby required, at any time, on application to them by any person who shall intend to contest the right to a seat as above mentioned, or whose right to a seat shall be contested, to issue a subpœna or subpœnas to any person or persons whose testimony the person so applying shall be desirious to take, and to

appoint some time, not less than ten nor more than twenty days after such application shall be made to him, and some place for the examination of such person or persons; *provided*, that no officer shall issue any such subpœna or appoint such time, unless he shall be satisfied that such notice has been given as is directed in the preceding section of this act. Proviso.

Notice of time and place for examination.

155. When such time and place shall have been appointed, the person who shall have made such application shall forthwith give at least eight days' notice of such time and place, and of the name of the officer who is to take the testimony to the opposite party; which notice shall be in writing, and shall contain the name or names of the witness or witnesses intended to be examined, and shall be given in the same manner as the notice of contest of such election hereinbefore mentioned is directed to be given.

Taking of depositions.

156. At the time and place which shall have been so appointed, the officer appointing them shall attend and take the deposition or depositions of such person or persons as shall appear before him; which deposition or depositions shall be taken in writing, and shall be signed by the person or persons, respectively, who shall be examined; *provided*, that such officer shall not proceed to take the testimony of any person unless he shall be satisfied that such notice has been given, as is hereinbefore directed, and that he shall take the testimony of no other person than such as shall be mentioned in such notice; and that no testimony shall be taken which shall not relate to some ground of contest specified in the notice which shall have been given, as is hereinbefore directed. Proviso.

Disposition of depositions.

157. The officer who shall take any such deposition or depositions shall certify the same under his hand and shall inclose, seal up and transmit or deliver the same, in case the intended contest shall relate to a seat in the senate, to the president of that body; in case it shall relate to a seat in the general assembly, then to the speaker of that body; and in case it shall relate to a seat in the house of representatives of the United States, then to the speaker of that body.

Subpœna must be obeyed.

158. It shall be the duty of every person upon whom a subpœna, issued under and by virtue of this act, shall

have been served, and to whom the lawful fees shall have been paid or tendered, to obey the command of such subpœna, under the penalty of fifty dollars, to be sued for and recovered, with costs, in an action of debt, before any court of competent jurisdiction, by the person on whose application such subpœna shall have been issued; *provided*, that no person shall in any case be required to attend any such examination as a witness out of the county in which he resides; and if any person duly subpœnaed as aforesaid shall neglect or refuse to obey the command of such subpœna, it shall be lawful for any justice of the supreme court or judge of the court of common pleas, on due proof by affidavit of the service of a subpœna on such witness, and of the payment of his legal fees, and of his refusal or neglect to obey the command of said subpœna as aforesaid, to issue an attachment against such person to bring him before said justice or judge; and the said justice or judge shall have power to proceed against said witness as for a contempt of said court.

Penalty.

Proviso.

RECOUNT OF VOTES.

Candidate may apply to justice of supreme court for recount.

159. Whenever any candidate at any election shall have reason to believe that an error has been made by any board of election or of canvassers in counting the vote or declaring the result of such election, whereby the result of such election has been changed, such candidate may within ten days after such election apply to any justice of the supreme court, who shall be authorized to order and cause upon such terms as he may deem proper a recount of the whole or such part of the votes as he may determine to be publicly made under his direction by the county board of elections, after due notice to the parties interested of the time and place of such recount; and if it shall appear upon such recount that an error has been made, sufficient to change the result of such election, then such justice shall revoke the certificate of election already issued to any person, and shall issue in its place another certificate in favor of the party who shall be found to have received a majority of the votes cast at such election, which latter

If error found to change result, justice to revoke certificate and issue new one.

certificate shall supersede all others, and entitle the holder thereof to the same rights and privileges as if said certificate had been originally issued by the canvassing board; said justice shall have power to decide all disputed questions which the said board shall fail to decide by a majority vote thereof.

Certificate to party declared elected.

160. Whenever any such certificate shall be issued by any justice of the supreme court, the same shall be filed with the clerk of the county or municipality in and for which such election was held; and such clerk shall make and certify, under his hand and official seal, a copy thereof, and shall without delay deliver such copy to the person who shall be so declared elected; and in case of an election for senator, members of the assembly or any county officers, the county clerk shall within five days thereafter transmit to the secretary of state at Trenton another copy of such certificate, signed by him and attested by his official seal.

Provision for expenses of recount.

161. Any applicant for such recount upon applying therefor shall deposit with the county clerk such sum as such justice shall order as security for the payment of the expenses of such recount, or if such justice shall so order, shall file with the county clerk a bond to the incumbent, with two or more sureties, to be approved by such justice, in such sum as he may require, conditioned to pay all costs and expenses in case the original count be confirmed, or the result of such recount is not sufficient to change the result; the said justice shall fix and determine the amount of compensation to be paid for making such recount of the ballots, and the costs and expenses thereof; and if it shall appear that an error sufficient to change the result has been made, then the expenses of such recount shall be paid by the county or municipality in and for which such election was held, upon the warrant of said justice, the same as other election expenses are paid; but if no error shall appear sufficient to change such result, then the expenses of such recount shall be paid by the party making the application.

CONTESTED ELECTIONS FOR COUNTY, TOWNSHIP, CITY OR OTHER MUNICIPAL OFFICES.

Hearing of contested elections.

162. The several circuit courts of this state shall have jurisdiction to hear and determine all cases in which the election of any officer or officers of any county, city, borough, village, township or other municipality may be contested, and for that purpose the said courts shall always be open; such contest shall be commenced by filing a petition therefor within thirty days after any such election shall be held.

Grounds of contest.

163. Such election may be contested upon one or more of the following grounds, viz.:

Fraud, &c.

I. Malconduct, fraud or corruption on the part of the members of any board of election in any election district, or of any member of the board of county canvassers, sufficient to change the result;

Ineligible.

II. When the incumbent was not eligible to the office at the time of the election;

Convicted of certain crimes.

III. When the incumbent had been duly convicted before such election of any crime which would render him incompetent to exercise the right of suffrage, and the incumbent had not been pardoned at the time of the election;

Bribery.

IV. When the incumbent has given or offered to any elector or any member of a board of election, clerk or canvasser, any bribe or reward, in money, property or thing of value, for the purpose of procuring his election;

Illegal voting.

V. When illegal votes have been received, or legal votes rejected at the polls sufficient to change the result;

Error in canvassing.

VI. For any error in any board of canvassers in counting the votes or declaring the result of the election, if such error would change the result.

Other causes

VII. For any other cause which shows that another was the person legally elected.

Definition of "incumbent"

164. The term "incumbent" in this act means the person whom the canvassers declare elected; but in case of a tie vote either party may contest the election, in which case the term "incumbent" means the person having an equal number of votes with the contestant.

Misconduct of election not sufficient to set aside election.

165. When the misconduct complained of is on the part of the members of the board of election in any

election district, it shall not be held sufficient to set aside the election, unless the rejection of the vote of such district would change the result as to that office.

Notice given by contestant, and bond.

166. The contestant shall file a petition in writing signed by himself and at least fifteen qualified electors of the county, township, or municipality, in and for which such election was held, as the case may be, setting forth one or more of the causes specified and the particular circumstances of the case, duly verified by the oaths or affirmation of at least two of said petitioners, which shall be filed with the clerk of said court, together with a bond to the incumbent, with two or more sureties, to be approved by the justice holding such circuit, in the penal sum of five hundred dollars, conditioned to pay all costs in case the election be confirmed, or the petition be dismissed or the prosecution fail.

Regarding reception or rejection of votes.

167. When the reception of illegal, or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, with the election district where they voted, or offered to vote, shall be set forth in the petition, if known; the court shall appoint a suitable time for hearing such complaint, not more than thirty nor less than fifteen days thereafter; and the contestant shall cause a notice of such trial, with a copy of the contestant's petition, to be served on the incumbent at least ten days before the day set for trial.

Trial at appointed time.

168. The trial shall proceed at the time appointed unless postponed for good cause shown by either party by affidavit; the terms of which postponement shall be in the discretion of the court; *provided*, the court may, for its own necessity or convenience, adjourn to such time, not more than thirty days thereafter, as it may see fit, of which adjournment the parties interested shall take notice.

Proviso.

Proceedings as in action at law.

169. The proceedings shall be similar to those in an action at law so far as practicable, but shall be under the control and direction of the court, which shall hear and determine the matter without a jury, with power to order any amendments in the petition or proceedings as to form, and to allow adjournments to any time not more than thirty days thereafter for the benefit of either

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party, on such terms as shall seem reasonable to the court, the grounds for such adjournment being shown by affidavit.

Attendance of witnesses and production of ballots, &c., compulsory.

170. The said court shall have authority and power to compel the attendance of any officer of such election, and of any other person capable of testifying concerning the same, and also to compel the production of all ballot-boxes, books, papers, tally lists, ballots and other documents which may be required at such hearing; the style, form and manner of service of process and papers, and the fees of officers and witnesses, shall be the same as in the circuit court in other cases, as far as the nature of the case admits.

Witness' qualification as voter.

171. The court may require any person called as a witness who voted at such election, to answer touching his qualification as a voter, and if the court, from his examination, or otherwise, is satisfied that he was not a qualified voter in the election district where he voted, then the court can compel him to answer for whom he voted; and if the witness answers such questions no part of his testimony on the trial shall be used against him in any criminal proceeding.

Liability for costs.

172. The contestant and incumbent shall be liable to the officers and witnesses for the costs made by them respectively; but if the election be confirmed, or the petition dismissed, or the prosecution fail, judgment shall be rendered against the contestant for costs; and if the judgment be against the incumbent, or the election be set aside, then he shall pay the costs at the discretion of the court; and after the entry of the judgment of the court the costs may be collected by attachment or otherwise.

Judgment given by court.

173. The court shall pronounce judgment whether the incumbent or any contestant was duly elected, and the person so declared elected will be entitled to his certificate; if the judgment be against the incumbent, and he has already received the certificate of election, the judgment shall annul it; if the court find that no person was duly elected, the judgment shall be that the election be set aside.

In case judgment is against party holding over.

174. When either the contestant or incumbent shall be in possession of the office, by holding over or otherwise, the court shall, if the judgment be against the

party in possession of the office, and in favor of his antagonist, issue and order to carry into effect its judgment, which order shall be under the seal of the court, and shall command the sheriff of the county to put the successful party into possession of the office without delay, and to deliver to him all books, papers and effects belonging to the same.

Appeal may be taken to supreme court.

175. The party against whom judgment is rendered may appeal for error of law only, within twenty days, to the supreme court, but such appeal shall not supersede the execution of the judgment of the court, unless the party so appealing shall become bound to the other party by recognizance, as provided in the thirteenth section of the act entitled "An act respecting writs of error" (Revision), approved March twenty-seventh, eighteen hundred and seventy-four; *provided*, the amount of such recognizance shall be fixed by the judge who presided at the trial, and shall be at least double the probable compensation of such officer for six months.

Proviso.

Appeal to have precedence.

176. Such appeal shall take precedence over all other causes upon the calendar, and shall be set down for hearing, and determined upon the first day of the term, unless otherwise ordered by the court for its convenience; *provided*, that the appellent shall give ten days' notice of argument, unless the judgment of the circuit court shall not have been given in time to notice such appeal for trial on the first day of the term, in which case the same may be noticed for any other day in the term, and shall have the same precedence on such other day.

Proviso.

If appeal be affirmed.

177. If, upon appeal, the judgment be affirmed, the judge who presided at the trial, or in his absence or inability to act, any justice of the supreme court, shall order the judgment of said circuit court to be enforced, if the party against whom judgment is rendered is in possession of the office; and the proceedings on the recognizance shall be as provided for in other cases in said supreme court.

COMPENSATION OF ELECTION OFFICERS AND EXPENSES OF ELECTION.

Compensation

178. The compensation of each member of the boards of registry and election for all services performed by them under the provisions of this act shall be as follows:

Cities exceeding 40,000.

In cities having a population exceeding forty thousand, for each registry day five dollars, and for the election day, including the counting of the votes and the delivery of the returns and ballot-box with contents to the municipal clerk, ten dollars; which compensation shall be the same for both the general election and the municipal election; and in all other cities, townships and other municipalities, the compensation of each member for all such services in connection with any local or charter election shall be for each registry day three dollars, and for the election day, including the counting of the votes and the delivery of the returns and the ballot-box five dollars, and for all such services in connection with the general election or any special election held in and for the whole county, such compensation shall be at the same rate, but shall not exceed fifteen dollars in districts where the number of registered voters is not more than one hundred and fifty; twenty dollars in districts where the number of registered voters is more than one hundred and fifty and not more than three hundred; and twenty-five dollars in districts where the number of registered voters is more than three hundred; said sums to be paid by the county collector, and to be in lieu of all other fees and charges whatsoever.

Other municipalities

Paid by county collector.

Compensation to county and municipal clerks.

179. For the duties and services imposed upon and required of them by this act, the county clerks of the several counties and the clerks of the different cities, townships and other municipalities, shall be paid out of the county funds of their respective counties, or the funds of their respective municipalities, as the case may be, a fair and reasonable compensation, to be ascertained and determined, in the cases of the county clerks, by the boards of chosen freeholders of their respective counties, and in case of said municipal clerks, by the governing bodies of their respective cities, townships or municipalities.

Provision for expenses of election.

180. All costs, charges and expenses incurred by the county and municipal clerks in carrying out the provisions of this act (except for ballots furnished to individuals as hereinbefore provided), including the charges and expenses incurred for rooms for polling-places and fitting up and arranging the same, the compensation of the district boards of registry and election and all other expenses incurred by any officer or person duly authorized in carrying out the provisions of this act, shall be regarded as election expenses, and shall be paid, in the case of the general election or any special election held in and for the whole county, by the respective counties, and in case of all other elections by the respective municipalities in and for which they are held, in the same manner as other county and municipal expenses are paid; but all bills before being paid shall be itemized and verified by the oath of the claimant, and audited and approved by the clerk of the county, township, city or municipality who contracted the bill charged for; *provided*, that nothing herein contained shall be construed as permitting compensation to any election agent or challenger; and the board of freeholders in each county shall include in their annual tax-levy a sum sufficient to pay all the election expenses, and a reasonable compensation for the services of the county board of elections, the amount of which shall be determined by the board of chosen freeholders; *provided, also*, that the member of said county board of elections who shall be the secretary thereof, may receive an additional compensation not exceeding one-third of the compensation of the individual members of said board, except in counties of the first class, where there shall be a clerk of said board who shall receive such compensation as shall be fixed by said board of freeholders.

Proviso.

Proviso.

CONGRESSIONAL DISTRICTS.

Division of state into congressional districts.

181. For the purpose of electing members of the house of representatives of the United States, this state shall be divided into eight districts, as follows, namely:

First. The counties of Camden, Cumberland, Cape May, Gloucester and Salem shall constitute and be called the first district;

Second. The counties of Atlantic, Mercer, Burlington and Ocean shall constitute and be called the second district;

Third. The counties of Somerset, Middlesex and Monmouth shall constitute and be called the third district;

Fourth. The counties of Sussex, Warren, Hunterdon and Morris shall constitute and be called the fourth district;

Fifth. The counties of Passaic and Bergen shall constitute and be called the fifth district;

Sixth. The city of Newark and the township of East Orange in Essex county, shall constitute and be called the sixth district;

Seventh. All of the county of Hudson, excepting the city of Bayonne, shall constitute and be called the seventh district;

Eighth. The county of Union, the city of Bayonne in Hudson county and all the county of Essex, excepting the city of Newark and the township of East Orange, shall constitute and be called the eighth district;

Interpretation.

In the interpretation of this section, all references to counties, cities, townships or other municipal divisions shall be taken to refer to such municipal divisions as they exist at the time of the passage of this act.

Election of representatives.

182. Each of said districts shall elect one person to represent this state in the house of representatives of the United States, which election shall be held on the Tuesday next after the first Monday in November, in the year one thousand eight hundred and ninety-eight, and on the Tuesday next after the first Monday in November in each second year thereafter.

MISCELLANEOUS.

Qualifications of representatives and electors.

183. No person shall be elected a member of the house of representatives, or an elector of president and vice-president, who shall hold any office of trust or profit under the United States; and no person shall be

elected to the office of such elector who shall hold the office of senator or member of the house of representatives of the United States.

Regarding holding more than one office.

184. No person shall hold at the same time more than one of the following offices: Elector of president and vice-president of the United States, member of the house of representatives of the United States, member of the senate or of the general assembly of this state, county clerk, register, surrogate, sheriff, or coroner; and if any person who shall have been elected or appointed to any such office shall, during the term for which he shall have been elected or appointed, be elected or appointed to another of such offices, and shall accept the same, such acceptance shall be deemed to make vacant the office to which he shall have been previously elected or appointed; and if any person shall, at any election, be elected to two or more of such offices, he shall accept but one of the same, and the other or others shall be deemed vacant.

Determination of "legal voters" in questions submitted for decision.

185. When by the provisions of any statute the decision of any question has been or shall be submitted to the decision of a majority of the legal voters of this state or of any subdivision thereof; or when the approval of a majority of the legal voters of this state or of any subdivision thereof is required in any statute before such statute takes effect or before any prescribed action or proceeding under such statute shall be valid and lawful, it is hereby declared that the intent and meaning in any such statute of the words, legal voters, are persons entitled to vote, and who do vote, at the time and in the manner prescribed in and by such statute upon the question or proposition submitted; and that for the purpose of ascertaining what is a majority of the legal voters of any district defined in such statute, upon the proposition therein directed to be submitted, the persons who do not vote at such election shall not be estimated, counted or considered for the purpose of ascertaining what is a majority of the legal voters in such district, with respect to the proposition submitted; such votes shall be estimated and canvassed, and the result thereof determined by the several boards of election, and boards of canvassers, in the same manner as the

results of other elections are estimated, canvassed and determined.

Power to enforce order.

186. The board of election in each election district, the board of county canvassers in each county, and the board of state canvassers shall, respectively, possess full power and authority to maintain regularity and order, and to enforce obedience to their lawful commands during their sessions respectively; and if any person shall refuse to obey the lawful command of any such board, or by disorderly conduct in their hearing or presence shall interrupt or disturb their proceedings, they may, by an order in writing, signed by the chairman and attested by the clerk of such board, commit the person so offending to the common jail of the county in which they shall have met, for a period not exceeding three days, and such order shall be executed by any sheriff or constable to whom the same shall be delivered; or if a sheriff or constable shall not be present or shall refuse to act, by any other person who shall be deputed by such board in writing, and the keeper of such jail shall receive the person so committed, and safely keep him for such time as shall be mentioned in the commitment.

Penalty.

Betting, &c., unlawful.

187. No person shall make, lay or deposit any bet, wager or stake, to be decided by the result of any election, by the election or defeat of one or more persons at any election, or by any contingency connected with or growing out of any election; and all contracts for or on account of any money, property or thing in action so bet, wagered or staked shall be void; and any person who shall pay, deliver or deposit any money, property or thing in action upon the event of any bet, wager or stake prohibited by this section, may sue for and recover the same of the winner or winners, or person or persons, to whom the same, or any part thereof, shall have been paid or delivered, or with whom the same, or any part thereof, shall have been deposited, whether he or they shall have been a stakeholder or stakeholders, or other person or persons, whether or not the same shall have been paid over by such stakeholder, or whether or not such bet, wager or stake shall have been lost.

CRIMES AND PENALTIES.

False oath.

188. If any person shall be guilty of willful and corrupt false swearing or affirming, or by any means shall willfully and corruptly suborn or procure any person to swear or affirm falsely, in taking any oath, affirmation or deposition prescribed or authorized by this act, he shall be deemed and taken to be guilty of a high misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding eight hundred dollars or imprisonment at hard labor not exceeding seven years, or both, at the discretion of the court, and be deemed and taken to be an incompetent witness thereafter for any purpose within this state, until such time as he shall have been pardoned.

Penalty.

Illegal actions of county clerk and secretary of state.

189. If the clerk of any county shall willfully and corruptly suppress, destroy, mutilate, change or alter any statement or certificate of the result of any election, or any copy thereof, made in pursuance of this act, which shall have been delivered to or received by him, or omit or refuse to produce and lay the same before the board of county canvassers, or if the chairman or clerk of any such board shall willfully and knowingly certify, sign or attest any false or untrue statement of the result of any election, or any false or untrue statement of the determination of any such board, or of the certificate thereto, or shall willfully and corruptly refuse or omit to certify, sign or attest any such certificate which he is by this act required to certify, sign or attest, or if any secretary of state or clerk of the board of state canvassers shall willfully and knowingly certify, sign or attest any false or untrue statement of the result of any election, or any false or untrue statement of the determination of any such board, or of the certificate thereto, or shall willfully and corruptly suppress, destroy, mutilate, change or alter any statement or certificate of the result of any election, or any copy thereof, made in pursuance of this act, which shall have been delivered to or received by him, or omit or refuse to produce and lay the same before the board of state canvassers, every such person so offending, his aiders, procurers or abettors, shall be deemed and taken to be guilty of a misde-

Penalty.

meanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor for any term not exceeding seven years, or both.

Robbery of ballots, &c.

190. If any person shall rob or plunder any ballot-box, or unlawfully and by stealth or violence take the same or remove therefrom any ballot, envelope or other paper, or exchange, alter or destroy any ballot or envelope or other paper contained therein, or if any person, other than the clerk of any county or the secretary of state, shall willfully and corruptly suppress, withhold, mutilate, destroy, alter or change any return, statement or certificate, or any copy thereof, which shall have been made in pursuance of this act, and delivered to him to be filed, or which shall have been intrusted or delivered to him to be delivered or transmitted to any other person or persons in pursuance of this act, every such person, his aiders, procurers and abettors, shall be deemed and taken to be guilty of a misdemeanor, and

Penalty.

on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor for any term not exceeding two years, or both.

Unlawful actions of district officers.

191. If any member of any district board of registry and election shall, at any election, knowingly and willfully receive, or assent to receive, the vote of any person who is not by law entitled and qualified to vote at such election, or shall willfully and designedly make or sign any false or untrue statement or certificate of the result of any such election, or suppress, destroy, withhold, mutilate, change or alter any such statement or certificate, or any copy thereof made in pursuance of this act, or shall knowingly and willfully make any false or untrue entry in any poll-book, or shall, in canvassing and estimating the votes received at any such election, willfully and corruptly write any figure or mark opposite the name of any person voted for at such election, or refuse or omit to write any such figure or mark when he is by this act required so to do, or shall corruptly and without sufficient excuse omit or refuse to deliver or transmit to the clerk of such county, within the time by this act prescribed, the statement of the result of any such election, which shall have been delivered to him

to be delivered or transmitted to such clerk, every person so offending, his aiders, procurers and abettors, shall be deemed and taken to be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or imprisonment at hard labor for any term not exceeding two years, or both. Penalty.

192. In addition to the penalties provided by law for the unlawful sale or offer to sell or exposure for sale of any spirituous, vinous, malt or intoxicating liquors on any election day, every person so offending, for every offense, shall forfeit and pay the sum of one hundred dollars, to be sued for and recovered in an action of debt, in any court having jurisdiction of that amount, by any citizen of this state, resident in the county where such offense, shall be committed, one-half of which penalty shall, when collected, be paid to the county collector of said county where said offense is committed, for the benefit of said county, and the other half to the person who shall prosecute for the same. Unlawful sale of liquors. Penalty.

193. Spirituous, vinous, malt or intoxicating liquors shall not be brought by any person into the polling-place on the day of election, or on any day of registry, during the hours that the election or registration is in progress, nor during the counting or canvassing of the votes; any violation of the provisions of this section shall be a misdemeanor, punishable by a fine not exceeding one hundred dollars or imprisonment not exceeding two months, or both. Liquor not allowed in polling-place.

194. It shall be the duty of all sheriffs, under-sheriffs, police officers and constables, on any election day, during the hours of election, to arrest without warrant all persons who shall be found by them in the actual violation of any law prohibiting the sale, or offer to sell or exposure for sale, of any spirituous, vinous malt or intoxicating liquors on any election day, and take such person when arrested before some recorder, police justice or justice of the peace of the county in which such arrest shall be made, to be dealt with by him according to law; and it shall be the further duty of such sheriffs, under sheriffs, police officers and constables, to effectually close up all places where they shall have good reason to believe any spirituous, vinous or malt liquors, Duty of peace officers regarding sale of liquor.

ale, beer or cider, are being sold or offered or exposed for sale or given away, and keep the same effectually closed up till after such election.

Destroying certificate of nomination, &c., unlawful.

195. No person shall falsely make, or make oath to, or fraudulently deface or fraudulently destroy any certificate of nomination or petition, or any part thereof, or file, or receive for filing, any certificate of nomination or petition, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination or petition which has been duly filed, or any part thereof, or forge or falsely make the official indorsement of any ballot or official envelope; every person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not more than five years.

Penalty.

Hindering, or destroying ballots, &c., unlawful.

196. No person shall, during the election, with intent to hinder or delay said election, or to hinder or delay any voter in the preparation of his ballot, remove or destroy any of the ballots or pencils placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, nor on any pretext carry any official envelope from the polling-room during the election; any person willfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding five hundred dollars, and imprisonment until such fine and the costs of the conviction are paid.

Penalty.

Neglect of duties imposed upon officers.

197. Every public officer upon whom any duty is imposed by this act who willfully or negligently violates his said duty, or who neglects or willfully omits to perform the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for a term of not more than three years, or by a fine of not more than three thousand dollars, or both such fine and imprisonment; any person charged with the care of official ballots or envelopes under this act, who shall willfully destroy them, or either of them, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in state prison for not more than five years; any person who has undertaken to deliver official ballots and envelopes to the clerk of any city, township or municipality, and willfully

Penalty.

or negligently neglects or refuses so to do, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not more than one year.

Contents of ballot must not be revealed.

198. No person shall, within the polling-room, show his ballot after it is prepared for voting to any person in such a way as to reveal the contents, nor shall any person within the polling-place or within a hundred feet thereof solicit the voter to show the same; no voter, at any election where official ballots are used, shall knowingly vote or offer to vote any ballot except an official ballot inclosed in an official envelope, as by this act required, nor shall any voter at any election where official ballots are not used, vote or offer to vote any ballot, except the same be enclosed in an official envelope; any person violating any of the foregoing provisions of this section shall incur a penalty of twenty-five dollars for each offense, to be recovered by action of tort, before any court of competent jurisdiction, by any person who bona fide shall first bring suit therefor; no voter shall place or permit to be placed any mark upon the face or back of his ballot or official envelope by which the ballot or envelope may afterwards be identified by any other person as the one voted by him; whoever shall violate this last-mentioned provision of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding one year, or both, at the discretion of the court.

Must use official envelope.

Penalty.

Must not mark envelope.

Penalty

Duty of printer.

199. If any printer employed by any county or municipal clerk to print the official ballots and envelopes, or either or any of them, for such clerk, or any person engaged in printing the same, shall appropriate to himself or give or deliver or knowingly permit to be taken any of said ballots or envelopes by any other person than such county or municipal clerk or his duly authorized agent, or shall print or cause to be printed any official ballot or envelope in any other form than that prescribed by such county or municipal clerk, or with any other names thereon, or with the names spelled or the names or printing thereon arranged in any other way than that authorized and directed by this act, such person so offending shall be guilty of a misdemeanor

Penalty.

and on conviction thereof shall be punished by fine not exceeding one thousand dollars or imprisonment not exceeding five years, at the discretion of the court.

No distinguishing mark to indicate how person has voted.

200. If any person shall write, paste or otherwise place upon any official ballot or envelope any mark, sign or device of any kind as a distinguishing mark whereby to indicate to any member of any election board or other person how any voter has voted at any election, or if any person shall induce or attempt to induce any voter to write, paste or otherwise place on his ballot or envelope any mark, sign or device of any kind, as a distinguishing mark by which to indicate to any member of any election board or other person how such voter has voted, or shall enter into or attempt to form any agreement or conspiracy with any other person to induce or attempt to induce voters or any voter to so place any distinguishing mark, sign or device on his ballot or envelope, whether or not said act be committed or attempted to be committed, such person or persons so offending shall be guilty of a misdemeanor, and, being thereof convicted, shall be

Penalty.

punished by fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both, at the discretion of the court.

Knowledge of how person has voted must not be revealed.

201. If any member of any board of election have knowledge how any person has voted and shall reveal such knowledge to any other person, or shall fraudulently or corruptly disclose what other candidates were voted for on any ballot bearing a name not printed thereon, or fraudulently or corruptly give any information concerning the appearance of any ballot or envelope voted, such person so offending shall be guilty

Penalty.

of misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding two thousand dollars or imprisonment not exceeding five years.

Not lawful to induce person to vote or refrain from registering by promise of reward

202. If any person shall, directly or indirectly, by himself or by any other person in his behalf, give, lend or agree to give or lend, or shall offer, promise or promise to procure, or endeavor to procure, any money or other valuable consideration or thing to or for any voter, or to or for any person, in order to induce any voter to vote or refrain from registering for any election, or shall corruptly do or commit any of the acts in

this section mentioned on account of any such voter having voted or refrained from voting at an election, or registered or refrained from registering for an election, such person so offending shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine and imprisonment, or both, at the discretion of the court, the fine not to exceed two thousand dollars, and the imprisonment not to exceed five years. Penalty.

203. Any person who shall, directly or indirectly, by himself or by any other person in his behalf, give or procure, or agree to give or procure, or offer or promise to procure, or endeavor to procure any office, place or employment to or for any voter, or to or for any person on behalf of such voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or to register or refrain from registering, or shall corruptly do any act as aforesaid on account of any voter having voted or refrained from voting, or having registered or refrained from registering for any election, shall be guilty of a misdemeanor, and being thereof convicted, shall be punished by fine not exceeding two thousand dollars, or imprisonment not exceeding five years, at the discretion of the court. Promise of position unlawful. Penalty.

204. Any person who shall give, advance or pay, or cause to be given, advanced or paid any money or other valuable thing to any other person, or to the use of any other person, with the intent that such money or other valuable thing, or any part thereof, shall be expended or used for bribery of voters, or for any other unlawful purpose at any election, or who shall knowingly pay, or cause to be paid, any money to any person wholly or in part expended in bribery of voters at any election, shall be guilty of a misdemeanor, and, on conviction thereof, shall pay such fine not exceeding two thousand dollars, or undergo such imprisonment not exceeding ten years, as the court in its discretion may impose. Giving or causing to be given any valuable thing, unlawful. Penalty.

205. Any voter who shall directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any Agreeing to receive, &c., unlawful.

election, or for registering or agreeing to register, or for refraining or for agreeing to refrain from registering for any election, shall be guilty of a misdemeanor, and being thereof convicted, shall be punished by fine not exceeding one thousand dollars, or imprisonment for not longer than one year, at the discretion of the court.

Penalty.

Influencing an employee by threat, &c., unlawful.

206. Any employer of any workmen, or any agent, superintendent or overseer of any company or corporation employing workmen, or any person whosoever, who shall directly or indirectly, by himself or by any other person in his behalf or by his direction make use of or threaten to make use of any force, violence or restraint, or inflict or threaten to inflict by himself or by any other person any injury, damage, harm or loss against any person or persons in his employ, in order to induce or compel such employee or employees to vote or refrain from voting for any particular candidate or candidates at any election, or on account of such employee or employees having voted or refrained from voting for any particular candidate or candidates at any election, or who shall, by any sort of duress, constraint or improper influence or by any fraudulent or improper device, contrivance or scheme, impede, hinder or prevent the free exercise of the franchise of any voter at any election, or shall thereby compel, induce or prevail upon any voter to vote for or against any particular candidate or candidates at any election, shall be guilty of a misdemeanor, and being thereof convicted shall be punished by a fine not exceeding two thousand dollars, or imprisonment not exceeding five years, or both, at the discretion of the court before which conviction is had.

Penalty.

Obstructing polling-place.

207. If any person shall on election day obstruct the entrance to any polling-place, or shall obstruct or interfere with any voter, or do any electioneering within any polling-place, or publicly within one hundred feet of any polling-place, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding fifty dollars.

Penalty.

Unlawful printing of ballots.

208. Any person not authorized by the proper officers who shall print or make any envelope of a like character and with the names and words contained on the official envelope provided for in this act, or any person who

shall on or prior to election day have in his possession an official envelope or an envelope made in imitation thereof, without being such person as is authorized by this act to have charge or possession thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not exceeding one year. Penalty.

209. Any person who shall remove, destroy or mutilate any registry list or copy thereof, or who shall before such election closes, remove, destroy or mutilate any list of voters posted in accordance with this act, shall be guilty of a misdemeanor, and shall be punished on conviction thereof by a fine of not more than one thousand dollars or imprisonment for not more than two years. Removing, &c., registry list. Penalty.

210. Any person who solicits from a candidate for any elective office any money or other property, or who seeks to induce such candidate to purchase any ticket, card or other evidence of admission to any ball, picnic, fair or entertainment of any kind, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment for a period not exceeding six months, or both; *provided, however*, this act shall not apply to a request for a contribution by an authorized representative of the political party, organization or association of which such candidate is a member or by which he is nominated. Soliciting candidates unlawful. Proviso.

211. If proof be made before any justice of the peace, recorder or police justice of facts constituting probable cause for believing that this act has been violated, and that any person or persons have knowledge of the circumstances connected therewith, it shall be the duty of said justice or recorder to issue process of subpœna for the appearance of such person or persons other than the accused before him, to be examined touching the same; *provided*, that the lawful expenses of such subpœna and examination shall be paid by the applicant therefor, and such evidence shall be filed with the clerk of the county, to be used before the grand jury; *and provided, further*, that no such process of subpœna shall be issued or served, nor any such examination held on the day of election. Issue of subpœna upon probable cause. Proviso. Proviso.

Disfranchisement.

212. In addition to the penalties provided for violations of any of the provisions of this act, the court imposing such penalties may add thereto, that such offender be thenceforth disfranchised as a voter and disqualified to hold any office of trust or profit within this state for such length of time as such court may deem proper; *provided, nevertheless*, that nothing in this act contained shall be held or construed to in anywise absolve or relieve any person or persons from any liability, penalty, prosecution, indictment or punishment, for or on account of any violation of any law in force at the time of the passage of this act.

Proviso.

Witness must answer questions deemed proper.

213. On the trial of any indictment against any person or persons for violation of any of the provisions of this act, all witnesses sworn on any such trial shall truly answer all questions put to them which the court shall decide to be proper and pertinent to the issue involved; and no witness shall be excused from answering any such question on the ground that to answer the same might or would incriminate him, or might or would tend to criminate him; but no answer or answers made by any witness to any such question shall be used or admitted in evidence in any proceeding against said witness, except in case of a criminal proceeding for perjury in respect to his answers to such questions.

PRIMARY MEETINGS.

Who may vote at primary elections.

214. No person not at the time entitled to vote, by the laws of this state, at the special, general and local elections held in this state, shall vote at any primary meeting or caucus called or held by any political party or political organization of this state for the nomination or selection of persons to be voted for at any such elections, nor shall such person vote unless he is a legal resident of the political division in and for which such primary meeting or caucus is held.

False voting at primary.

215. If any person not entitled to vote as aforesaid shall vote or offer to vote at any such primary meeting or caucus, knowing or having reason to believe himself not entitled to vote as aforesaid, or if any person or persons shall counsel or procure any one to vote as

aforesaid, knowing or having reason to believe such voter not entitled so to vote, or if any person having voted at any primary meeting held by any political party or organization to nominate candidates or to elect delegates to nominate candidates, to be voted for at any election, shall vote or offer to vote at the primary meeting held by any other political party or organization held to nominate candidates or to elect delegates to nominate candidates to be voted for at the same election, such person or persons shall be deemed to be guilty of a misdemeanor, and on conviction thereof shall for each offense be punished by imprisonment at hard labor for a term of not more than three months, or by a fine of not more than one hundred dollars, or both, at the option of the court. Penalty.

216. It is hereby made the duty of the judges, inspectors and clerks or other officers of the primary elections, meetings or caucuses held for the purpose of nominating candidates for state, city and county officers, within the cities of this state, before entering upon the discharge of their duties, severally to take and subscribe to an oath or affirmation in the presence of each other in form as follows, namely: Oath of primary election officers.

["I, ——— ———, do —— that I will, as judge, inspector or clerk (as the case may be), at the ensuing primary election, impartially and faithfully perform my duties in accordance with she laws of New Jersey, and in accordance with the rules and regulations adopted by the ———— party, of the county of ———— (as the case may be), for the government of the said primary elections, meetings or caucuses to the best of my judgment and ability."] Form.

The oath or affirmation shall be first administered to the judge by one of the inspectors; then the judge so qualified shall administer the oath or affirmation to the inspectors and clerks, and may administer the oath to any elector offering to vote, as to his qualifications to vote at such election.

217. If any judge, inspector, clerk or other officer of a primary election as aforesaid, shall presume to act in such a capacity before taking and subscribing to the oath or affirmation required by this act, or shall willfully disregard or violate the provisions of any rule duly Fraudulent actions at primary.

made by the party of which he is a member, and for whom he is acting, for the government of the primary elections of the party, or if any judge or inspector of any primary election, as aforesaid, shall knowingly reject the vote of any person entitled to vote under the rules of the said party, or shall knowingly receive the vote of any person or persons not qualified as aforesaid, or if any judge, inspector, clerk or any other officer of a primary election, as aforesaid, shall be guilty of any willful fraud in the discharge of his duties, by destroying or defacing ballots, adding ballots to the poll, by false counting, by making false returns, or by any act or thing whatsoever, the person or persons so offending shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court.

Penalty.

Bribery, &c., at election of delegates.

218. If any person shall, directly or indirectly, give, offer or promise to give any sum or sums of money or any valuable thing in action, victuals, drink or preferment or other considerations, by way of fee, reward, gift or gratuity, or other valuable present or reward, to obtain, procure or influence the opinion, behavior, vote or abstaining from voting for the election of any delegate to any convention of any political party of this state to nominate any candidate or candidates for member of the legislature of this state, for any member of congress of the United States, for electors for president and vice-president of the United States, for governor of this state, or for any candidate for any office in any county, city, town, township or borough in this state; or if any person being a delegate to any political convention to nominate candidates for any of the offices named in this act, shall, directly or indirectly, ask for, accept, receive or take any sum or sums of money, or other valuable consideration by way of fee, reward, gift or gratuity, or other valuable consideration for the giving or refusing to give his vote at any such convention, all and every of such persons so offering, asking or receiving the same, in either case aforesaid, shall be deemed and taken to be guilty of misdemeanor, and on conviction thereof shall be punished by a fine or imprisonment, or both, at the

Penalty.

discretion of the court; said fine not to exceed five hundred dollars, nor such imprisonment six months.

Bribery at election.

219. Whoever shall, directly or indirectly, give, furnish, supply, offer or promise, or procure to be given, furnished, supplied, offered or promised, to any person or persons, any money, service, preferment or valuable thing, with the intent that such money or valuable thing or any other money, service, preferment or valuable thing shall be given, offered, promised or used, by any person or persons, by way of fee, reward, gift or gratuity, for giving or refusing to give any vote or votes of any citizen of this state, at any election of any public officer, state, county or municipal, to be held therein, or of any member of congress of the United States, of electors for president and vice-president of the United States, or at any election of any delegate or delegates to any political convention to be held for the nomination of any of the officers aforesaid, or by way of gift, gratuity or reward, for giving or withholding the vote or votes of any delegate or delegates at any such conventions, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine or imprisonment, or both; such fine not to exceed the sum of ten thousand dollars, and such imprisonment not to exceed the term of one year.

Penalty.

OF ELECTIONS BY SOLDIERS AND SAILORS ABSENT FROM THE STATE IN TIME OF WAR.

Right of soldiers and sailors to vote.

220. Whenever in time of war, any of the qualified electors of this state shall be in the actual military service of this state, or of the United States, in the army or navy thereof, by the authority of this state, or under a requisition from the president of the United States, and as such shall be absent from the election districts in which they reside, on the days appointed by law for holding any general, special or local election within this state, or within any congressional district, county, city, borough, town, township or municipality therein, such electors shall be entitled, at such times, to exercise the right of suffrage in their several districts in the manner and form hereinafter prescribed.

Absent elector to designate certain voter to act for him.

221. Such absent elector shall by an instrument in writing, executed by him not more than sixty days previous to any general or special election to be held in this state, authorize and empower any elector of the election district in which the said absent elector shall reside, on the day of said election, to cast for him his vote or ballot, in the manner prescribed in this act, for all officers for whom he would have a right to vote if he were present at such election; said instrument shall be signed by such absent elector, attested by two subscribing witnesses, and sworn (or affirmed) to before any field officer, captain, adjutant or commander of any regiment, company, battalion or detachment, or of any vessel or naval station to which the said absent elector may belong or be attached, and such officers are hereby duly authorized to administer oaths and affirmations for the purposes specified in this act, and they shall attach to their signatures their official designations.

Form of affidavit.

222. The said absent elector shall make and subscribe an affidavit in the form or of the effect following:

"I, A. B., do solemnly swear (or affirm) that I am a citizen of the United States, that I am now of the age of twenty-one years, that I have been (or will have been) a resident of the state of New Jersey for one year, and of the county of ——— for five months next preceding the election to be held on the ——— day of ———, eighteen hundred and———, and that I am now a resident of the ——— ward of the city (or town) of ——— and that I am (or will be) in all respects qualified to vote in said city (or town) at said election, and until said election intend to be a resident thereof; and I do further swear that I am in the actual military service of the state of New Jersey (or of the United States), in the army (or navy) thereof, and that I am a member of company——— of the——— regiment (describing the organization or vessel to which he belongs), now at or near ———, in the state (or territory, or country) of ———. Sworn to and subscribed before me this ——— day of ———, anno domini eighteen hundred and ———."

Ballot prepared and sent to designated voter.

223. The said absent elector in the service as aforesaid shall prepare and fold the ballot he designs to cast at such election, and inclose the same, together with the

instrument hereinbefore described, in an envelope, duly sealed, having on the outside thereof, either written or printed, the affidavit prescribed in the last preceding section of this act, sworn to and subscribed as therein required; the said envelope, prepared as aforesaid, shall be inclosed by him in another envelope, marked "soldier's (or sailor's) vote," sealed and directed to the elector empowered by the aforesaid instrument to cast the ballot of said absent elector, and the said absent elector may then transmit the same to the person to whom it is directed by mail or otherwise.

Contents of instrument.

224. The aforesaid instrument shall be in the words or of the effect following, namely:

"I, A. B., a resident and elector of the (——— ward of the) city (or township, or as the case may be) of ———, in the county of ———, in the state of New Jersey, but absent from my election district in the military service of the state of New Jersey (or of the United States) and now at ———, in the state of ———, in company ——— of the ——— regiment of ———, under the command of ———, do hereby authorize, empower and direct C. D., of the election district above mentioned, to cast for me the ballot herewith inclosed at the election, to be held in said election district, on the ——— day of ———, anno domini eighteen hundred ———, in the manner provided by the laws of the state of New Jersey."

Opening of envelope and casting of ballot.

225. The elector to whom such letter shall be directed may open the outer envelope thereof, but he shall not open the inner envelope; on the day of such election, and between the opening and the closing of the polls thereof, he shall deliver such inner envelope to the board of election of the proper election district, and at the polls thereof, and if the person whose name shall be signed to the affidavit on the outside of said envelope shall be determined by the said board of election to be a duly qualified voter in such election district, said envelope shall be by the said board publicly opened, and the vote or ballot therein contained shall be duly deposited in the ballot-box prepared to receive the ballots of voters, and the name of such absent elector shall be entered upon the poll-list, together with the name of the person delivering the ballot at the polls; no

envelope containing a soldier's or sailor's ballot shall be opened by the board of election unless the name of the person signing the affidavit on the outside of said envelope shall be found upon the registry list of the district where such person claims to reside, or unless an affidavit be made and subscribed by a voter of the district, to the effect that he knows that said person whose vote is so offered is a resident of said district; the ballots contained in any such envelope which shall have been opened or unsealed before the same shall have been delivered to the board of election, shall not be deposited in the ballot-box, but shall be rejected.

All affidavits, &c., preserved.

226. The affidavits and instruments hereinbefore described, and all envelopes marked "soldier's or sailor's" votes, not opened at such elections, shall be kept and filed by the clerk of the election in the same manner and place as poll-lists of such elections are required by law to be filed and kept.

Postmaster to take receipt.

227. Any person who shall be entitled to receive any letter or envelope marked as herein provided, before he shall take away the same, shall sign and deliver to the postmaster or his deputy or clerk, a receipt therefor, which receipt shall specify how many such letters or envelopes he has received, and otherwise, as far as may be, specify the particulars of the description thereof; and any willful omission to comply with the provisions of this section shall be adjudged a misdemeanor, and any person convicted thereof shall be punished accordingly.

Oath made when presenting ballot.

228. The person to whom any soldier's or sailor's ballot shall be sent as herein provided, shall at the time of delivering the same to the board of election to be deposited in the ballot-box, also present his oath or affirmation, in writing, setting forth that the ballot or ballots therewith presented have been received by him to deliver to said board of election, and that he has not in any manner changed, altered or opened the said ballot or ballots, or the inner envelopes thereof, and that he believes the same have not been changed, altered or opened by any other person.

Failure to comply with duties required.

229. Any member of any board of election, and any elector to whom said ballot shall be sent, who shall willfully neglect or refuse to perform any of the duties

required of him as aforesaid or who shall in any manner willfully violate or abuse any trust or duty hereby imposed, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for a period not exceeding six months, or both. Penalty.

230. Every person who shall deliver or present to the board of election under this act, any false, forged, altered or changed ballot, envelope or instrument of any such enlisted elector, provided for by this act, knowing the same to be so altered, forged or changed, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor for any period not exceeding two years, or both. Presentation of false ballot. Penalty.

231. Any officer of this state, or of the United States, or any other person, who shall directly or indirectly control, or attempt to control, any such enlisted elector as aforesaid in the exercise of any of his rights under this act, by menace, bribery, fear of punishment, hope of reward, or any other corrupt or arbitrary measure or resort whatever, or to annoy, injure or otherwise punish any such absent elector for the manner in which he may have exercised any such right, shall be deemed guilty of an offense against the government and dignity of this state, which shall be punished as a misdemeanor, and for which he may be indicted and tried at any future time when he may be found within the limits of this state, and upon conviction he shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not exceeding two years, or both. Unlawful to influence enlisted voter by threat, &c. Penalty.

232. The secretary of state is hereby authorized and required to prepare and have printed, at the cost of this state, the necessary blank forms and envelopes required to carry out the provisions of this act relative to the voting of enlisted electors; and shall cause the affidavits required by this act to be printed in blank upon the proper envelopes to contain the instrument required by this act; and shall at least one month previous to any general, special or local election cause such blank forms and envelopes, and copies of those sections of this act relating thereto, to be forwarded to the several regi- Secretary of state to prepare necessary blanks, &c.

ments from this state, in the service of this state or of the United States, in the field, and to the several hospitals, posts and naval stations, in sufficient quantity to furnish one copy of each blank form, envelope, and of the sections of this act required to be printed as aforesaid, to each person in actual military service of this state, or of the United States, in the army or navy thereof, from this state, and absent therefrom; *provided, however,* that such absent electors shall have the right to vote as hereinabove provided without being required to use an official ballot or envelope.

Proviso.

Repealer.

233. The act entitled "An act to regulate elections" approved April eighteenth, one thousand eight hundred and seventy-six, and all acts amendatory thereof and supplemental thereto, and all acts and parts of acts, general and special, inconsistent with this act, are hereby repealed, but this repealer shall not revive any act heretofore repealed, and this act shall take effect immediately; *provided,* that the members of any county board of elections and members of any district board of registry and election, in office, shall continue in office until the time or times herein provided for the commencement of the term of office of their successors.

Proviso.

Approved April 4, 1898.

CHAPTER 140.

An Act to repeal sundry acts relating to elections.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Repealer.

1. A further supplement to an act entitled "An act to regulate elections," approved the sixteenth day of April, one thousand eight hundred and forty-six, passed May twenty-fifth, one thousand eight hundred and ninety-four, is hereby repealed.

Repealer.

2. An act to regulate primary meetings and caucus of the several political parties of this state for the nomination of persons to be voted for at any elections held in

this state, approved March twenty-seventh, one thousand eight hundred and seventy-eight, is hereby repealed.

Repealer. 3. An act entitled "An act to regulate the elections of judges, inspectors and clerks of elections in cities, towns and townships, approved February twenty-sixth, one thousand eight hundred and seventy-nine, is hereby repealed.

Repealer. 4. An act to prevent and punish bribery at primaries, conventions and elections, approved May twenty-third, one thousand eight hundred and eighty-three, is hereby repealed.

Repealer. 5. An act to regulate the holding of and to prevent frauds in the primary elections of the several political parties in cities of the state of New Jersey, approved May ninth, one thousand eight hundred and eighty-four, is hereby repealed.

Repealer. 6. An act concerning the right of suffrage in this state, approved April eighth, one thousand eight hundred and ninety, is hereby repealed.

Repealer. 7. An act concerning elections, approved March fifth, one thousand eight hundred and ninety-six, is hereby repealed.

Repealer. 8. An act to define the meaning and effect of a vote upon the submission of a question or proposition to the decision of legal voters, approved March twenty-fourth, one thousand eight hundred and ninety-six, is hereby repealed.

Enacting clause. 9. This act shall take effect June first, one thousand eight hundred and ninety-eight.

Approved April 4, 1898.

CHAPTER 141.

A Further Supplement to an act entitled "An act to authorize cities to construct sewers and drains, and to provide for the payment of the cost thereof," approved March eighth, one thousand eight hundred and eighty-two.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Assessments may be paid in twenty installments.

1. Wherever the assessments for the construction of sewers and drains, as provided for by the act to which this is a supplement, with all costs, interest and charges thereon to date of the final assessment shall have been made, and any of the owners of lots and parcels of land so assessed has not paid the said assessment as now provided by law, so that the whole of said assessment is now due and payable, it shall and may be lawful for all such owners of lots and parcels of land so assessed to pay the said amount in twenty equal yearly payments, with interest thereon from said date at the rate of five per centum per annum, payable semi-annually; and wherever the owners of lots or parcels of land have paid into the treasury of any such city any installment of any such assessment as provided for by any law applicable to such assessments, it shall and may be lawful to extend such installments so paid as aforesaid to the installments herein provided for; *provided*, that this act shall not apply to cities of the first class; *provided, however*, that payments may be made in the manner aforesaid only when so authorized by resolution of the board of aldermen or other governing body in such city; *and provided further*, that the first of such twenty payments be made within thirty days after the adoption of such resolution by said board of aldermen or other governing body of said city.

Rate.

Proviso.

Proviso.

Approved April 5, 1898.

CHAPTER 142.

An Act to defray the incidental expenses of the legislature of New Jersey for the session of one thousand eight hundred and ninety-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

State treasurer authorized to pay certain amounts.

1. That it shall be lawful for the treasurer of the state of New Jersey to pay upon the warrant of the comptroller, to the several persons hereinafter named, the following amounts, that is to say:

Item No. 1. To each clergyman for opening sessions of the senate and house of assembly with prayer, during session one thousand eight hundred and ninety-eight, ten dollars, $10 00

Item No. 2. To each officer of the senate and house of assembly of the session of one thousand eight hundred and ninety-seven, who was present and rendered services in opening the session of one thousand eight hundred and ninety-eight, ten dollars, $10 00

Item No. 3. To Mrs. Elizabeth Kucker for washing towels for senate and house of assembly, sixty-five dollars, $65 00

Item No. 4. To J. C. Rankin Co., for bill-files for house of assembly, session of one thousand eight hundred and ninety-eight, seven hundred and thirty-eight and twenty-six one-hundredths dollars, $738 26

Item No. 5. To J. C. Rankin Co., for stationery, house of assembly, session of one thousand eight hundred and ninety-eight, nine hundred and eighty-eight and eighteen one-hundredths dollars, $988 18

Item No. 6. To The John L. Murphy Publishing Company, for stationery and sup-

plies furnished the speaker of the house of assembly, session of one thousand eight hundred and ninety-eight, forty-two and fifty-three one-hundredths dollars, $42 53

Item No. 7. To The John L. Murphy Publishing Company, for stationery and supplies furnished the sergeant-at-arms of the house of assembly, session of one thousand eight hundred and ninety-eight, twelve and ten one-hundredths dollars, $12 10

Item No. 8. To The John L. Murphy Publishing Company, for furnishing stationery and supplies to Charles H. Folwell, engrossing clerk of the house of assembly, session of one thousand eight hundred and ninety-eight, seventy and fifty-seven one-hundredths dollars, $70 57

Item No. 9. To The John L. Murphy Publishing Company, for furnishing stationery and supplies to Thomas H. Jones, clerk of the house of assembly, session of one thousand eight hundred and ninety-eight, one hundred and eighty-nine and twenty one-hundredths dollars, $189 20

Item No. 10. To MacCrellish & Quigley, for supplies house of assembly, session of one thousand eight hundred and ninety-eight, thirty-nine and forty-five one-hundredths dollars, $39 45

Item No. 11. To John R. Flavell, for supplies furnished to house of assembly, session of one thousand eight hundred and ninety-eight, sixty dollars, $60 00

Item No. 12. To L. N. Clayton, for furnishing toilet supplies to John R. Flavell, sergeant-at-arms of the house of assembly, session of one thousand eight hundred and ninety-eight, three hundred and two and eighty-five one-hundredths dollars, $302 85

Item No. 13. To Thomas S. Husk, for services as postmaster of the house of assembly, session of one thousand eight hundred and ninety-eight, one hundred dollars, $100 00

Item No. 14. To Edwin Smith, for services as assistant postmaster of the house of assembly, session of one thousand eight hundred and ninety-eight, one hundred dollars, $100 00

Item No. 15. To Ernest Edson, for services as keeper of the gentlemen's gallery of the house of assemby, session of one thousand eight hundred and ninety-eight, three hundred and fifty dollars, $350 00

Item No. 16. To Henry Mueller, Jr., for services as keeper of the ladies' gallery of the house of assembly, session of one thousand eight hundred and ninety-eight, three hundred and fifty dollars, $350 00

Item No. 17. To John Heck, for services as clerk to committee on corporations of the house of assembly, session of one thousand eight hundred and ninety-eight, one hundred and fifty dollars, $150 00

Item No. 18. To Evan F. Benners, for services as assistant clerk in the engrossing department of the house of assembly, session of one thousand eight hundred and ninety-eight, five hundred dollars, $500 00

Item No. 19. To Herbert H. Matts, for services as assistant to the clerk of the house of assembly, and clerk to the committee on incidental expenses, session of one thousand eight hundred and ninety-eight, five hundred dollars, $500 00

Item No. 20. To Joseph M. Thompson, for services as assistant engrossing clerk of the senate, for the session of one thousand eight hundred and ninety-eight, three hundred and fifty dollars, $350 00

Item No. 21. To John Callahan, Jr., for services as clerk of senate committee on revision of the laws and municipal corporations, for the session of one thousand eight hundred and ninety-eight, three hundred dollars, $300 00

Item No. 22. To Joseph Leonard, for services as doorkeeper of the senate, for the session of one thousand eight hundred and ninety-eight, three hundred and fifty dollars, $350 00

Item No. 23. To Victor Carlson, for services as coat-room keeper of senate, for the session of one thousand eight hundred and ninety-eight, three hundred and fifty dollars, $350 00

Item No. 24. To Gandy Robinson, for services as clerk to senate committee of borough and borough commissions, for the session of one thousand eight hundred and ninety-eight, three hundred dollars, $300 00

Item No. 25. To Leonard Pikaart, for extra services as private secretary for president of the senate, for the session of one thousand eight hundred and ninety-eight, fifty dollars, $50 00

Item No. 26. To Howard Truax, for services as clerk to the senate committee on appropriations and judiciary, for the session of one thousand eight hundred and ninety-eight, three hundred and fifty dollars, $350 00

Item No. 27. To L. N. Clayton, for furnishing toilet supplies to Samuel T. Atchley, sergeant-at-arms of the senate, for the session of one thousand eight hundred and ninety-eight, one hundred and one dollars, $101 00

Item No. 28. To John L. Murphy Publishing Company, for furnishing stationery and supplies to Edgar Williams, engrossing clerk of the senate, for the session of one thousand eight hundred and ninety-eight, fifty-seven dollars and twenty cents, $57 20

Item No. 29. To John L. Murphy Publishing Company, for stationery and supplies furnished the sergeant-at-arms and the house of assembly, for the session of one thousand eight hundred and ninety-eight, thirty-two dollars and forty cents, $32 40

Item No. 30. To John C. Rankin Company, for stationery, bill-files, &c., furnished the senate, for the session of one thousand

eight hundred and ninety-eight, four hundred and twenty-seven and fifty one-hundredths dollars, $427 50

Item No. 31. To MacCrellish & Quigley, for supplies furnished officers of the senate, for the session of one thousand eight hundred and ninety-eight, one hundred and seventy-eight and twenty-eight one-hundredths dollars, $178 28

Item No. 32. To the Electric Cutlery Company, for counter-shears furnished sergeant-at-arms of the senate, for the session of one thousand eight hundred and ninety-eight, twenty-four dollars, $24 00

Item No. 33. To MacCrellish & Quigley, for books and calendars furnished the senate, for the session of one thousand eight hundred and ninety-eight, eighty-nine dollars, $89 00

Item No. 34. To Advocate Publishing Company, for stationery furnished the senate, for the session of one thousand eight hundred and ninety-eight, forty-six dollars, $46 00

Item No. 35. To Ames & Rollison, for testimonial to Hon. John W. Griggs, seventy-five dollars, $75 00

Item No. 36. To William H. Rea, for furnishing and engrossing oaths of senators and members of house of assembly and officers of the legislature, session of eighteen hundred and ninety-eight, fifty dollars, $50 00

Item No. 37. To John J. Matthews, for furnishing one hundred and fifty copies of members' pocket calendars for the senate and house of assembly, one hundred and fifty dollars, $150 00

2. This act shall take effect immediately.

Approved April 6, 1898.

CHAPTER 143.

An Act to provide for the decoration and repairing of the assembly chamber and to make alterations and repair to the rooms of the executive department.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Authorizing repairs, &c., in the capitol.

1. The governor, treasurer and comptroller are hereby authorized to decorate and repair the assembly chamber and to renovate the rooms of the executive department, and to make such alterations in the same as they may deem necessary, and for this purpose they are hereby authorized to procure the preparation of the necessary plans and estimates, to employ assistants as may be necessary and to execute and carry out a contract or contracts for the construction of the said work; they may reject any or all proposals which in their judgment are not in the interest of the state.

Appropriation.

2. For the purposes of this act the sum of fifteen thousand dollars, or so much thereof as may be found necessary, is hereby appropriated, which shall be paid by the treasurer, on the warrant of the comptroller, in such sums as may from time to time be necessary for carrying on the work, on approval of the same by the governor, treasurer and comptroller or a majority of them.

3. This act shall take effect immediately.

Approved April 6, 1898.

CHAPTER 144.

An Act to amend an act entitled "An act giving the state commissioner of public roads a fixed salary instead of per diem pay, and limiting the expenses connected with the office," approved March twenty-fifth, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. The first section of said act shall be amended so as to read as follows:

Salary and allowance.

1. The annual salary of the state commissioner of public roads shall be fifteen hundred dollars, and he shall be allowed the sum of fifteen hundred dollars per year, or so much thereof as shall be necessary for clerk-hire, attorney and consulting engineer fees, stationery and actual traveling expenses.

Repealer.

2. All acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Approved April 6, 1898.

CHAPTER 145.

A Further Supplement to the act entitled "An act to provide for the purchase of sites for and the erection and equipment for armories in cities of the first and second class and making appropriations therefor, and to provide for the taking of real estate for such sites by commission in case the same cannot be purchased by agreement," approved April ninth, one thousand eight hundred and ninety-seven.

Preamble.

WHEREAS, The appropriation made for the equipment and furnishing of the armory in the city of Camden, being insufficient for the uses and purposes for which it was intended,

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Appropriation.

1. The sum of six thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the equipment and furnishing of the armory at the city of Camden, the said sum, or so much thereof as may be necessary for the said purpose, to be disbursed by and under the direction of the state military board, and the said sum of money, or so much thereof as may be necessary for the purposes aforesaid, to be paid by the state treasurer out of any funds in his hands not otherwise appropriated, on the warrant of the comptroller, upon requisition of the state military board, approved by the governor; *provided*, the above amount be included in the annual appropriation law.

Distribution by state military board.

Proviso.

2. This act shall take effect immediately.

Approved April 6, 1898.

CHAPTER 146.

An Act to amend an act entitled "An act to promote the propagation and growth of seed oysters and to protect the natural oyster beds of this state," approved March thirtieth, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section one of the act to which this is an amendment is hereby amended to read as follows: Section amended.

1. For the purpose of promoting the propagation and growth of seed oysters and to protect the natural oyster beds of this state, the said natural oyster beds shall be and they hereby are divided into six districts as follows: District divisions.

District number one, Barnegat bay north of Gunning river;

District number two, from Gunning river south to Gaunt's Point;

District number three, from Gaunt's Point south to the south side of Great bay, Atlantic county;

District number four, from south side of Great bay to the division line between Atlantic county and Cape May county;

District number five, the waters of Cape May county;

District number six, the river and creeks of Delaware bay and Maurice river cove.

2. Section four of the act to which this is an amendment shall be amended so as to read as follows: Section amended.

4. It shall not be lawful for any person or persons to rake, tong, dredge, or in any manner disturb or work upon any grounds occupied by the state of New Jersey for the purpose of planting shells, until the second season after the spat have adhered to the shells so planted, providing the catch is sufficient to justify the said com- Unlawful to disturb beds.

missioners in turning them out for public grounds; and any person or persons offending against the provisions of this act shall be deemed guilty of a misdemeanor

Penalty.

and punishable, after conviction, by a fine of fifty dollars for each and every offense, or imprisoned in any county jail for a period of three months, or both, at the discretion of the court, and the fine, when so recovered, shall immediately be paid to the treasurer of this state for

Proviso.

the use of the state; *provided*, the provisions of this section shall not apply to the rivers and creeks of Delaware bay and Maurice river cove.

Section amended.

3. Section five of the act to which this is an amendment shall be amended so as to read as follows:

Taking oysters during closed season a misdemeanor.

5. The taking of oysters from any natural oyster seed grounds during the closed season from the first day of May until the first day of October, or the violation of any provision of the "culling act," shall be considered a misdemeanor and the aforesaid penalty shall be inflicted, and that the said oyster commissioners shall have authority to arrest any person or persons caught violating any of the provisions of this act, that they shall be empowered to wear a badge designating their office, which shall distinguish their authority, and which shall be recognized and respected as officers empowered to enforce and protect the provisions of this

Proviso.

act; *provided*, the provisions of this act shall not apply to the rivers and creeks of Delaware bay and Maurice river cove.

4. Section seven of the act to which this is an amendment shall be amended so as to read as follows:

Appropriation.

7. For the purpose of carrying out the provisions of this act there shall be available, when appropriated, the sum of ten thousand dollars annually, for the period of three years, of which said sum four thousand dollars

Distribution.

shall be distributed in the various districts named in this act for the purchasing and spreading of shells as follows:

First district, a sum not to exceed twelve hundred dollars;

Second district, a sum not to exceed five hundred dollars;

Third district, a sum not to exceed eight hundred and fifty dollars;

Fourth district, a sum not to exceed eight hundred and fifty dollars;

Fifth district, a sum not to exceed seven hundred dollars;

Sixth district, a sum not to exceed fifteen hundred dollars;

Remainder.

The remainder of the sum annually appropriated, or such portion of it as may be necessary, shall be available for the payment of the commissioners appointed to carry out the provisions of this act; any surplus to be used under this act, as a majority of the commissioners may decide.

Additional commissioners.

5. In addition to the commissioners already appointed under the provisions of the act to which this is an amendment, the governor shall have authority to appoint two competent residents of the sixth district, whose terms shall run simultaneously with the commissioners already appointed.

6. This act shall take effect immediately.

Approved April 6, 1898.

CHAPTER 147.

An Act relating to the Trenton battle monument.

Preamble.

WHEREAS, "The Trenton battle monument association," a corporation under the laws of this state, has acquired a valuable tract of land in the city of Trenton, and has erected thereon a beautiful monument commemorative of the battle of Trenton; and whereas, the said association has received from this state, from the general government, and from citizens of New Jersey, more than eighty thousand dollars, all of which has been used for the purposes aforesaid; and whereas, all this valuable property, with the historic shaft itself, belongs to and is in the name of the state of New Jersey:

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Appropriation.

1. There shall be paid to the treasurer of the Trenton battle monument association, for the purpose of keeping said property in good condition and repair, the sum of five hundred dollars annually; *provided*, that no payments shall be made pursuant to this act until the amount thereof shall have been included in the annual appropriation bill.

Proviso.

2. This act shall take effect immediately.

Approved April 6, 1898.

CHAPTER 148.

A Further Supplement to an act entitled "An act concerning contagious and infectious diseases among animals, and to repeal certain acts relating thereto," approved May fourth, one thousand eight hundred and eighty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. The second section of the act entitled "A supplement to an act entitled 'An act concerning contagious and infectious diseases among animals, and to repeal certain acts relating thereto,'" approved May fourth, one thousand eight hundred and eighty-six, which supplement was approved May twenty-second, one thousand eight hundred and ninety-four, and which further supplement was approved March twenty eighth, one thousand eight hundred and ninety-five, be and the same is hereby amended to read as follows:

Upon notification, inspection shall be made.

2. Whenever the state tuberculosis commission shall be notified by the secretary of the state board of health or the state dairy commissioner or any owner or owners of dairy animals requesting them to inspect animals supposed to be diseased with tuberculosis, such person as may be designated by the commission shall

proceed to make such inspection and may agree with the owner or owners upon a valuation of such animals as are to be inspected; in cases where no agreement can be reached the person designated by the commission shall choose one disinterested freeholder, the owner or owners shall choose one, and the two shall designate a third, who shall escertain and decide upon the market value of each animal to be examined by the commission, and shall sign certificates thereof in the presence of a witness who shall attest the same; such valuation shall in each case be made on the basis of the market value of the animals the day the valuation is made; and if, upon examination by the commission, any animals in said herd are condemned to be slaughtered, three-fourths of such valuation so ascertained shall be paid by the state to the owner or owners on presentation of such certificate with the approval of the said commission endorsed thereon; *provided*, such appraisement shall not exceed forty dollars for each animal condemned; *and provided further*, that no compensation shall be made for animals considered by the commission to be of no value.

Fix value of animals to be inspected.

Payment for condemned animals.

Proviso.

Proviso.

3. Section five of said act be amended to read as follows:

Section amended.

5. There shall be appropriated to the state tuberculosis commission the sum of ten thousand dollars for defraying the expenses and for the payment of the proportion of the appraised value of slaughtered animals under this act, all which payments and expenses shall be made by the treasurer of this state upon the warrant of the state comptroller; *provided*, that no payments shall be made pursuant to this act until the amount thereof shall have been included in the annual appropriation bill.

Appropriation.

Proviso.

4. This act shall take effect immediately.

Approved April 6, 1898.

CHAPTER 149.

An Act to authorize the council or other legislative body having control of the financial affairs of boroughs, towns, townships or other municipalities, to offset judgments secured against them by crediting the same upon overdue taxes, assessments and like indebtedness.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Judgment against certain municipalities may be offset by taxes due from creditor.

1. Whenever any judgment shall be or shall have been recovered in any court of competent jurisdiction in this state, against any borough, town, township or other municipality, by any person or corporation who is or shall have been at the time of the recovery of such judgment, indebted to said borough, town, township or other municipality, for taxes, assessments for public improvements, water rates or other indebtedness of a public nature, it shall at any time be lawful for the borough council or other legislative body having control of the financial affairs of such municipality to settle and extinguish such judgment, and any execution issued thereon, by offsetting and crediting the amount thereof upon and against any over-due taxes, assessments or other like indebtedness due from such judgment creditor.

Repealer.

2. All acts and parts of acts, inconsistent with the provisions of this act, be and are hereby repealed, and this act shall take effect immediately.

Approved April 7, 1898.

CHAPTER 150.

A Supplement to an act entitled "An act concerning railroad corporations," approved March tenth, one thousand eight hundred and ninety-three.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Authorizing purchase of certain branch lines.

1. It shall be lawful for any railroad corporation of this state to acquire, lease or purchase any branch line heretofore constructed to any clay bed, mine, mill, factory, manufacturing establishment, or warehouse, not exceeding two miles in length, with as full power and authority to hold, maintain and operate the same as part of their main line as if said branch had been constructed in pursuance of legislative authority conferred upon such corporation for that purpose; *provided, however*, a correct and accurate map and route of such branch shall be filed in the office of the secretary of state of this state, within thirty days after the same shall be so acquired, leased or purchased.

Proviso.

2. This act shall take effect immediately.

Approved April 7, 1898.

CHAPTER 151.

An Act to validate certain deeds and mortgages heretofore made by corporations whose charters have become void.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No deed of conveyance or mortgage heretofore made or purporting to have been made by any corpora-

Deeds and mortgages of corporations declared void valid.

tion organized under the laws of this state, for or upon any lands, tenements or hereditaments situate in this state, which shall have been recorded prior to the first day of January, one thousand eight hundred and ninety-eight, shall be invalid because of the fact that, prior to the making of such deed or mortgage, proclamation may have been made by the governor of this state that the charter of such corporation had become void or the powers conferred by law upon such corporation had become inoperative and void for non-payment of any state taxes assessed against such corporation; but every such deed of conveyance or mortgage shall be as valid and effectual in law as if such proclamation had not been made; *provided*, that such deed or mortgage shall have been taken in good faith and for a valuable consideration; *and provided, also*, that nothing in this act contained shall in any way affect or impair the rights of the state to enforce payment of any tax due and unpaid by such corporation, together with interest and costs thereon, in the same way and manner, and with like effect as if such conveyance or mortgage had not been made.

Proviso.

Proviso.

2. This act shall take effect immediately.

Approved April 7, 1898.

CHAPTER 152.

A Supplement to an act entitled "A general act relating to boroughs (Revision 1897)," approved April twenty-fourth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. The ninetieth section of the act entitled "A general act relating to boroughs (Revision 1897)," approved April twenty-fourth, one thousand eight hundred and

ninety-seven, is hereby amended so as to read as follows:

Consent of owners of majority of real estate and majority of votes cast necessary.

90. It shall not be lawful for the council to pass or adopt any ordinance or resolution for the construction or purchase of any water-works or water-supply plant or plants, sewers or system of sewerage or drainage until there shall have been presented to the council a consent in writing that water-works or water-supply plant or plants, sewers or system of sewerage and drainage shall be constructed or purchased, which consent shall be signed by the owners of a majority of real estate in said borough according to its assessed valuation as contained in the latest preceding assessment for the purpose of taxation made in said borough, nor until the same shall have been assented to by a majority of the legal votes cast for or against the proposition of construction, purchase or contract at any general or special election held in said borough; if said proposition is to be submitted to the voters at a special election called for that purpose, such election shall be called and conducted in the manner herein provided for a similar election in the case of the proposed issue of bonds.

Previously held election legal.

2. Any election heretofore held in accordance with the provisions of section ninety of said act as hereby amended is hereby declared a valid and legal election, and the council of any borough in which such election shall have been held is hereby authorized and empowered to pass the necessary ordinance or ordinances, resolution or resolutions, for the construction or purchase of water-works, or water-supply plant or plants, sewers or a system of sewerage and drainage; *provided*, such construction or purchase of water-works or water-supply plant or plants, sewers or a system of sewerage and drainage shall have been assented to by a majority of the legal votes cast for or against the proposition of construction, purchase or contract at such election.

Proviso.

Approved April 7, 1898.

CHAPTER 153.

A Further Supplement to an act entitled "An act providing for the formation, establishment and government of towns," approved March seventh, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Providing for payment of assessments in report confirming same.

1. It shall be lawful for the town council, on the confirmation of any report of the commissioners of assessment in such town on account of the construction of any main, trunk or outlet sewer or sewers forming a part of the general sewer system in such town, to provide in the resolution confirming such report for the payment of the assessments referred to therein in not exceeding ten annual installments, and in case of such provision to fix the rate of interest not exceeding six per centum per annum, to be charged upon the unpaid portion of such assessment; upon default in the payment of any installment or of the interest as fixed in and by such resolution, the whole assessment shall be immediately due and payable, and the town collector shall proceed to collect the same as other assessments are collected in such town.

Rate.

In case of default.

Bonds may be reissued.

2. Whenever any bonds heretofore legally issued by the town, or any bonds which may have been legally issued by the municipality, or any school district thereof, of which such town is the successor, are now due and unpaid or shall hereafter become due, the town council may renew ninety-six and two-thirds per centum of said indebtedness or any less part thereof by the issuing and sale of the bonds of such town for that purpose; which bonds shall be made payable in not exceeding twenty years from the date of issuing the same, and shall bear interest at a rate not exceeding six per centum per annum, and be issued in such sums as the town council shall by ordinance or resolution

Amount.

Rate.

determine, and shall be executed under the corporate seal of such town, and be signed by the chairman of the town council and shall have coupons attached for every half year's interest, or may be registered at the option of the purchaser or holder.

3. This act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 154.

An Act to protect the owners of bottles, boxes, siphons, tins, kegs or other articles used in the sale of soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages, or medicines, medical preparations, perfumery, oils, compounds or mixtures.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and designated as "the New Jersey bottle act," and may be so cited and referred to in all process and proceedings taken under it, and in all courts and places. Designation.

2. Any person or corporation engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages, or any medicines, medical preparations, perfumery, oils, compounds or mixtures, in bottles, boxes, siphons, tins, kegs or other articles, with his or its name or names or other mark or marks, or device or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles, boxes, siphons, tins, kegs or other articles used by him or it, may file in the office of the clerk of the county in which his or its principal place of business is situated, or if such per- Provision for filing name or mark.

son or corporation shall manufacture or bottle out of this state, then in any county in this state in which such person or corporation shall transact business, as well as in the office of the secretary of state a description of the name or names, marks or devices so used by him or it respectively, and cause such description to be printed once in each week, for two weeks successively, in a newspaper published in the county in which said notice may have been filed as aforesaid.

Publication of description.

Unlawful to use box, bottle, &c., without consent.

3. It is hereby declared to be unlawful for any person or corporation to fill with soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages, or with medicine, medical preparations, perfumery, oils, compounds or mixtures, any bottle, box, siphon, tin, keg or other article so marked or distinguished with or by any name, mark or device, of which a description shall have been filed and published, as provided in section two of this act, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of or traffic in the same, without the written consent of the owner or owners thereof.

Penalty.

4. Any person offending against the provisions of this section shall be punished by a fine of not less than five nor more than twenty-five dollars, together with the costs of such conviction, where costs are taxable, or by imprisonment for a term not less than ten days or more than six months, or by both fine and imprisonment, at the discretion of the court or magistrate before whom the offense shall be tried.

Making and hearing complaint.

5. Whenever any person shall complain, on oath or affirmation, to any criminal court or police justice in any city of the first class, or to any recorder or other police magistrate or justice of the peace, in any other city, or in any borough or township, that any person or corporation has violated any of the provisions of this act, the court or magistrate to whom such complaint shall be presented shall issue process at the suit of the state, which process may be either a summons or a warrant against the person or corporation so charged, which process, when in the nature of a warrant, shall be

returnable forthwith, and when in the nature of a summons shall be returnable in not less than two nor more than ten days, and shall be served at least one day before its return; such process shall state generally a violation of this act, and on the return thereof, or at any time to which the trial of the case shall be adjourned, the court or magistrate issuing the same shall proceed in a summary manner to hear testimony and to determine and give judgment in the case without the filing of any pleadings, and if the defendant or defendants shall be convicted, may impose the penalty or penalties by this act provided; it shall not be necessary to take or keep any record of the evidence or testimony taken on such trial; service of summons upon a person, other than a corporation, may be made either personally or by leaving a copy at his dwelling-house or usual place of abode; service upon a corporation may be made by delivering a copy of the summons to any officer or employe of such corporation who may be found in this state.

Recovery of property unlawfully held.

6. Whenever any person shall make oath before any criminal court or police justice in any city of the first class, or any recorder, police justice or justice of the peace in any other city, borough or township, that he has reason to believe and does believe that any of the bottles, boxes, siphons, tins, kegs or other articles, the property of any person or corporation who shall have complied with the provisions of section two of this act, are being unlawfully used or filled or trafficked in, or possessed by any person or corporation engaged in manufacturing or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages or medicines, medical preparations, perfumery, oils, compounds or mixtures, or that any junk dealer or dealer in second-hand articles, or any other person or corporation, has any such bottles, boxes, siphons, tins, kegs or other articles in his or its possession or secreted in any place, such court or magistrate shall issue a search-warrant to discover and obtain the same, and to bring before such court or magistrate the person or persons in whose possession such bottles, boxes, siphons, tins, kegs or other articles

may be found, and if any such are found unlawfully in the possession of any such person or persons the court or magistrate who issued the process shall proceed to trial and judgment in the manner provided for in section five of this act, and, upon judgment, shall also award possession of the property so taken under such warrant.

Disposition of fines.

7. All fines and costs imposed and collected upon any conviction under this act in any city of the first class shall be paid into the treasury of such city and be disposed of as fines and costs in indictable cases are now disposed of, and all fines and costs imposed and collected in any other city or in any borough or township shall be disposed of as now provided by law.

Use and possession of box, bottle, &c., without consent, presumptive evidence.

8. The use by any person or corporation, other than the person or corporation whose device, name or mark shall be or shall have been upon any such marked or distinguished bottle, box, siphon, tin, keg or other article, after a description of such name, mark or device shall have been filed and published in the manner provided in the second section of this act, without such written consent as aforesaid, for the sale therein of soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages, or any medicines, medical preparations, perfumery, oils, compounds or mixtures, or for the furnishing of such or similar beverages or articles to customers, or the buying, selling, using disposing of or trafficking in any such bottles, boxes, siphons, tins, kegs or other articles by any person other than the owner or owners thereof, without such written consent, or the having in his possession by any junk dealer or other dealer in second-hand articles of any such bottles, boxes, siphons, tins, kegs or other articles, a description of the marks, name or devices whereon shall have been so filed and published as aforesaid, without such written consent, is hereby declared to be presumptive evidence of an unlawful use or purchase of, or traffic in, such bottles, boxes, siphons, tins, kegs or other articles.

Deposit not a sale.

9. The requiring, taking or accepting of any deposit upon the delivery of any bottle, box, siphon, tin, keg or other article, the name, mark or device upon which has

been filed and published as provided for in section two of this act, shall not be deemed to constitute a sale thereof either optional or otherwise.

Refiling of name and mark not required.

10. Any person or corporation having heretofore filed in any of the offices mentioned in section two of this act a description of the name or names, marks or devices, upon his or its property therein mentioned, and having also caused the same to be published according to the law existing at the time of such filing and publication, shall not be required to again file and publish such description in order to be entitled to the benefits of this act.

Repealer.

11. The act entitled "An act for the better protection of manufacturers and bottlers of and dealers in mineral waters, beer, ale, porter and other beverages," approved March eleventh, one thousand eight hundred and eighty-one, and the two acts amendatory thereof, approved respectively March twenty-fifth, one thousand eight hundred and eighty-five, and March twenty-first, one thousand eight hundred and eighty-eight, and the supplement thereto approved March fifth, one thousand eight hundred and ninety, and the act entitled "An act for the better protection of persons manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, milk, cream or other beverages, owning and using bottles or boxes," approved March twentieth, one thousand eight hundred and ninety-one, and all other acts or parts of acts inconsistent herewith, are hereby repealed; *provided*, that any proceeding now pending under any of the acts above enumerated shall not abate, but may be proceeded in to final judgment as if this act had not been passed; *and provided further*, that nothing in this act contained shall be construed to repeal or modify or affect "An act for the protection of producers and shippers of milk," approved March eighth, one thousand eight hundred and eighty-three, or "An act in relation to milk cans," approved April sixteenth, one thousand eight hundred and ninety-one.

Proviso.

Proviso.

12. This act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 155.

An Act providing for the payment of the costs and expenses incurred in repairing and repaving paved streets in any city.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Bonds may be issued.

1. Where any municipal board having charge and control of repairing the public streets in any city shall have, within two years prior to the passage of this act, repaired or repaved any paved streets within such city under contract, awarded to the lowest bidder, and there shall be no fund in such city available for the payment of the costs and expenses thereof, then it shall be lawful for the board having charge and control of the finances of such city, with the approval of the mayor thereof, to issue the bonds of such city in an amount sufficient to pay the costs and expenses of such improvements; *provided, however*, that no such city shall issue bonds under the provisions of this act beyond the sum of one hundred and fifty thousand dollars.

Proviso.

Denomination, &c.

2. Said bonds shall be issued under the corporate seal of the city, signed by the mayor, attested by the city clerk and countersigned by the comptroller or other chief financial officer of such city; said bonds shall run for a period not exceeding thirty years, and be in such denominations and form as said financial board shall provide, and shall bear interest at not exceeding four per centum per annum, payable half-yearly; said bonds shall be sold at public sale at not less than par and accrued interest.

Rate.

Provision for payment of bonds.

3. There shall be included in the tax levy in such city annually the interest on said bonds for that year, and also a sum equal to two per centum of the principal thereof, which sum shall be paid into a special sinking fund of such city, and be invested and re invested in

order to provide for the payment of the bonds at maturity.

Application of proceeds.

4. The proceeds of such bonds, including any premium thereon, shall be used by the board having charge and control of the streets in such city, in the payment of the costs and expenses incurred by such city in the repavement or repairing of any paved street or streets therein as aforesaid, by contract awarded to the lowest bidder, where the work has been done and performed, or commenced or partly done and performed, under such contract, including interest upon any past-due installments upon any such contract; *provided, however,* that nothing herein contained shall be construed as authorizing any city to carry out any contract heretofore awarded for repavement, but under which no work has been performed on the street, or as authorizing any city to pay for advertising fees incurred upon such improvements beyond the rates fixed by law before the passage of this act.

Proviso.

Repealer.

5. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 156.

An Act respecting boroughs and providing for the purchase of sewers and systems of sewerage and drainage therein, with outlets therefor, and providing for the extension of the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Boroughs may acquire rights to sewers already constructed.

1. Any borough heretofore or hereafter formed or created may purchase sewers or systems of sewerage and drainage constructed within its territorial limits by the township committee or other governing body of any

township or other municipality from the territory of which such borough has been or shall be formed, and may acquire by purchase any rights or interest which said township or other municipality may have in said sewers or system of sewerage and drainage for such price and upon such terms as may be agreed upon between the borough council of such borough and the township committee or other governing body of said township or other municipality; and such borough may also in like manner enter into agreement with said township or other municipality for the right to use sewers within said township or other municipality for outlet purposes for the sewerage of such borough; and may also in like manner acquire any rights interest or property in outlet systems of sewerage and drainage or trunk sewers to tide-water which said township or other municipality has or shall have had by contract or otherwise in such outlet system or trunk sewerage for the territory included within the said borough.

Provision for payment.

2 For the purpose of raising the money necessary for said purchase, or for the purpose of raising the money required for the purpose of carrying out any such contract, the borough council of said borough may use any moneys not otherwise appropriated or may issue the bonds of the borough under the signature of the mayor and borough clerk with the corporate seal thereto affixed; such bonds shall be payable at such times, not more than thirty years from the date thereof respectively, and shall bear such rate of interest, not exceeding five per centum per annum, payable at such time as the said council may decide; the bonds may be either registered or coupon bonds, or both, and may be disposed of at public or private sale under such terms and conditions as the council may determine, at not less than par; all acts and proceedings to be had or taken under the provisions of sections one and two of this act by any borough council, township committee or other governing body of any municipality, may be by resolution, and shall not require the passage of any ordinance or any other or further proceeding than is herein provided for.

Issue bonds.

Time.

Rate.

Disposition.

Proceedings by resolution.

Benefits may be assessed upon property.

3. In case the sewers or system of sewerage and drainage with outlets therefor so purchased or acquired by

any borough shall have been constructed, built or laid prior to the incorporation of said borough and no assessment therefor had at said date of incorporation been made upon the property especially benefited thereby, then and in that case the said borough council so purchasing said sewers or system of sewerage and drainage and so acquiring the rights for outlets therefor shall pass a resolution ascertaining the expense of such purchase, which resolution, attested by the clerk, shall be delivered by him to the commissioners of assessment of the said borough, or to any one of them, and the said commissioners of assessment shall proceed in accordance with law to make an assessment upon the property especially benefited by the construction of the said sewer or system of sewerage and drainage, and shall in the making of the said assessment and in all matters connected therewith proceed in the same manner as if said sewers or system of sewerage and drainage had been constructed by authority of the council of the said borough and in accordance with law authorized the construction thereof; and the assessment so made shall be collected and enforced by the officers of the said borough in the same manner and with the same effect as other assessments for like improvements in said borough.

Extension of sewers

4. The borough council may, by ordinance, extend any sewer or system of sewerage and drainage so purchased, but every ordinance passed for the purpose of extending any sewer, or system of sewerage and drainage, in such borough shall be preceded by an application in writing for such improvement, describing the nature and kind of such improvement and of the work desired, signed by at least ten freeholders of such borough.

Action upon application

5. The borough council, upon receiving the application referred to in the preceding section and upon the introduction of the ordinance for making the said improvement, shall cause the clerk to give public notice of such proposed improvement, briefly describing it and stating the time when and the place where the council will meet and consider the objections thereto, which time shall not be less than ten days from the date of such notice; the said notice shall be posted in five of

the most public places in said borough for at least one week prior to the date therein named; and if at the time and place so specified the owners of one-half of the property fronting within the limits of the streets and avenues wherein it is proposed to extend such sewers or system of sewerage and drainage mentioned in said application do not object thereto in writing, said council may proceed to pass said ordinance, directing such improvement to be made; if such objection be filed, however, said ordinance shall not be passed, and no further proceedings shall be taken thereon, and no new application for such improvement shall be entertained by the council for the space of one year thereafter.

Providing money necessary for extension.

6. The moneys necessary for the extension of the said sewers, or system of sewerage and drainage, in any borough shall be provided and raised as is hereinbefore provided for the raising of the moneys necessary for the purchase of sewers, or system of sewerage and drainage, for such borough, and assessments upon the property especially benefited by the extension of said sewers, or system of sewerage and drainage, shall be made, collected and enforced in like manner as hereinbefore provided for assessments for the purchase of sewers, or system of sewerage and drainage, with outlet privileges.

7. This act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 157.

A Supplement to an act entitled "An act to establish a system of public instruction," approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Newly-created municipality may constitute a separate school district.

1. Whenever any borough or other municipality heretofore or hereafter set off from any existing municipality includes within its boundaries portions of a school

district or school districts existing at the time of the creation of such borough or other municipality, whether such school district or districts be created and are acting under the general law or under a special charter, or under or by virtue of the provisions of any municipal charter, the territory included within the boundaries of such borough or other newly created municipality may be created a separate school district by an order of the county superintendent, upon a petition to him by the governing body or bodies of the original school district or districts, under the seal or seals of such district or districts, although the said borough or newly created municipality may contain fewer than four hundred children between the ages of five and eighteen years, and the county superintendent in such order shall fix and determine the boundary line between the original district or districts and the separate district so created, and such order of the county superintendent shall take effect from the date of the filing by the state superintendent of public instruction of an order approving the same, in the office of the state superintendent of public instruction.

Petition to county superintendent.

Approval

2. Upon the filing by the state superintendent of public instruction in his office of an order approving the order of the county superintendent creating such borough or newly created municipality a separate school district and fixing and determining the boundary line or lines of the original district or districts as aforesaid, each district shall become vested with the title to any school house or school houses, school lot or lots or other school property located within the territorial limits of each district, respectively; and if for the erection, repair or purchase of such school house or school houses, school lot or school lots, or other school property there is an indebtedness for which the original school district or districts or the municipality of which it or they were a part, or the board of education, the board of trustees, or other governing body thereof is or are liable, the said indebtedness shall be assumed by and become the obligation of the board of education or board of trustees of the city, borough or incorporated town, township or school district which has become entitled to the said property, and upon payment of the said indebtedness

Vestment of title.

Payment of indebtedness previously created.

by the original school district or districts, or other municipality, or corporation liable therefor, an action may be maintained by the school district or school districts, municipality or corporation paying the said indebtedness, against the school district or corporation which has become entitled to the property for which the said indebtedness was originally incurred.

Repealer.

3. All acts and parts of acts, general or special, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 158.

A Supplement to an act entitled "An act to amend the law relating to the property of married women," approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Court of chancery may authorize assignment of interest.

1. Notwithstanding that a married woman is restrained from anticipation, the court of chancery may, if it thinks fit, where it appears to the court to be for her benefit, by order or decree, with her consent, bind her interest in any property, or authorize her or her trustees to assign or convey the same.

2. This act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 159.

An Act providing for the grading and curbing of streets, and the flagging of sidewalks in cities of this state, and relating to funds for the payment of the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Grading, curbing and flagging of sidewalks may be done by ordinance.

1. It shall be lawful for the board or body of such city now or hereafter having lawful authority to enact ordinances for the grading and curbing of streets and the flagging of sidewalks, and in which such improvements are made by ordinances, to provide in one ordinance for the grading and curbing of any street, or any part thereof, and the flagging of the sidewalks along the same, or of any part of the said street, and such public improvements may be made by such municipal board without the request of the owners of the land fronting on any such projected improvement; *provided*, such ordinance shall be passed by a four-fifths vote of such board or body.

Proviso.

Legal requirements must be complied with.

2. Before any ordinance providing for the said improvements mentioned in the preceding section of this act shall be presented for the action of the legislative board of such city as aforesaid, all legal requirements to do such work shall be complied with.

Assessments a paramount lien.

3. Assessments for benefits from such improvements shall be made, levied, collected, and be a paramount lien upon the lands and real estate specially benefited thereby, in conformity with the provisions of existing laws in force in such city with respect to the making and collecting assessments therein, and the moneys collected therefrom shall be expended solely for similar improvements, and so, from time to time, such public improvements may be made, and assessments which shall be a prior lien on the lands specially benefited may be made, collected and applied as herein provided,

pursuant to the provisions of the existing law in force in such city not inconsistent with the provisions of this act.

Separate accounts may be merged.

4. In all cities in this state wherein there exists by law a separate capital fund for the purpose of grading and curbing streets, and a separate capital fund for the purpose of flagging sidewalks, and the acts creating such capital funds require all moneys received from assessments made, levied and collected for benefits from such improvements shall be placed to the credit of such capital funds to be used exclusively as additional funds for similar improvements as the proper governing body or board of such city may determine, together with such other moneys as may, from time to time, be appropriated to such capital funds respectively by the board or body having the control of the finances of such city, it shall be lawful for such board, by resolution, to direct that all said capital fund accounts, together with all moneys credited thereto or required to be credited thereto, be hereafter merged or covered into one capital fund and one capital fund account, to be known and designated as the "grading, curbing and flagging account," and all moneys hereafter or thereafter received or collected from assessments for the improvements aforesaid, and the moneys of which belong to the two capital fund accounts aforesaid, shall hereafter be placed and covered into one capital fund account, to be known and designated as aforesaid, the money of which shall be used exclusively for the grading and curbing of streets and the flagging of sidewalks, or for any or all of the said purposes respectively, as the municipal board or body of such city having the government and control of said public improvements may determine.

Account designated.

Repealer.

5. All laws and parts of laws inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 160.

A Supplement to an act entitled "An act to provide for drainage where the same is necessary to the public health," approved March twenty-fourth, one thousand eight hundred and eighty-one.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Final report of commissioners.

1. When any commissioners appointed under the act entitled "An act to provide for drainage where the same is necessary to the public health," approved March twenty-fourth, one thousand eight hundred and eighty-one, and the supplements thereto, have fully performed the duties imposed upon them by the said acts and supplements thereto, the said commissioners shall make a final report of their receipts and disbursements, showing any balance of moneys in their hands, and file the same in the office of the clerk of the court by which they were appointed and a duplicate of the said report with the clerks of each of the municipalities in which the premises described in the petition for the appointment of said commissioners are situate, and thereupon it shall be the duty of the said court to make a rule to show cause why the said final report should not be approved and the said commissioners discharged, which rule to show cause shall be returnable at such time as the court may fix, not less than thirty days from the date of filing the said report, and the said rule shall be published in a newspaper printed or circulated in the municipalities in which the said land lies once in each week for three weeks next preceding the date when the said rule to show cause was made returnable; exceptions to said report may be filed at any time prior to the return day of the said rule to show cause, or within such further time as the court shall direct, and upon the said return day or such day as the court may fix, the court shall hear any exceptions or objections that

Duty of court.

Public notice.

may be made to the said report, and may make such order in the matter as may be just and right; and if no exceptions or objections are filed to the said report or upon the final determination upon exceptions or objections filed, the said court may make an order finally discharging the said commissioners.

Upon final determination.

2. This act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 161.

An Act relating to the government of towns.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Term of office of freeholder to cease.

1. Upon the Monday first following the first election of officers in any town the term of office of any member of the board of chosen freeholders of the county in which such town is situated who shall reside within the limits of said town, shall cease and be terminated; the town council of said town are hereby authorized to appoint as many members of the said board of chosen freeholders as said town is by law entitled to, and the persons so appointed shall hold office until the first election held in the towns and townships of said county for the election of members of said board of chosen freeholders, when there shall be elected within said town so many members of said board of chosen freeholders as said town shall be by law entitled to, and the members so elected shall hold office for the full term provided by law; upon the same day the term of office of any member of the board of education of any school district who shall reside within the limits of said town shall also cease and be terminated.

Appointment by town council.

Term.

Election of freeholders.

Term of office of member of board of education.

Proportionate ownership and liability.

2. Whenever any town includes a portion only of any school district it shall have and own a proportionate amount of the property, assets and liens belonging to any such school district, a portion of whose territory is embraced within its limits; it shall also be liable to pay

a proportionate amount of the bonded or other indebtedness of any such school district a portion of whose territory is embraced within its limits, which proportionate amount of property, assets or indebtedness shall be ascertained in the following manner: A committee of three shall within thirty days after the first election of officers of the said town be appointed by the town council and a like committee shall be appointed by the board of trustees of said school district; the town council shall appoint a time and place for a joint meeting of said committee and give at least ten days' written notice thereof to the district clerk of said school district; at the appointed time and place said joint committee shall meet and shall then and there, or as soon thereafter as may be, proceed to apportion, state an account of, allot and divide between such town and such school district all the moneys on hand, property, assets and liens of every kind and all the indebtedness of said school district in the proportion the taxable property within the portion of said school district so included in said town shall bear to the whole of said school district as the the same was before said portion was taken; *provided*, that any real estate belonging to the school district acquired and held for public use shall be and remain the property of the town or school district, as the case may be, within whose limits it may lie after separation as aforesaid, and any indebtedness then existing incurred for or on account of said property shall be and remain the indebtedness of the town or school district according as said town or school district shall retain said property, and neither said property nor said indebtedness shall be included or taken into account in making the apportionment and division herein provided for; such apportionment shall be based upon the last abstract of ratables made for the purpose of levying taxes in the municipality or municipalities the whole or any portion of which shall have been included within the limits of said town; in effecting such division a decision of the majority of those present of the committee of said town concurred in by a majority of those present of the committee of the school district shall be final and conclusive; if any member of either of said committees shall neglect or refuse to attend such

Method of ascertainment.

Proviso.

meeting the other members thereof who may be present may act, provided that it shall be lawful for a majority of the whole number of said joint committee to adjourn such meeting from time to time, not exceeding one week; said joint committee shall appoint a clerk from their own number, who shall keep a record of their proceedings, and who shall certify to each municipality affected the apportionment of assets and debts so made; such joint committee shall have power to issue subpœnas and to compel the attendance of any of the officers of said town or school district, to compel the production of all books and papers relating to the subject-matter under consideration and to administer oaths or affirmations to any persons brought before said committee to testify, and shall have the same power to enforce its process of subpœna and to compel any person to attend and testify as is given to committees appointed by the common council of any city under the provisions of an act entitled "An act concerning evidence" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, and the several supplements thereto.

Town to have sole charge of schools.

3. Every town shall have the entire charge of all matters connected with the control and management of all public schools within its limits.

Repealer.

4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately.

Approved April 8, 1898.

CHAPTER 162.

A Supplement to "An act making appropriations for the support of state government and for several public purposes for the fiscal year ending October thirty-first, one thousand eight hundred and ninety-eight," approved May eighteenth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The following sums, or so much thereof as may be necessary, be and they are hereby appropriated out of the state fund for the several purposes herein specified, and for supplying deficiencies in former appropriations, for the fiscal year ending October thirty-first, one thousand eight hundred and and ninety-eight: Appropriations for supplying deficiencies

1.

EXECUTIVE DEPARTMENT.

For deficiency in appropriation for blanks and stationery for use in the executive department, one hundred dollars. Executive department.

2.

COURT OF CHANCERY.

For deficiency in appropriation for compensation of sergeants-at-arms, two hundred dollars; Court of chancery.

For deficiency in appropriation for compensation of stenographers, one thousand five hundred dollars.

3.

LAW AND EQUITY REPORTS.

Law and equity reports.

For deficiency in appropriation for the publication of the chancery reports, one thousand dollars.

4.

ADJUTANT-GENERAL'S DEPARTMENT.

Adjutant-general.

For deficiency in appropriation for blanks and stationery for use in the adjutant-general's office, one hundred dollars;

For deficiency in appropriation for postage, expressage and other incidental expenses for the adjutant-general's office, one hundred dollars.

5.

QUARTERMASTER-GENERAL'S DEPARTMENT.

Quartermaster-general.

For deficiency in appropriation for blanks and stationery for use in the quartermaster-general's department, one hundred dollars.

6.

INSURANCE.

Insurance.

For deficiency in appropriation for insurance upon state house and contents thereof, one hundred and eighty dollars.

7.

SECRETARY OF STATE.

Secretary of state.

For deficiency in appropriation for clerical services in the office of the secretary of state, two thousand five hundred dollars;

For two thousand copies of the corporation laws, one thousand dollars;

For deficiency in appropriation for postage, expressage and other incidental expenses for the office of the secretary of state, four hundred dollars;

For compiling and indexing the election laws, two hundred and fifty dollars.

8.

CLERK OF THE SUPREME COURT.

Clerk supreme court.

For deficiency in appropriation for blanks and stationery for use in the office of the clerk of the supreme court, five hundred dollars;

For deficiency in appropriation for postage, expressage and other incidental expenses for the office of the clerk of the supreme court, six hundred dollars.

9.

HOME FOR DISABLED SOLDIERS.

Home for disabled soldiers.

For the erection on the grounds of the New Jersey home for disabled soldiers of a building to be used as a residence for physician and trained nurses, four thousand dollars;

For deficiency in appropriation for support of the New Jersey home for disabled soldiers, five thousand dollars.

10.

COUNTY LUNATIC ASYLUMS.

County asylums

For deficiency in appropriation for the support of county patients in the following county lunatic asylums:

In the Hudson county lunatic asylum, three thousand five hundred dollars;

In the Passaic county lunatic asylum, one thousand five hundred dollars.

11.

PRESERVATION OF RECORDS.

"New Jersey Archives."

For the compilation of an analytical index of the early records of this state for the "New Jersey Archives," four hundred dollars.

12.

ADVERTISING.

Advertising. For deficiency in appropriation for advertising proclamations issued by the governor, notices of the attorney-general in relation to delinquent miscellaneous corporations, and notices of the comptroller in regard to public printing, five hundred dollars.

13.

ESCHEATS.

Escheats. For professional services and expenses in the matter of the escheat of land to the state of Bartholomew J. O'Connell, deceased, late of the county Hudson, two hundred and seventy-four dollars and seventeen cents.

14.

PENSIONS.

Pension. For allowance to Randolph F. Disbrow, a pensioner of this state, as commutation for two hands lost at Yorktown, Virginia, October nineteenth, one thousand eight hundred and ninety-one, pursuant to chapter two hundred and thirty-two, laws of one thousand eight hundred and ninety-four, one hundred dollars.

15.

COLLATERAL INHERITANCE TAX.

Collateral inheritance tax. For the estate of Pemberton Britton, deceased, late of the county of Sussex, for collateral inheritance tax erroneously paid to the state on the sixteenth day of January, one thousand eight hundred and ninety-five, one hundred dollars.

16.

STATE COMMISSIONER OF PUBLIC ROADS.

Road commissioner. For the state commissioner of public roads for balance of salary for the month of October, one thousand eight

hundred and ninety-six, thirty-nine dollars and eighteen cents;

For deficiency in appropriation for compensation for clerical service and for expenses in the office of the commissioner of public roads, three hundred dollars.

17.

STATE HOSPITAL AT TRENTON.

Trenton asylum.

For deficiency in appropriation for salaries of resident officers, one thousand one hundred and seventy-five dollars;

For deficiency in appropriation for support and clothing of indigent patients, three thousand five hundred dollars;

For deficiency in appropriation for maintenance of county patients, two thousand five hundred dollars.

18.

STATE HOSPITAL AT MORRIS PLAINS.

Morris Plains asylum.

For deficiency in appropriation for support and clothing of indigent patients, nine thousand dollars;

For improvements at the state hospital at Morris Plains, pursuant to chapter two hundred and ninety-seven of the laws of one thousand eight hundred and ninety-five; *provided*, that no contract shall be awarded without the approval of the governor, fifty thousand dollars.

Proviso.

19.

INDUSTRIAL EDUCATION.

Industrial education.

For deficiency in appropriation for payments to schools for manual training, pursuant to chapter thirty-eight of the laws of one thousand eight hundred and eighty-eight, seven thousand dollars;

For payments to schools established for industrial education, pursuant to chapter one hundred and fourteen of the laws of one thousand eight hundred and eighty-eight, three thousand dollars.

20.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

Superintendent of schools.

For deficiency in appropriation for clerical service in office of state superintendent of public instruction, four hundred dollars, which sum is hereby transferred from the appropriation of two thousand four hundred dollars for necessary incidental expenses incurred by the state superintendeent of public instruction in the performance of his official duties and for supervision of manual training in the act to which this act is a supplement.

21.

STATE BOARD OF EDUCATION.

Board of education.

For the completion and equipment of a building on the grounds of the New Jersey school for deaf-mutes, to be used as a hospital for the pupils in said school, three thousand dollars, which sum is hereby transferred from the appropriation of twenty-five thousand dollars for heating and ventilating the normal and model schools in the act to which this act is a supplement;

For additional appropriation for the completion and equipment of a building on the grounds of the New Jersey school for deaf-mutes, to be used as a hospital for the pupils in said school, one thousand five hundred dollars;

For the cost of procuring architects' plans and specifications for a series of school buildings, five hundred dollars.

22.

STATE BOARD OF ASSESSORS.

Assessors.

For deficiency in appropriation for compensation of surveyors, local assessors and witnesses, pursuant to chapter one hundred and one of the laws of one thousand eight hundred and eighty-four, two thousand five hundred dollars.

23.

DEPARTMENT OF BANKING AND INSURANCE.

Banking and insurance.

For deficiency in appropriation for postage, expressage and other incidental expenses for the department of banking and insurance, one hundred dollars;

For additional compensation for assistants in the department of banking and insurance, three hundred and fifty dollars.

24.

STATE HOUSE COMMISSION.

State House commission.

For the governor, treasurer and comptroller, to be expended for supervising services in carrying out the provisions of chapter four hundred and thirteen of the laws of one thousand eight hundred and ninety-five, five hundred dollars;

For the governor, treasurer and comptroller, for the decoration and repairing of the assembly chamber and to make alterations and repairs to the rooms of the executive department, fifteen thousand dollars.

25.

COURT OF PARDONS.

Court of pardons.

For deficiency in appropriation for compensation of subordinate officers, one hundred dollars.

26.

DEAF-MUTES.

Deaf-mutes.

For deficiency in appropriation for the trustees of the New Jersey school for deaf-mutes, for the teaching, maintenance and clothing of pupils taught therein, for purchase and repair of furniture, school apparatus and other appliances, for making needed improvements and repairs in the buildings and grounds, for insurance thereof, and for maintaining the system of manual and industrial education in said school, five thousand six hundred dollars.

27.

FARNUM PREPARATORY SCHOOL.

Farnum school. For the state board of education, for the purpose of heating, ventilating and necessary repairs at the Farnum preparatory school at Beverly, two thousand five hundred dollars.

28.

ATTORNEY-GENERAL'S DEPARTMENT.

Attorney-general. For deficiency in appropriation for blanks and stationery, for use in the office of the attorney-general's department, two hundred dollars;

For deficiency in appropriation for postage, expressage and other incidental expenses for the attorney-general's department, five hundred dollars, which sums are hereby transferred from the appropriation of one thousand five hundred dollars for clerical assistant in the attorney-general's department, in the act to which this act is a supplement.

29.

DIGEST OF THE LAW AND CHANCERY REPORTS.

Digest. To Albert C. Wall, successor to Frederick D. Linn, deceased, for five hundred copies of a digest of the cases in the law and chancery reports of this state, pursuant to chapter ninety-six of the laws of one thousand eight hundred and ninety-six, three thousand seven hundred and fifty dollars.

30.

FISH AND GAME.

Fish and game. To George W. DeWitt, late fish and game warden for Warren county, for services and expenses during the month of November, one thousand eight hundred and ninety-four, one hundred dollars and eight cents.

31.

SINKING FUND.

Sinking fund

For amount to be refunded to Frederick J. Buckenberger, by the state treasurer, out of any moneys in the sinking fund, being the amount paid in error to the sinking fund by said Frederick J. Buckenberger, for purchase of real estate in Hudson county, seven hundred and fifty dollars.

32.

Expenses of conference committee

For expenses incurred by the committee appointed under concurrent resolution, passed at the session of one thousand eight hundred and ninety-eight, to confer with the committee on the part of the state of Delaware, relative to fisheries in the Delaware bay and river, five hundred dollars.

33.

STATE BOARD OF HEALTH.

Board of health

For additional clerical assistance in the office of the state board of health, six hundred dollars.

34.

STATE BOARD OF TAXATION.

Board of taxation

For additional compensation for assistants in the office of the state board of taxation, two hundred and twenty dollars.

35.

NATIONAL GUARD.

National guard

For allowance to company "G," seventh regiment, for the year one thousand eight hundred and ninety-four, five hundred dollars;

For allowance to company "C," seventh regiment, for the year one thousand eight hundred and ninety-five, five hundred dollars;

For allowance to company "B," sixth regiment, for the year one thousand eight hundred and ninety-seven, five hundred dollars;

For deficiency in the following appropriations to cover the needs of the national guard in anticipation of active service:

For camp and garrison equipage, quartermaster's stores, arms and miscellaneous supplies, twenty-four thousand seven hundred dollars; for new uniforms, twenty-three thousand dollars;

To the city of Trenton for payment of sewer assessment on lot number one, page fifty-eight, city atlas (state arsenal), two thousand nine hundred and ninety dollars;

For deficiency in appropriation to companies of the national guard, one thousand five hundred dollars.

36.

GEOLOGICAL SURVEY.

Geological survey.

For printing five thousand five hundred copies of volume four of the final report of the state geologist, and for five thousand five hundred relief maps of the state, under contract dated November twenty-fifth, one thousand eight hundred and ninety-one, fourteen thousand two hundred and eighty-eight dollars and forty-six cents.

37.

STATE LIBRARY.

Library.

For additional compensation for assistants in the state library, one hundred and eighty-seven dollars and ten cents.

38.

SUPREME COURT.

Supreme court.

For deficiency in appropriation for compensation of sergeants-at-arms and criers of the supreme court, four hundred dollars.

39.

COMMISSIONS.

Commissions.

For expenses incurred by the various commissions appointed by the governor to revise the general statutes of this state, three thousand dollars.

40.

For the state board of agriculture for the purpose of carrying out the provisions of an act to prevent the introduction into and the spread of injurious insects in New Jersey, to provide a method for compelling their destruction, to create the office of state entomologist, to authorize inspection of nurseries and to provide for certificates of inspection, five hundred dollars. Board of agriculture.

41.

For the purchase of a life-sized portrait of the late Chief Justice Beasley, four hundred dollars. Portrait of Mercer Beasley.

42.

For the expenses of the assembly committee of inquiry appointed January eighteenth, one thousand eight hundred and ninety-eight, six thousand dollars. Committee of inquiry.

43.

For the expenses of the assembly committee appointed to examine into and report upon the financial condition of institutions in this state, doing business on the building and loan plan, and the ability of such institutions to meet their obligations, one thousand dollars. Committee on building and loan associations.

44.

COURT OF ERRORS AND APPEALS.

For deficiency in appropriation for compensation of judges of the court of errors and appeals, one thousand dollars. Errors and appeals.

45.

CAMDEN ARMORY.

For equipment and furnishing the armory at the city of Camden, six thousand dollars. Camden armory.

46.

TRENTON BATTLE MONUMENT.

Trenton monument.

For the Trenton battle monument association, for the purpose of keeping said property in good condition and repair, three hundred dollars.

47.

BUREAU OF STATISTICS.

Bureau of statistics.

For additional compensation for the secretary of the bureau of statistics, one hundred and seventy-five dollars.

48.

LEGISLATURE.

Legislatur:

For deficiency in appropriation for indexing the journal of the senate and minutes of the executive sessions and the minutes of the house of assembly, and other incidental and contingent expenses of the legislature, two thousand five hundred dollars.

49.

OYSTER COMMISSION.

Oyster commission.

For additional appropriation to promote the propagation and growth of seed oysters, and to protect the natural oyster beds of this state, covering the sixth district, two thousand dollars.

50.

MANUAL TRAINING AND INDUSTRIAL SCHOOL AT BORDENTOWN.

Bordentown industrial school.

For deficiency in appropriation for maintenance of the manual training and industrial school at Bordentown, pursuant to an act passed at the session of one thousand eight hundred and ninety-seven, one thousand dollars.

51.

NAVAL RESERVE.

For general expenses of the battalion of the west, two thousand five hundred dollars; Naval reserve.

For general expenses of the battalion of the east, two thousand five hundred dollars.

52.

For expenses and payments by the state tuberculosis commission, the additional sum of twenty-five hundred dollars; *provided*, such sum shall be authorized by enactment of the present legislature. Tuberculosis commission.

2. This act shall take effect immediately.

Approved, with exception of item No. 34, April 11, 1898.

CHAPTER 163.

An Act to amend an act entitled "An act to establish a system of public instruction" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section seventy-nine of the act to which this is an amendment is amended so as to read as follows: Section amended.

79. It shall be the duty of the county collector of each of the counties of this state to pay to the state treasurer the quota due from his county of the taxes imposed by this act within twenty-five days after the same are due, and payable to him by the several township and city collectors and other officers authorized by law to collect said taxes; in case any such township collector, city collector or other officer shall fail or neglect to pay to the county collector the full amount of state school tax due from his taxing district within fifteen Duty of county collector. In case of neglect.

Duty of county superintendent.

days after said taxes become due and payable to the county collector, it shall be the duty of said county collector to give the county superintendent of schools of his county written notice of such failure or neglect, and it shall be the duty of such county superintendent to withhold from said taxing district the full amount apportioned to it out of the reserved fund for the support of the school or schools situated within said taxing district, and said county superintendent in making the next apportionment of school moneys shall re-apportion the amount of the reserve fund so withheld among the several school districts of his county; it shall be the further duty of said county superintendent to withhold from any township collector, city collector or other custodian of school moneys the order for the amount of money apportioned out of the state school tax to the school district or school districts situated in the taxing district of which he is collector, until the township collector, city collector or other officer authorized to collect taxes has paid to the county collector the full amount of state school tax due from said taxing district, and it shall be the duty of any township committee, common council, or other body having the control of the finances of any township, city, town, borough or other municipality from which has been withheld, as hereinbefore provided, the amount apportioned out of the reserve fund for the support of schools in such township, city, town, borough or other municipality, to appropriate to said schools, out of any funds under its control, a sum equal to the amount so withheld, and in case there are no funds available for such purpose it shall be the further duty of such township committee, common council or other body having control of the finances of such municipality to borrow a sum sufficient for such purpose, and to place the amount so borrowed in the next annual tax levy.

Further duties.

Duty of township committee, &c., in case funds are withheld.

Section amended.

2. Section eighty-six of the act to which this is an amendment is amended so as to read as follows:

Providing raising additional amounts for school purposes.

86. In addition to the moneys apportioned to it by the county superintendent, each school district may raise by tax such other sums of money as it may need for school purposes, in the following manner: The legal voters are hereby authorized and required, at the annual

meeting for the election of members of the board of education or at any special meeting of said legal voters, to determine what amount of school tax, if any, shall be levied upon the district; and the legal voters so met shall have power by the consent of a majority of those present, to authorize the board of education to purchase land for school purposes, to build, enlarge or repair a school-house or school-houses, or to sell or mortgage a school-house or school-houses, and to raise by taxation for these purposes, or to pay a debt of the district incurred for such purposes, and for the purchase of text-books, school supplies, flags, teachers' salaries and other current expenses of the school or schools, such sum of money as a majority of the legal voters so assembled shall agree to; and in case any money shall be ordered to be raised by taxation, the district clerk shall make out and sign a certificate thereof, under oath or affirmation, that the same is correct and true, and deliver the same to the assessor, and shall send a duplicate of said certificate to the county superintendent; and the assessor shall assess on the inhabitants of the school district and their estates, and the taxable property therein, in the same manner as other taxes are assessed, such sum of money as shall have been ordered to be raised by the legal voters in the manner aforesaid, and said money shall be assessed, levied and collected; and it shall be the duty of the collector to collect and hold all taxes so assessed, and he shall pay out the same on orders signed by the president and district clerk of the board of education, and it shall be the duty of said collector to pay all orders legally issued as aforesaid, to the full amount of the district school tax ordered to be assessed, levied and collected; and in case a sufficient amount of the district school tax has not been collected to pay the orders of the board of education as they are presented for payment, it shall be the duty of said collector to pay the full amount of said order, or such part thereof as may be necessary, out of any moneys in his hands, except moneys received from the county collector on the order of the county superintendent, and so much of the balance of said district school tax as may be necessary shall be, when collected, used to repay the amount so advanced as aforesaid; *provided*, that when any

Assessment.

Duty of collector.

Insufficiency.

Proviso.

meeting shall be held as aforesaid, it shall not be lawful for such meeting to order a greater sum of money raised by special tax than shall have been mentioned and designated in the notices of such meeting set up in the manner required by law.

3. This act shall take effect immediately.

Approved April 11, 1898.

CHAPTER 164.

A Supplement to an act entitled "An act to amend an act entitled 'A supplement to an act entitled "An act to incorporate and regulate telegraph companies,"'" approved April ninth, one thousand eight hundred and seventy-five, which supplemental act was approved March eleventh, one thousand eight hundred and eighty, and to extend the provisions of said act approved April ninth, one thousand eight hundred and seventy-five, and all supplements to said last-mentioned act, to telephone companies, approved June twentieth, one thousand eight hundred and ninety.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Proposed route may be abandoned.

1. In any case where a report has been heretofore or shall be hereafter made by commissioners appointed on application of any telegraph or telephone company organized or incorporated under any general or special laws of this state, to appraise the damages, if any, sustained by the owner or owners of land by reason of the erection and maintenance of poles and wires on or along any road or highway, such telegraph or telephone company may abandon their proposed route or appropriation of any road or highway or any part thereof, by an instrument in writing to that effect, to be filed with the clerk of the court where such report shall have been

filed and entered in the minutes thereof; and as to so much as is thus abandoned the assessment of damages shall be void; *provided*, that upon such abandonment the costs of all proceedings to be taxed by the said court shall be paid by the company to the opposite party. Proviso.

2. This act shall take effect immediately.

Approved April 11, 1898.

CHAPTER 165.

An Act to amend an act entitled "An act relating to newly-created municipalities," approved February twenty-fourth, one thousand eight hundred and ninety-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section five of the act to which this is an amendment is hereby amended to read as follows: Section amended.

5. Whenever said newly-created municipality includes a portion only of any other municipality or municipalities, a committee of three shall forthwith be appointed by said governing body from their own number, and a like committee shall be appointed by the governing bodies of each of the municipalities, a portion of which only shall have been taken and included in the newly-created municipality; the governing body of the newly-created municipality shall appoint a time and place for a joint meeting of said committees and give at least ten days' written notice thereof to the presiding officer and clerk of each of the governing bodies of the municipalities, a portion only of which shall have been so taken; at the appointed time and place said joint committee shall meet and shall then and there, or as soon thereafter as may be, proceed to appraise, state an account of, allot and divide between such newly-created municipality and such other municipality or municipalities, all the moneys on hand, property, assets and liens of every Committees appointed to determine division of debts, property, &c.

kind and all the indebtedness of such municipalities, in the proportion that the taxable property within the portion of any municipality so taken shall bear to the whole of said municipality as the same was before said portion was so taken; *provided*, that any real estate belonging to the old municipality, acquired and held for public use, shall be and remain the property of the municipality within whose limits it may lie after separation as aforesaid, and any indebtedness then existing, incurred for or on account of the said property, shall be and remain the indebtedness of the municipality which retains said property, and neither said property nor said indebtedness shall be included or taken into account in making the apportionment and division therein provided for; such apportionment shall be based upon the last abstract of ratables made for the purpose of levying taxes in each of the municipalities, the whole or any portion of which shall have been included in the newly-created municipality; in effecting such division a decision of a majority of those present of the committee of said newly-created municipality concurred in by a majority of those present of the committee of the municipality the assets and debts of which are being divided, shall be final and conclusive, the members of the committees of other municipalities present for the purpose of making such division having no voice therein; if any member of any of said committees shall neglect or refuse to attend such meeting, the other members thereof who may be present may act; *provided*, that it shall be lawful for the majority of the whole number of such joint committee to adjourn such meeting from time to time, not exceeding one week; said joint committee shall appoint a clerk from their own number, who shall keep a record of their proceedings and shall certify to each municipality affected the apportionment of assets and debts so made; such joint committee shall have power to issue subpœnas and to compel the attendance of any of the officers of any of the municipalities affected, to compel the production of all books and papers relating to the subject-matter under consideration, and to administer oaths or affirmations to any person appearing before said committee to testify, and shall have the same power to enforce its process of

Proviso.

Proviso.

subpœna and to compel any person to attend and testify, as is given to committees appointed by the common council of any city under the provisions of an act entitled "An act concerning evidence" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, and the several supplements thereto.

Section amended.

2. Section three of the act to which this is an amendment is hereby amended to read as follows:

Duty of county board of election.

3. On the filing with the county clerk of a copy of the act of incorporation of such newly-created municipality, certified under the hand and seal of the secretary of state, it shall be the duty of the county board of elections of the county in which such newly-created municipality is located, upon the application of any legal voter in such municipality, to prescribe and define the boundaries of such election districts as may in their opinion be necessary in said municipality and appoint a board of registry and election for each election district, with or without nominations, by the chairmen of the county committees of the political parties within each county; *provided, however*, that such division into election districts shall be made as far as practicable in such manner that no one of said districts shall contain more than six hundred voters, according to the last registry of voters made in the municipality or municipalities out of which the new municipality shall have been created and that due regard shall be had for the geographical compactness of said districts and the convenience of voters; if the newly-created municipality shall be one that by the general laws governing it is required to be divided into wards, no such division into election districts shall be made until after the lines of such wards have been established and then only with due regard for such ward lines; said county board of election shall also appoint the time, place or places and determine the manner of holding the first election within the newly-created municipality for the election of officers therein and the time or times, place or places and the manner of registering the voters for such election; *provided*, that in determining the manner of holding said election and making said registration said board shall so far as

Proviso.

Election.

practicable follow the methods provided by law generally for the conduct of elections for officers in such municipality and the making of the registration therefor; and if official envelopes or official ballots be thought necessary the same shall be furnished by said county board of election and said board shall in doing so perform the duties imposed by law upon the clerk of such municipality in the furnishing of official ballots or envelopes for the election of municipal officers in such municipality; the county board of election shall thereupon cause notice to be given of the boundaries of such election districts as may have been prescribed and defined, the time, place or places and object of such election and of the time or times, place or places and manner of registering the voters therefor, by posting advertisements thereof, signed by the chairman and secretary or clerk of the board, in five of the most public places within each election district in said newly-created municipality, and by publishing the same in at least one newspaper of their selection published in the county and circulating within the said municipality for such period as they shall think necessary; the boards of registry and election so appointed shall prepare the registry and poll-list or lists for said first municipal election from the like lists used in each of the municipalities out of which the new municipality has been created at the last election held therein, and shall add thereto the names of all other qualified voters who shall be shown, by the affidavit in writing of some voter in the election district, to reside therein, whose names are not on said old registry or poll-list; said board or boards shall procure the ballot-boxes and booths or compartments necessary for the holding of such first election, and in the conduct thereof and the estimate and canvass of the votes cast thereat, said board or boards shall in all respects possess the powers and perform the duties conferred and imposed by the laws of this state upon like boards in the conduct and holding of elections for municipal officers in such municipality, except as may be otherwise directed by the county board of election, and with the further exception that the statement of the result of said first election, duly certified, shall be filed in the office of the clerk of the

Statement filed within five days.

county within five days after such election; the reasonable cost of the booths or compartments, the preparation of registry or poll-lists, and the conduct and holding of said election as above provided, shall be borne by the newly-created municipality; all of the acts and proceedings of the county board of election under the authority of this act shall be by resolution or resolutions, a copy of which, duly certified under their hands, shall forthwith, after the adoption of the same, be filed in the office of the clerk of the county in which the newly-created municipality is located. Expense borne by newly created municipality.

3. This act shall take effect immediately.

Approved April 11, 1898.

CHAPTER 166.

An Act to amend an act entitled "An act to incorporate trustees of religious societies," approved April ninth, one thousand eight hundred and seventy-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section eight of the act to which this act is amendatory be and the same is hereby amended to read as follows: Section amended.

8. It shall be lawful for any religious society in this state, however incorporated, to purchase and hold, and also to convey and dispose of, any real estate which they may deem necessary and expedient; *provided*, that the same shall not be used by the religious corporation acquiring the same for any other purpose than the rendering and maintaining in any building now or hereafter erected upon such real estate the worship of Almighty God, and the furtherance of religion according to the tenets and forms of worship of the religious denomination to which such religious society belongs, or for education, or the administration of charity to the bodies or Lawful to deal in real estate. Proviso.

Proviso.

souls of men; *provided, however*, that it shall be lawful for such religious society to hold, and also to convey and dispose of land, not exceeding fifty acres heretofore conveyed to such religious society for the purposes of a cemetery and the burial of the dead, and to sell the same in lots or plots for the burial of deceased persons, subject to any and all laws of this state governing cemeteries and the burial of the dead, and to devote the moneys derived from said sale to the laying out, care and maintenance of said cemetery or burial-ground, and for no other purpose; and when the moneys received from sales of lots shall be in excess of the wants of such religious society for the proper care and maintenance of its burial-grounds, it shall be lawful to invest such surplus in safe and suitable securities, and the interest derived therefrom shall be devoted to the care and maintenance of its burial-grounds, and for no other use; any conveyance or agreement by and between any religious corporation intended for the purposes aforesaid by or under the authority of such corporation, now made or hereafter to be made, is hereby declared to be valid and effectual in law; the proceedings, order and acts of a majority of all the members of the said corporation, but not of a less number, shall be valid and effectual in law.

In case of excess.

2. This act shall be deemed a public act, and shall take effect immediately.

Approved April 12, 1898.

CHAPTER 167.

An Act to amend an act entitled "A general act relating to boroughs," approved April twenty-fourth, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section fifty-eight of the act to which this is an amendment be and the same is hereby amended so as to read as follows: Section amended.

58. The commissioners of assessment shall attend at the time and place appointed; two of them shall be a quorum for the transaction of business, and sufficient to make any assessment, but one member shall have power to adjourn any meeting; the commissioners may adjourn from time to time; they shall give all parties interested in or affected by the improvement ample opportunity to be heard upon the subject of the assessment; they shall view the premises and have power to examine witnesses under oath or affirmation administered by any one of them; they shall thereupon make a just and equitable assessment of the damages sustained by any land or real estate, and a like assessment for benefits conferred upon any land or real estate by reason of said improvement, having due regard to the rights and interests of all persons concerned, as well as to the value of the lands and real estate taken, damaged or benefited; they shall certify their assessments to the council by a report in writing, signed by at least two of their number; said report shall be accompanied by a map showing the lands and real estate taken for (or damaged by) said improvement, and for which they have assessed damages or benefits; such report may be considered by the council at any meeting of which at least two weeks' previous notice shall have been given by the clerk, posted in five public places in the borough, and also served in person by the said clerk upon the land owner or owners named

Duties of commissioners of assessment.

Certified report.

Consideration by council.

in said report, if resident in said borough, or if non-residents, by mailing a copy of said notice to such owner or owners directed to them at their post-office address, if the same can be ascertained, and by posting the same conspicuously upon some part or parts of said lands; the affidavit of said clerk shall be conclusive as to the manner of such service, and shall be attached to the report as a part thereof; the notice shall briefly state the object of the meeting with reference to said assessments; at that or any subsequent meeting the council, after considering the said report and map, shall and may adopt and confirm the same with or without alterations, as to them may seem proper; it shall be lawful for the said council to refer the matter to any committee or committees of their own body for further examination before taking final action upon it; and when the report shall be so adopted and confirmed, with or without alteration, the same shall be final and conclusive upon all parties, except as to such assessments, from which appeals may be taken as hereinafter provided.

Approved April 12, 1898.

CHAPTER 168.

An Act to amend an act entitled "An act to establish a system of public instruction" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended

1. Section seventy-six of the act to which this is an amendment is hereby amended to read as follows:

Appropriation for teachers' institute.

76. For the purpose of defraying the expenses of teachers' institutes and procuring teachers and lecturers for said institutes, there may be paid annually to the state superintendent of public instruction, upon the

warrant of the comptroller, a sum not exceeding four thousand dollars, and it shall be the duty of said state superintendent to make annually to the state board of education an itemized report of the expenses incurred in holding said teachers' institutes during the year for which said report is made; *provided*, that no expense for said institutes shall be incurred until the legislature has first made an appropriation for such purpose in any regular appropriation bill. Proviso.

2. Section ninety-five of said act is hereby amended to read as follows: Section amended.

95. The treasurer of the state upon the order of the state superintendent of public instruction is hereby authorized and directed to pay the sum of twenty dollars to every public school for which there shall have been raised by subscription or entertainment a like sum for the same purpose, to establish in such school a school library, or to procure books of reference and necessary school apparatus; and the further sum of ten dollars annually, upon a like order, to said public school, upon condition that there shall have been raised by subscription or entertainment a like sum for such year, for the purpose aforesaid; *provided*, that no expense for said libraries shall be incurred until the legislature has first made an appropriation for such purpose in any regular appropriation bill. Library appropriation. Proviso.

3. Section ninety-six of said act is hereby amended to read as follows: Section amended.

96. All selections of books of reference, books for school libraries, and school apparatus purchased in part by state funds, shall be approved by a committee of five, consisting of the county superintendent, two teachers employed in the public schools situated in the district, said teachers to be appointed by the county superintendent, and two persons, residents of the district, appointed by the board of education; such committee shall make all necessary rules and regulations for the management, use and safe keeping of all books and apparatus purchased in part by funds received from the state; in any city having a city superintendent of schools, the committee herein provided for shall consist of said city superintendent, two principals of schools in such city, to be appointed by the city superintendent, and two resi- Selection of books.

dents of such city to be appointed by the board of education or other body having control of the public schools in such city.

Repealer.

4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved April 13, 1898.

CHAPTER 169.

An Act to incorporate a borough in the county of Hunterdon, to be called the borough of Stockton.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Boundaries.

1. All that part of the township of Delaware, in the county of Hunterdon and State of New Jersey, within the following boundaries to wit: beginning at a point in the middle (or dividing line between New Jersey and Pennsylvania) of the Delaware river, where the pipe line of the National Transit Company crosses the river, running (1) in a northeasterly direction to a point at the middle of the mouth of the Brookville creek where the creek emptied into the feeder of the Delaware and Raritan canal; thence (2) along the middle line of the creek, through the center of a stone bridge, in a general northeasterly direction to a point in a mill dam where it intersects the dividing line of lands of George W. Williamson and Clark T. Hunt; thence (3) in a northwesterly direction along the dividing line of lands of George W. Williamson, Calvin G. Strimple and Clark T. Hunt, following the line of a recorded survey that constituted the west line of certain lands purchased by Clark T. Hunt of Hiram Deats, to a point where lands of Clark T. Hunt, Lewis C. Paxson and John S. Hockenbury meet; thence (4) in a westerly direction across lands of John S. Hockenbury and Cornelius Wilson to a point in the middle of the road leading from Stockton to Sergeantsville where lands of Cornelius

Wilson, Lizzie Bodine and Maurice Woolverton meet; thence continuing in a westerly direction across lands of Maurice Woolverton aud Letetia W. Twining to the center of a stone-arch bridge, being the first bridge north on Prallsville on the "Warman road"; thence (5) along the bed of a water-course, running under said arch bridge, to the middle line of the Wickcheoche creek; thence (6) in a southwesterly direction along the middle of the said Wickcheoche creek to the middle (or dividing line between New Jersey and Pennsylvania) of the Delaware river; thence (7) along the said middle of the said Delaware river and its various courses, in a general southeasterly direction, to the point of beginning; is hereby erected, constituted and declared to be a borough or town corporate, to be called and known by the name of "the borough of Stockton."

Corporate name.

2. The inhabitants of the said borough of Stockton shall be and they are hereby constituted a body politic and corporate in law by the name of "the borough of Stockton," and they shall be entitled to all the rights, power, authority, privileges and advantages, and be subject to the same regulations, government and liabilities as the other boroughs of this state are or may be entitled or subject to by the laws of this state.

3. This act shall take effect immediately.

Approved April 14, 1898.

CHAPTER 170.

An Act to amend an act entitled "A further supplement to an act entitled 'A supplement to an act entitled "An act to regulate fishing with seines in Barnegat Bay,"' passed February seventeenth, one thousand eight hundred and forty-two, which supplement was approved April twenty-first, one thousand eight hundred and seventy-six," and said amendatory act approved May fourteenth, one thousand eight hundred and ninety-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one and two of an act entitled "A further supplement to an act entitled 'An act to regulate fishing with seines in Barnegat Bay,'" approved May fourteenth, one thousand eight hundred and ninety-four, be and the same is hereby amended so as to read as follows:

Closed season.

1. From and after the passage of this act it shall not be lawful for any person or persons to set, haul or use within the tide waters of Barnegat Bay, or any of the rivers, coves or other tributary waters thereof, any net or nets, fyke or fykes, pound or pounds, weir or weirs for the purpose of taking fish therefrom, during the months of June, July, August and September of each

Proviso.

year; *provided*, that nothing herein contained shall prevent the setting or using of fykes during the months of October, November, December, January, February,

Proviso.

March, April and May of each year hereafter; *provided further*, that it shall not be lawful for any person or persons to set or use within the tide waters of Barnegat Bay or any of the rivers, coves or other tributary waters as aforesaid, any pound or pounds, weir or weirs for the

Proviso.

purpose of taking fish therefrom; *and provided further*, that it shall be unlawful for any person or persons to

use for fishing a net or nets of less than three-inch mesh.

2. It shall not be lawful for any person or persons to haul or use any seine or other moving net for the purpose of taking fish from the waters of said Barnegat Bay during the months of June, July, August and September of any year; nor shall it be lawful to use any seine or other net for fishing in the waters of said bay, composed in any of its parts of meshes of less size than three inches; *provided*, that it shall and may be lawful to haul seine in the several tributary rivers, creeks, streams and coves of said bay, and in that portion of the bay proper which lies within the present limit of the township of Brick, for the purpose of taking herring therefrom, during the months of March, April, May and June, yearly and every year, the smallest meshes of which shall not be less than two inches in size.

Use of seine unlawful.

Proviso.

3. This act shall take effect immediately.

Approved April 19, 1898.

CHAPTER 171.

An Act for the purchase of grounds for the burial of dead bodies thrown upon the shores of this state by shipwreck.

WHEREAS, The laws of this state provide for the suitable burial, at the public expense, of the dead bodies of seamen and other persons thrown upon the shores or coasts of this state by shipwreck; *and whereas*, by reason of the great extent and dangerous character of that portion of the coast of this state within the boundaries of the counties of Ocean and Monmouth many bodies are thrown upon the shore, requiring careful burial with a view to subsequent identification by relatives or friends; *and whereas*, there is a lack of room in the local burial grounds for the interment of such bodies; therefore,

Preamble.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Persons empowered to secure suitable burial sites.

1. The governor and comptroller of this state, William A. Crane and George T. Cranmer, of the county of Ocean, and Matthias Woolley and Elwyn S. Green, of the county of Monmouth, be and they are hereby empowered to select within the said counties suitable sites for burial grounds for such dead bodies as may be hereafter cast upon the shores or coasts of this state within the boundaries of said counties, and to purchase the same and take title therefor to the state of New Jersey; and the grounds or sites so selected and purchased shall be set apart for the sole use and purpose aforesaid; *provided*, that the entire cost of the selection and purchase of the said sites or grounds, and suitably enclosing the same, shall not exceed the sum of eight hundred dollars, and the comptroller of the state is hereby authorized to draw his warrant upon the state treasury for the sum necessary to carry out the purpose of this act; *provided*, an appropriation therefor shall have been included in the annual appropriation bill.

Proviso.

Proviso.

Coroner's duty.

2. It shall be the duty of the coroner who shall bury any body within the grounds selected as aforesaid to make out a written statement containing the name of the ship or vessel, the date of the wreck, and the place where the same occurred, together with as full a description of the body as he can give, the time of burial and location of grave, and to record the same in a book for that purpose; and to preserve any letters, writings, coins, medals, keepsakes or other articles which may serve as aids to the identification of the said body, and to exhibit them to any person seeking to identify relations or friends.

3. This act shall take effect immediately.

Approved April 19, 1898.

CHAPTER 172.

A Supplement to an act entitled "An act concerning corporations" (Revision of 1896), approved April twenty-first, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Amended certificate may be filed.

1. It shall be lawful for the incorporators of any corporation, before the payment of any part of its capital, to record with the clerk of the county in which its original certificate of incorporation was recorded and file with the secretary of state, an amended certificate duly signed by the incorporators named in the original certificate of incorporation, and duly acknowledged or proved as required for certificates of incorporation under the act to which this is a supplement, modifying, changing or altering its original certificate of incorporation, in whole or in part, which amended certificate shall take the place of the original certificate of incorporation, and shall be deemed to have been filed and recorded on the date of the filing and recording of the original certificate; *provided, however*, that nothing herein shall permit the insertion of any matter not in conformity with the act to which this is a supplement; *and provided, however*, that this act shall not in any manner affect any proceedings pending in any court; for filing said amended certificate of incorporation, the secretary of state shall charge a fee of twenty dollars; *provided*, that where the total authorized capital stock of the corporation is increased by said amended certificate the secretary of state shall charge an additional fee of twenty cents for each one thousand dollars of said increase.

Proviso.

Proviso

Fee.

Proviso.

Section amended.

2. Section eight (8) of the act to which this is a supplement be and the same is hereby amended so as to read as follows:

Signers. 8. The certificate of incorporation shall be signed in person by all the subscribers to the capital stock named therein, and shall set forth:

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

Location. II. The location (town or city, street and number, if number there be) of its principal office in the state;

Object. III. The object or objects for which the corporation is formed;

Capital stock and shares. IV. The amount of the total authorized capital stock of the corporation, which shall not be less than two thousand dollars, the number of shares into which the same is divided and the par value of each share; the amount of capital stock with which it will commence business, which shall not be less than one thousand dollars; and, if there be more than one class of stock created by the certificate of incorporation, a description of the different classes, with the terms on which the respective classes of stock are created;

Name, &c., of incorporators. V. The names and post-office address of the incorporators and the number of shares subscribed for by each; the aggregate of such subscriptions shall be the amount of capital stock with which the company will commence business, and shall be at least one thousand dollars;

Period. VI. The period, if any, limited for the duration of the company;

Certificate may contain certain provisions VII. The certificate of incorporation may also contain any provision which the incorporators may choose to insert, for the regulation of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the powers of the corporation, the directors and the stockholders, or any class or classes of stockholders; *provided*, such provision be not inconsistent with this act.

Proviso.

Section amended. 3. Section thirty-three (33) of the act to which this is a supplement be and the same is hereby amended so as to read as follows:

Transfer-book. 33. Every corporation shall keep at its principal and registered office in this state the transfer books in which the transfer of stock shall be registered, and the stock

books, which shall contain the name and address of the stockholders, the number of shares held by them respectively, which shall at all times during the usual hours for business be open to the examination of every stockholder; the directors shall cause the secretary, or other officer designated by them having charge of said books, to make, at least ten days before every election after the first election, a full, true and complete list, in alphabetical order, of all the stockholders entitled to vote at the ensuing election, with the residence of each, and the number of shares held by each, which list shall at all times during the usual hours for business be kept at such principal and registered office, and open to the examination of any stockholder at said office, and if any officer having charge of such books or list shall, upon demand by any stockholder, refuse or neglect to exhibit such books or list, or submit them to examination as aforesaid, he shall for every such offense forfeit the sum of two hundred dollars, one-half thereof to the use of the state of New Jersey and the other half to him who will sue for the same, to be recovered by action of debt in any court of record, together with costs of suit, and the books aforesaid shall be the only evidence as to who are the stockholders entitled to examine such books or list, and to vote at such election; and the board of directors shall produce at the time and place of such election such books and list, there to remain during the election, and the neglect or refusal of said directors to produce the same shall render them ineligible to any office at such election.

List of stockholders.

Submit books for examination.

Penalty.

4. Section thirty-four (34) of the act to which this is a supplement be and the same is hereby amended so as to read as follows:

Section amended.

34. All elections for directors shall be by ballot, unless otherwise expressly provided in the charter or certificate of incorporation; the poll at every such election shall be opened between the hours of nine o'clock in the morning and five o'clock in the afternoon, and shall close before nine o'clock in the evening; the same shall remain open at least one hour, unless all of the stockholders are present in person or by proxy and have sooner voted, or unless all the stockholders waive this provision in writing; the persons receiving the

Elections.

Proviso.

greatest number of votes shall be the directors; *provided, however*, that a majority of all the stock issued and outstanding shall be present in person or by proxy.

Repealer.

5. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect May the first, one thousand eight hundred and ninety-eight.

Approved April 19th, 1898.

CHAPTER 173.

A Supplement to an act entitled "An act concerning corporations" (Revision of 1896), approved April twenty-first, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Requirements contained in certificate.

1. Every certificate, report or statement now or hereafter required by any law of this state to be made to any officer or department of this state, or to be published, filed or recorded by any corporation, domestic or foreign, shall, in addition to the other matter required by law, set forth the location (town or city, street and number, if number there be) of its principal office in this state, and the name of the agent therein and in charge thereof, and upon whom process against the corporation may be served; no certificate, statement or report shall hereafter be received, filed or recorded by any officer or in any office of this state unless the same shall comply with the foregoing provisions; such office of any domestic corporation so registered shall be and be deemed the office and post-office address of such domestic corporation, its officers, directors and stockholders, and whenever by the provisions of any law of this state any notice is required to be given to the corporation, its officers, stockholders or directors, such notice shall be sent by mail or otherwise, as the law may require, to such registered office, and such notice so given shall be and be

deemed sufficient notice; whenever by any law of this state in any such certificate, report or statement, the residence or post-office address of any incorporator, stockholder, director or other officer is required to be set forth or given, it shall be and be deemed a full compliance with such provision to give as such post-office address, the post-office address of the registered office of the company within this state.

Repealer.

2. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect May the first, one thousand eight hundred and ninety-eight.

Approved April 20, 1898.

CHAPTER 174.

An Act to provide for the organization of the New Jersey home for disabled soldiers, sailors, marines and their wives.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Veterans' home.

1. There shall be established in this state a home to be known as the New Jersey home for disabled soldiers, marines and their wives.

Board of Managers.

2. The governor, with the consent of the senate, shall appoint five persons, at least one of whom shall be a member of the grand army of the republic, who shall constitute the board of managers of the New Jersey home for disabled soldiers, sailors, marines and their wives, and shall hold their offices for the term of five years, and until others are appointed in their stead, subject to removal by the governor; their successors shall be appointed by the governor, with the consent of the senate, and he may at any time fill vacancies in the said board of managers.

Government.

3. The government of the said home shall be vested in the said board of managers, who shall have the general direction and control of all the property and

concerns of the institution, and make by-laws, rules and regulations for the management of the same, and determine the compensation, duties and term of services of its officers and of other persons employed therein, subject to the approval of the governor; the said managers shall receive no compensation for their services, but their actual traveling expenses shall be paid to them by the treasurer on the warrant of the comptroller; and no judge, court or clerk shall receive any compensation for any service done under this act; and it shall be the duty of the said board of managers to take all necessary measures to secure to patients a suitable and comfortable home, with clothing and subsistence, and necessary medical and surgical attendance; and the expenses thereof, not exceeding the sum of ten thousand dollars in any one year, shall be paid by the treasurer on the warrant of the comptroller, on accounts rendered to him by the board, accompanied with an abstract of all the expenditures and the vouchers therefor duly verified; and they may take and hold in trust for the state any grant, lease or demise of land, and any donation or bequest of any money or chattels for the use of said home.

Compensation.

Duty of managers.

Expenses.

Officers.

4. The said board of managers shall appoint, subject to the approval of the governor, a commandant of the said home, an adjutant and a chaplain, and such other officers, assistants and attendants as may be necessary and proper; the said commandant shall enter into bond to the state for the faithful performance of the duties of his office in such sum and with such sureties as the said board shall approve, and any officer, assistant or attendant shall be subject to removal by resolution of the said board.

Duty of commandant.

5. The commandant shall be the chief executive officer of the said home, and shall have the general management and care of the same, and of the buildings and grounds, with their furniture, fixtures and stock, and the command, direction and treatment of the patients, and of the officers, attendants and assistants, subject to the general control of the board, and in pursuance of the by-laws, rules and regulations established by them; and he shall keep a correct and proper diary and record of all his official transactions.

Further duties.

6. That the commandant shall be the chief financial agent, and shall purchase all necessary clothing, provisions and other supplies for the said home, subject to the approval of the said board, in accordance with the rules and regulations; he shall be responsible for the accounts of the said home, and of all the receipts and disbursements, and of all the financial transactions relating thereto; and all purchases for the use of the said home shall be made for cash, and not on credit or trust, and a voucher for every purchase shall be taken, duly filled up at the time it is taken, and an abstract of the vouchers, verified on oath or affirmation, stating that the money was paid and the voucher taken and filled up at the time of its date, shall be presented with the accounts of the said commandant; and the said commandant shall at all times reside at the said home, as the said managers shall direct.

Terms of admission.

7. No person shall be admitted into the said home as a patient except upon the certificate of a judge of the court of common pleas, upon proof made to his satisfaction by the testimony in writing of a respectable physician and other evidence that the applicant has been a soldier in the army of the United States, or a sailor or marine in the navy of the United States, and been honorably discharged from such service; that he is disabled from a wound or wounds, or from sickness or other disability, that he is necessitous and has not the ability to procure the means sufficient for his comfortable support and necessary care and attendance; that he is a resident of this state, which proof shall accompany the said certificate; and the said applicant for admission shall, with the certificate of the judge, present to the commandant a statement in writing, signed by himself, setting forth his name in full, the place of his nativity and of his residence at the time of making such application and at the time of his entering the service, his age and occupation, the company and regiment or vessel in which he served, and also the consent and agreement of himself and wife to transfer to the state, for use in payment of the appropriation for the home, fifty per centum of any quarterly pension to which he or she may be entitled from the United States, during

the time he or she shall be a patient at the said home, and that he or she will execute any necessary power and voucher for recovering the same; and further, that he or she will conduct themselves properly and submit to the rules, regulations and discipline of the said home; and that the said soldier's, sailor's or marine's wife was married to him at least twenty-five years prior to the date of his application for admission into the home.

Benefits.

8. The patients so admitted shall be entitled to all the benefits of the said home, and be furnished with clothing, subsistence, medical and surgical attendance, and with whatever may be suitable and necessary to promote their health and contribute to their comfort in accordance with the rules and regulations; but they may be rejected or removed by resolution of the board for gross immorality or insubordination, or on their being restored to the ability to promote their own support.

Payments to officers.

9. The salaries and allowances to the officers of the said home shall be paid by the treasurer, on the warrant of the comptroller, on rendering their accounts approved by the said board.

Visitations.

10. The said managers shall visit the said home, one of them at least once in every two weeks, and the said board once at least in every three months; and they, and each of them, shall at all times have access to the said home and to every part thereof and to every patient in it, and to all the books, records, accounts, vouchers and papers of every kind pertaining to the same, and the free and full inspection and examination thereof, and they shall keep a book of minutes of their proceedings, and a book in which shall be entered the date of each visit, the condition of the patients and remarks on the condition and management of the home, to be signed by each of the managers present, and the said board shall make their annual report to the governor on or before the thirty-first day of October in each year.

Annual report.

Commission appointed to select site.

11. The governor, with the consent of the senate, shall name five persons, who shall be appointed a commission, and authorized and empowered to select from among the lands now held by this state a site for the erection and construction of a suitable building or buildings thereon, or to examine any other lands and

building or buildings thereon, suitable for a home for disabled soldiers, sailors, marines and their wives, to be used and occupied pursuant to the provisions of this act.

12. Said commission shall have power to make all necessary contracts for the purchase of said lands and the erection or purchase of a suitable home; *provided*, the same shall have first been submitted to and approved by the governor of the state; *and provided further*, that the cost of the same shall not exceed the sum of thirty thousand dollars, and said commissioners shall, after the completion thereof, turn the same over to the proper authorities of the state of New Jersey, to be used as a home for disabled soldiers, sailors, marines and their wives, to be conducted and controlled by them as now provided by this act; *provided*, that no moneys shall be drawn from the state treasury for the purposes of this act until the same have been specifically provided for in the annual appropriation bill.

Make contracts.

Proviso.

Proviso.

Proviso.

13. This act shall take effect immediately.

Approved April 20, 1898.

CHAPTER 175.

An Act to establish and promote state traveling libraries.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The board of commissioners of the state library be and they are hereby directed to devise methods for the creation of small state traveling libraries, with all necessary appliances for the operation, direction and control of the same; said libraries shall be styled "traveling libraries," and so many of them as may be found advantageous for use in the state may be provided for under rules and regulations to be promulgated by said commissioners; the cost, however, of the provision therefor shall not exceed the amount which shall

Traveling libraries.

Cost.

be annually appropriated by the legislature for such purpose.

Books, book-cases, repairs, &c.

2. The nature and character of the books to be purchased shall be determined and controlled by the said commission or a majority of them, and the purchase of all books to be used in connection with said traveling library shall be made as said commission may direct; they shall have authority to purchase from any appropriation that shall be made such and so many small book-cases and outer traveling cases as experience and the successful and useful operation of the said system of traveling libraries may require, and they shall have full authority from any appropriation which may from time to time be made to repair and keep said cases in good order and to purchase new cases when necessary and to keep the books in said traveling libraries in good condition by re-binding or by re-purchase or substitution of books or otherwise, and provide all necessary printing and cataloguing for the same.

Locations.

3. Said traveling libraries shall be used and operated at such points as the said commission may direct, but the said commission shall not be authorized to expend moneys for the rental of any place or places in any municipality in this state from which distribution shall be made from said traveling libraries.

4. This act shall take effect immediately.

Approved April 20, 1898.

CHAPTER 176.

An Act to repeal an act entitled "A further supplement to 'An act to facilitate judicial proceedings in the the county of Hudson,' approved March seventeenth, one thousand eight hundred and sixty-eight," approved February twenty-third, one thousand eight hundred and seventy.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. An act entitled "A further supplement to 'An act to facilitate judicial proceedings in the county of Hudson,' approved March seventeenth, one thousand eight hundred and sixty-eight," approved February twenty-third, one thousand eight hundred and seventy, be and the same is hereby repealed. Repealer.

2. This act shall take effect immediately.

Approved April 20, 1898.

CHAPTER 177.

An Act to extend the territorial boundaries of the borough of Madison in the county of Morris by the annexation of a portion of the township of Chatham in the said county.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All that land and real estate situate, lying and being in the township of Chatham, in the county of Morris, bounded on the west by the center line of Green village road, on the south by the center line of Portion of township annexed described.

the Shunpike, on the east by the center line of Noe avenue and on the north by the present southerly boundary line of the borough of Madison in said county along its entire length between the center line of Green village road and the center line of Noe avenue, be separated from the said township of Chatham and annexed to the said borough of Madison so that the same shall be hereafter a part of and within the territorial limits of said borough.

2. This act shall take effect immediately.

Approved April 21, 1898.

CHAPTER 178.

An Act appropriating three thousand dollars for the purchase of a burial plot for the home for disabled soldiers at Kearny, New Jersey.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Appropriation for burial plot.

1. The sum of three thousand dollars be and is hereby appropriated for the purchase of additional ground for a burial plot for the home for disabled soldiers at Kearny, New Jersey, and the state treasurer is hereby directed to pay the same on the warrant of the comptroller, to the treasurer of the home for disabled soldiers at Kearny, New Jersey, out of any moneys not heretofore appropriated by law.

2. This act shall take effect immediately.

Approved April 21, 1898.

CHAPTER 179.

An Act to provide for the submission, in all cities of this state, of all reports of awards for the laying out, opening and other improvement of streets, to the mayor for his approval in the same manner as ordinances.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Reports of awards submitted to the mayor.

1. All reports of awards for the laying out, opening and other improvement of streets in cities of this state shall in precisely the same manner as ordinances be laid before the mayor for his approval, and be approved or returned by him, and in case of such return may be reconsidered and passed by the common council or other governing body which has theretofore ratified and confirmed the same; and in case of such return the said report of awards may be reconsidered and ratified and confirmed by the said council or other governing body, and that when so approved or when so reconsidered, or when not returned by the said mayor to the said council or other governing body within the time fixed by law for the return of ordinances, such report shall take effect and stand ratified and confirmed in like manner as ordinances; *provided, however,* that in case the said common council or other governing body shall not ratify and confirm the said report of awards by the vote necessary to pass an ordinance, notwithstanding the mayor's objections, then in that case the report of the awards so failing to be ratified and confirmed shall be considered null and void, and new commissioners to make a report shall be appointed by the judge of the circuit court of the county in which the said city is located, of the same number and qualifications as made the original report, and who shall make their report and be governed by the same laws and procedure as the

Proviso.

original report, except that the report shall be made to the said judge, and be considered, ratified and confirmed by him in the same manner and upon the same notice as though the report had been presented to the said common council or other governing body and the mayor, and when so confirmed by the said judge, the said report duly certified by the clerk of the said court, shall be filed with the collector of taxes or other proper officer, and the assessment be collected in the same manner as if the original report had been ratified, confirmed and adopted; *provided, however*, that the provisions of this act shall not apply to any city in which there exists a board of street and water commissioners, or other board having exclusive control of the streets.

Proviso.

Repealer.

2. All acts and parts of acts inconsistent with the provisions of this act be and are hereby repealed, and this act shall take effect immediately.

Approved April 21, 1898.

CHAPTER 180.

A Further Supplement to an act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the supplement to the above act, which supplement was approved March sixteenth, one thousand eight hundred and ninety-three, shall be and the same is hereby amended so as to read as follows:

1. Whenever any person shall desire to redeem any lands and real estate, sold under and by virtue of the provisions of the act to which this is a supplement, and the acts supplementary thereto and amendatory thereof, every such person shall, in addition to the payments now provided by law, pay, when approved by the mayor, as required in section five of a supplement to the act to which this is a supplement, approved April fifth, one thousand eight hundred and ninety-two, to the purchaser of said lands and real estate, or to his assignee in case of assignment, or to the city for the use of said purchaser, all the costs and expenses necessarily incurred in ascertaining the owner or owners, mortgagee or mortgagees, owning or having a mortgage upon said lands and real estate, including fees for searching, to make such ascertainment, at the rates allowed by law to the clerks and registers of deeds for like services, but not including counsel or attorney fees; and that whenever the owner of lands and premises sold under and by virtue of said act to which this is a supplement, or any supplement thereto or act amendatory thereof, shall tender to or deposit with the comptroller, or other financial officer of any city of this state having such matters in charge, for the use of said city or other purchaser, the amount due for any assessment or tax, and interest thereon, together with the amount of the costs necessarily incurred as aforesaid, the said assessment or tax, as the case may be, shall at once be cancelled by the proper officer of the city, upon the production of the certificate of sale issued to the purchaser, or a satisfactory bond of indemnity in case of loss of said certificates; *and provided further*, that upon the redemption of any such land and real estate, no purchaser or assignee shall be allowed any search fees who has not then filed with the city clerk of the city in which said lands are situate, an abstract of the search thus necessarily made, duly certified, together with a statement of the costs thereof and the number of books examined in making said search; *and provided further*, that the certificate of any incorporated company engaged in the business of examining titles and guaranteeing the same, certifying the names of the owners and mortgagees of any property sold under the provisions of the act to which this

Redemption of land.

Cancellation of sale upon deposit.

Proviso.

Proviso.

is a supplement, together with a statement of the fees paid for the same, may be filed with the said clerk, without any abstract of the search made by such company, or statement of the number of books examined by it in ascertaining the names of said owners and mortgagees, and such fees for the certificate of such company shall be paid by the person redeeming such property before redemption thereof; *and provided further*, that any person redeeming lands and real estate, sold under the provisions of the act to which this is a supplement, or any act supplemental thereto or amendatory thereof, shall be entitled to such search or such certificate so filed as aforesaid.

Proviso.

Repealer.

2. All acts and parts of acts, whether general, special, local, supplemental or otherwise, in anywise inconsistent or in conflict with the provisions of this act, be and the same are hereby repealed.

3. This act shall take effect immediately.

Approved April 21, 1898.

CHAPTER 181.

An Act to incorporate associations not for pecuniary profit.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Formation of associations.

1. Any five or more persons who shall desire to associate themselves for any lawful purposes other than for pecuniary profit, may make, sign and acknowledge before any person authorized to take the acknowledgment and proof of deeds in this state and file in the office of the secretary of state and record in the office of the clerk of the county in which the principal business of the corporation is to be conducted, a certificate in writing in which shall be stated the name or title by which such corporation is to be known in law, the purpose for which it is formed, the place where it is to be located, or its business conducted, the number of the

File certificate.

Statement of purpose, &c.

trustees, which shall be not less than five, and the names of the trustees selected for the first year of its existence.

Provisions in certificate.

2. The certificate may at the option of the incorporators contain provisions prescribing the qualification of officers and members whereby they may be required to be members in good standing of any fraternal, religious or beneficiary order or society or of any fire or police force or have other prescribed qualifications, which provisions shall be binding on the members and officers, and the certificate may contain any other provision for the regulation of the business and conduct of the affairs of the association, and any limitation or regulation of the powers of the corporation and of its officers and members, not inconsistent with law or this act, which the incorporators may choose to insert.

Body corporate.

3. Upon filing the certificate as aforesaid, the persons who shall have signed and acknowledged such certificate and their associates and successors, shall thereupon by virtue of this act be a body politic and corporate by the name stated in such certificate, and as such shall have power:

Succession.

I. To have perpetual succession by its corporate name;

Legal rights.

II. To sue and be sued, complain and defend, in any court of law or equity;

Seal.

III. To make and use a common seal and alter the same at pleasure;

Officers.

IV. To appoint such officers, managers and agents as the business of the corporation may require;

By-laws.

V. To make by-laws, not inconsistent with the laws of the state or of the United States, for the management of its property and the regulation of its affairs;

Contracts.

VI. To contract and be contracted with;

Property

VII. To take and hold by lease, gift, purchase, grant, devise or bequest any property, real or personal, for the objects of the corporation; borrow money for the purposes of the corporation and issue bonds therefor, and to secure the same by mortgage;

Privileges.

VIII. To exercise any corporate powers necessary to the exercise of the powers above enumerated and given.

Trustees.

4. The business of the association shall be conducted by the trustees, subject to the by-laws which shall be passed by the members; the trustees shall be elected by

the members and shall hold office for one year, or such term as the by-laws provide, and until their successors shall be elected; a majority of the trustees must be residents of this state; there shall be a president, secretary and treasurer, to be chosen by the trustees, unless the by-laws provide for the election of any of them by the members; either the president or secretary may be eligible to the office of treasurer, if the by-laws so provide; whenever trustees, managers or directors shall be elected, a certificate under the seal of the corporation, giving the names of those elected and the term of their office, shall be filed in the office of the clerk of the county in which the original certificate was filed; vacancies shall be filled in the manner provided in the by-laws, and upon filling any vacancy a like certificate shall be filed; there shall be paid to the county clerk a fee of twenty-five cents for filing and indexing each certificate, and to the secretary of state a fee of one dollar upon filing each certificate.

Fee for filing certificate.

Re-incorporation.

5. Any corporation not for pecuniary profit, heretofore incorporated under the provisions of any act, general, special or private in this state, may become incorporated under the provisions of this act, in the same manner as if it had not previously been incorporated; in each case the new corporation shall be entitled to and invested with all the real and personal estate of the old corporation, in like manner and to the same extent as the old corporation, subject to all debts and liabilities.

Associations may combine.

6. Any two or more associations not for pecuniary profit, formed for similar objects under this act or any other act, may combine under this act by vote of the managers or trustees, ratified by vote of a majority of the members of each association, which combination shall be effected by certificate made and filed pursuant to the first section of this act, which certificate shall also set forth the names of the companies combined and the terms of the combination and the date and particulars of the approval thereof by the managers or trustees and by the members, and the property of the former associations may be transferred and conveyed to the new one, subject, however, to any trusts on which it may be held; the name of any association may be changed by authority of its trustees or managers and of a majority of its members, by certificate made and filed in the office of

the secretary of state and county clerk setting forth the facts required in section one and in addition the former name of the company and the date of the approval of the change by the trustees or managers and by the members; the statement of facts in such certificate of a combination or change of name shall be verified by oath; no suit by or against any company shall be affected by such combination or change of name.

Committal of children to such associations.

7. When any minor child or children shall have been abandoned, abused, assaulted or cruelly treated in any manner whatsoever by parents, guardian or custodians, and satisfactory and legal proof of the same shall be produced before a justice of the peace, or judge of any court of record, it shall be lawful for any justice of the peace or judge or judges, of any court of record aforesaid, to commit such child or children to the care and custody of any corporation organized under the provisions of this act for the purpose of the prevention of cruelty to children or for the care and custody of children, and said corporation may indenture said child or children with a view to provide homes suitable for them.

Aided by officers of the peace.

8. All judges, justices of the peace, constables, sheriffs and officers of police shall, as occasion may require, aid such corporation, its officers, members and agents, in the enforcement of all laws which are now or may hereafter be enacted relating to or affecting children, and for the purpose of bringing offenders against such laws to justice, the like powers shall be and are hereby given to the members, officers and agents of such corporation as are or may be given by law to the members, officers and agents of the society for the prevention of cruelty to animals.

Provide relief.

9. It shall be lawful for associations incorporated under this act, where their certificate of incorporation so specifies, to provide for the relief of disabled or destitute members or their families and to maintain a fund for that purpose, or to contract with their members to pay death benefits according to the rules or by-laws adopted by such associations, and to agree to pay the same to the husband, wife, father, mother, son, daughter, brother, sister or legal representative of such member, after his or her death, which contract the beneficiary

therein named shall have full legal power to enforce in proceedings at law or equity.

Orphan asylum associations.

10. Any orphan asylum association, organized under the provisions of this act, in addition to the powers given by section three, shall have power:

Guardianship.

(A) To apply for and accept the guardianship of orphans, or children who have no mother, upon giving proper security and complying with the laws of this state relative to guardianship;

Bind children.

(B) To bind out such children as shall have been under their care for more than one year, as said association may deem advisable; *provided*, that when the parent of any such child shall pay anything to the said association for its support, the consent of such parent to the exercise by said association of such control over the said child shall be required;

Proviso.

Care of children.

(C) To receive and retain all or any such orphan child or children or child having no mother, as may be placed under their charge, subject to such rules, by-laws and regulations as may from time to time be passed by the trustees of said association.

Dissolution.

11. Whenever in the judgment of any corporation, organized under the provisions of this act, it shall be deemed advisable and most for the benefit of such corporation that the same should be dissolved, it shall and may be lawful for such corporation, within ten days after the adoption of a resolution to that effect by said corporation, to cause written or printed notice of the adoption of such resolution to be mailed to each and every member of said corporation, residing in the United States, and also within ten days to cause a like notice to be published in one or more newspapers published and circulated in the county wherein such corporation shall have their place of meeting, at least four weeks successively, once a week next preceding the time appointed for the same, of a meeting of such members of said corporation, to be held at the usual place of meeting of said corporation, in such county, to take action upon such resolution, and which meeting may, on the day so appointed, by the consent of a majority of the said members present, be adjourned from time to time for not less than one week at any time, of which adjourned meeting notice by advertisement in such

paper shall be given; and if at any such meeting two-thirds of all the members then present shall consent by resolution that such dissolution shall take place, then and in such case such corporation shall, upon filing a certificate of such consent duly attested by their secretary, in the office of the secretary of state, and receiving from him a certificate that such certificate of consent has been filed, be dissolved, and the said corporation shall cause such certificate to be published four weeks successively, at least once in each week, in one or more of the newspapers published and circulated in the county in which such corporation has had its place of meeting; *provided*, that the secretary of state shall not issue the certificate of dissolution hereinbefore mentioned until satisfied by due proof that the requirements aforesaid have been fully complied with by such corporation; *and provided further*, that no distribution of the assets of any corporation affected by this act shall be made until the debts of such corporation shall have been fully satisfied, nor shall any property be diverted from any trust created by the donor or grantor.

Proviso.

Proviso.

12. No corporation, association or society authorized by this act and having no capital stock shall be formed under any other act; this act is subject to any alteration or modification which may be hereafter enacted by general law as to the amount of real and personal property to be held by the corporations herein provided for.

Who incorporated under this act.

13. All acts and parts of acts, general and special, inconsistent with this act are hereby repealed; but no existing corporation shall be thereby dissolved, and nothing herein contained shall impair or annul any vested rights, privileges or powers actually exercised and enjoyed by any corporation under any law hereby repealed.

Repealer.

Approved April 21, 1898.

CHAPTER 182.

A Further Supplement to the act entitled "An act to establish in this state boards of health and a bureau of vital statistics, and to define their respective powers and duties," approved March thirty-first, one thousand eight hundred and eighty-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Sale of contaminated milk prohibited.

1. When the state board of health, or any officer thereof duly authorized in writing by such board to act for or on its behalf, shall have reason to believe that any milk has been contaminated by the emanations, exhalations or discharges of any persons sick with communicable disease, it shall be lawful for the said state board of health, or the officer so authorized to act in the premises,

Order.

to issue an order in writing, signed by any officer of the state board of health, or by the officer authorized to act in the premises as aforesaid, prohibiting the transportation or sale of any milk suspected to be contaminated as aforesaid, and also prohibiting the transportation or sale of any milk which may be produced, stored, kept or found upon any premises infected by such disease; every person upon whom any such order may be served shall be bound by such prohibition, and the prohibition shall continue until the state board of health, or the officer authorized to act in the premises as aforesaid, shall have had opportunity to examine into the matter of suspected contamination and shall have removed the prohibition by another order in writing, signed by any officer of the state board of health, or by the officer authorized to act in the premises as aforesaid; any person or persons who shall knowingly transport or sell any milk, the sale and transportation of which has been

Penalty.

prohibited as aforesaid, shall be liable to a penalty of one hundred dollars, to be recovered by the state board

of health in an action upon contract in any court of record within this state, the money so recovered to be applied by the state board of health to any purpose for which it may be legally authorized to expend money.

Repealer.

2. The act entitled "A further supplement to the act entitled 'An act to establish in this state boards of health and a bureau of vital statistics, and to define their respective powers and duties,'" approved March thirty-first, one thousand eight hundred and eighty-seven, which further supplement was approved March twenty-eighth, one thousand eight hundred and ninety-five, being chapter CCCLXXIV of the laws of one thousand eight hundred and ninety-five, is hereby repealed.

3. This act shall take effect immediately.

Approved April 21, 1898.

CHAPTER 183.

An Act to amend an act entitled "A further supplement to an act entitled 'An act to establish in this state boards of health and a bureau of vital statistics, and to define their respective powers and duties,'" approved March thirty-first, one thousand eight hundred and eighty-seven, and which supplement was approved April twenty-third, one thousand eight hundred and ninety-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section two of the act entitled "A further supplement to an act entitled 'An act to establish in this state boards of health and a bureau of vital statistics, and to define their respective powers and duties,'" approved March thirty-first, one thousand eight hundred and eighty-seven, which supplement was approved April twenty-third, one thousand eight hundred and ninety-seven, which reads as follows:

2. "Said local boards of health are further empowered to adopt and alter ordinances requiring any person or persons engaged in the sale of milk to furnish to the said boards of health, when so requested, a statement as to the locality from which said milk was procured, and also a full and complete list of the persons from whom said milk was purchased, and the names and addresses of all customers or persons to whom he or they may sell or deliver milk in any borough or municipality in which said board of health may be organized," be and the same is hereby amended so as to read as follows:

Ordinances.

2. Said local boards of health are further empowered to adopt and alter ordinances requiring any person or persons engaged in the sale of milk within the municipalities in which such boards of health are organized, to furnish forthwith when so requested by said boards of health, or any inspector or officer thereof, a true statement in writing, upon blanks to be supplied by said boards of health, setting forth the locality from which said milk was procured, and also a full and complete list of the names of persons from whom said milk was purchased, and the names and addresses of all customers or persons to whom he or they may sell or deliver milk in any city, borough or other municipality in which said board of health may be organized, and said blanks, when filled-in as aforesaid, shall be signed by the person selling said milk to whom the said blank shall be tendered; and said ordinance may require the person or persons engaged in the sale of milk, as aforesaid, to notify, in writing, said board of health immediately upon changing the source of supply of said milk of such change, and said notice shall also state the name or names of persons supplying said milk and the locality from which such milk is procured.

Source of milk supply.

To whom delivered.

2. This act shall take effect immediately.

Approved April 21, 1898.

CHAPTER 184.

An Act to enable cities of the first class in this state to provide additional school accommodations where the same are necessary, by the erection of primary, intermediate and grammar school buildings and additions to said class of school buildings already erected, and to provide for the payment of the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Additional school accommodations.

1. Whenever, in the judgment of the board of education or other board having the control and management of the public schools of any city of the first class in this state, it shall be deemed necessary and expedient from time to time to provide additional school accommodations in such city by the erection of additional primary, intermediate and grammar school buildings or by additions to said class of school buildings already erected in any such city, it shall be lawful for the mayor and common council or other governing body or board of such city having control of the finances thereof, from time to time, by resolution, to appropriate such sum or sums, not to exceed three hundred thousand dollars, as they in their discretion shall determine, for the purposes aforesaid, and to authorize the necessary sums of money to be borrowed and raised for the purposes of purchasing or procuring of land, and the erection and construction of suitable primary, intermediate and grammar school buildings, and the erection of new additions to said class of school buildings, as may already be erected in any such city, and as may be necessary to provide such new school buildings or additions, with suitable school appliances, furniture and conveniences, and to so borrow and raise from time to time the money required to pay for the same, by the issue of temporary loan certificates or bonds of such city, payable at any time or times not ex-

Appropriation.

Issue loan certificates.

ceeding five years from the time this act shall take effect; and the money so raised by the issue of such temporary loan certificates or bonds shall, upon the books of such city, be carried to the credit of the board of education, or other governing body or board having charge of the public schools of such city, to be used by such board or body for the purposes provided for in this act, and for no other purpose whatsoever.

Payment of loan.

2. To meet and finally pay the temporary loan certificates or bonds authorized to be issued from time to time by the provisions of this act, it shall be the duty of the proper corporate authorities of such city to include and raise in the annual tax levy of such city, in the year nineteen hundred and one, at least one-third of the total amount of the temporary loan certificates or bonds issued by such city under authority of this act, and the said corporate authorities of any such city shall include and raise in the annual tax levy of such city, in the year nineteen hundred and two, at least one-half of the total amount of such temporary loan certificates or bonds as may then remain outstanding and unpaid, and the said corporate authorities shall include and raise in the annual tax levy of such city, in the year nineteen hundred and three, the balance of the amount of said temporary loan certificates or bonds then remaining outstanding and unpaid; and as fast as said moneys so placed in the annual tax levies of such city as aforesaid shall come into the treasury of such city, the same shall immediately be applied to the payment of said temporary loan certificates or bonds or portions thereof, issued by such city as aforesaid; such temporary loan certificates or bonds shall bear interest at a rate not exceeding legal rate per annum, payable semi-annually or otherwise, and the said temporary certificates or bonds shall be issued in such form and for such periods of time as will enable the payment thereof in the manner and at the times hereinbefore provided.

Rate.

Form of issue.

3. The temporary loan certificates or bonds herein authorized to be issued shall be issued and signed in such form as other temporary loan certificates or bonds of such city are authorized by law to be issued and signed or as the mayor and common council or other body or board having control of the finances of such

city may by resolution direct; *provided*, the same be not contrary to the provisions of this act. Proviso.

4. When pursuant to the provisions of this act, the common council or other governing body of any such city or board having charge of the finances of such city, shall have appropriated for the purposes mentioned in this act, any sum or sums of money, it shall be the duty of the board of education or other body having control of the schools of such city, to at once proceed to purchase lands and erect buildings in such city, suitable and adequate for the purposes mentioned in this act; *provided, however*, that no lands shall be purchased for the purpose of erecting thereon any school building by authority of this act, except with the concurrence and approval of the mayor of such city, and of the common council or other governing body of such city, or board having charge of the finances of such city, which concurrence shall be expressed by resolution of the said common council or other governing body or board having charge of the finances of such city, approved by the mayor of such city, and the title to all lands so purchased shall be taken in the corporate name of such city. Duty of board of education. Proviso.

5. All moneys raised by authority of this act and carried to the account of the board of education, or other board having charge of the public schools of such city of the first class, shall be carried in an account to be designated "primary, intermediate and grammar schools construction account," and all warrants drawn by the board of education, or other body having control of the public schools in any such city, upon this account, shall have stamped or printed thereon conspicuously the words, "primary, intermediate and grammar schools construction account," and such warrants in other respects shall conform to the warrants now required by law for the drawing of moneys from the city treasury for the construction of school buildings in such city. Name of fund.

6. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately. Repealer.

Approved April 21, 1898.

CHAPTER 185.

An Act to prevent the adulteration of and deception in the sale of linseed or flaxseed oil.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Adulteration of linseed and flaxseed oils prohibited.

1. No person, firm or corporation shall manufacture or mix for sale, 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.

Exception

Proviso.

2. Nothing in this act shall be construed as prohibiting the sale or manufacture of any compound of linseed or flaxseed oil; *provided*, that such compound, if it imitates in appearance and is designed to take the place of linseed or flaxseed oil, shall not be manufactured or mixed for sale, sold or offered for sale under a name or description containing the words "linseed oil" or "flaxseed oil."

Penalty.

3. Any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished for each and every such violation with a fine of not less than fifty dollars nor more than five hundred dollars; and in default of the payment of such fine shall be imprisoned for a period of not less than thirty days.

State dairy commissioner to enforce act.

4. It shall be the duty of the state dairy commissioner to enforce the provisions of this act; the violation of any of the provisions of this act is hereby declared to be a public nuisance, and any court of competent jurisdiction is authorized, upon application of the said dairy commissioner, to enjoin such violation in the same man-

ner as injunctions are usually granted under the rules and practice of such court; the said commissioner and his assistants, experts and chemists and others appointed by him shall have access, ingress and egress to and from all places of business and buildings where linseed or flaxseed oil is kept for sale or stored; they shall also have the power and authority to open any tank, barrel, can or other vessel containing such oil, and may inspect the contents thereof and take samples therefrom for analysis; all clerks, book-keepers, express agents, railroad agents or officials, employes of common carriers or other persons shall render them all the assistance in their power, when so requested, in tracing, finding or inspecting such oil.

Disposition of fines.

5. All fines recovered under this act shall be paid into the state treasury and placed to the credit of the state dairy commissioner, and shall be in addition to such other sums as may be provided for the payment of the expenses of the department of said commissioner.

6. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 186.

An Act to amend an act entitled "An act to provide for the regulation and incorporation of insurance companies" (Revision), approved April ninth, one thousand eight hundred and seventy-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section twenty-three of the act entitled "An act to provide for the regulation and incorporation of insurance companies" (Revision), approved April ninth, one thousand eight hundred and seventy-five, be and the same is hereby amended to read as follows:

Securities that may be deposited.

23. It shall not be lawful for any company organized under this act to transact business until such company

shall have deposited with the commissioner of banking and insurance of this state the sum of twenty thousand dollars in stocks, bonds, or in bonds and mortgages; such stocks shall be the public stocks or bonds of this state, or of the United States, or the states of New York, Ohio, Massachusetts or Pennsylvania, or of any of the counties, cities, towns or townships of this state, the market value of which shall not be less than par; such mortgages shall be on unencumbered improved real estate within this state, worth double the amount so invested; and the said commissioner may from time to time, after such company shall have commenced the transaction of business, require further deposits of stocks, bonds or bonds and mortgages, as aforesaid, to an amount equal to one-fifth of the issued policies of such company, not to exceed in all the sum of one hundred thousand dollars.

Further deposits.

2. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 187.

An Act to amend an act entitled "A supplement to an act entitled 'An act to regulate and establish a uniform rate of charges for legal advertising in New Jersey,'" approved March twentieth, one thousand eight hundred and fifty-seven, which supplement was approved March twenty-fifth, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the act to which this is an amendment is amended so as to read as follows:

Rate for legal notices.

1. Hereafter the price for publishing in the newspapers published in counties of the first class in this state, the legal notices designated in the act to which this is a supplement, shall be at the rate of ten cents per

agate line for the first insertion and five cents an agate line for each subsequent insertion, and no more.

2. All acts and parts of acts inconsistent with the provisions of this act are repealed and this act shall take effect immediately. Repealer.

Approved May 18, 1898.

CHAPTER 188.

A Supplement to an act entitled "An act respecting bridges" (Revision), approved April tenth, one thousand eight hundred and forty-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. No bridge shall hereafter be erected, rebuilt or repaired by any member or members of the board of chosen freeholders of any county where the expense of erecting, rebuilding or repairing such bridge shall exceed the sum of two hundred dollars, unless the same shall have been authorized by the board of chosen freeholders of such county. Limiting amount of repairs authorized by freeholders.

2. This act shall take effect May first, eighteen hundred and ninety-eight.

Approved May 18, 1898.

CHAPTER 189.

An Act to extend the time to complete all or any part of any horse, street, electric, cable or traction railroads or railways.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. That whenever the time limited for the completion of any horse, street, electric, cable or traction railroad or Extending time for completion of street railways.

railway, or any part thereof, has expired either by the terms of any resolution or ordinance of any municipality of this state, or by the provisions of any law of this state, such time shall be and the same is hereby extended to the first day of July in the year of our Lord one thousand nine hundred.

Repealer.

2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

3. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 190.

An Act providing for the payment of claims incurred in the construction and maintenance of the water-works in any city.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Providing for payment of claims incurred without proper advertising

1. Where the board of aldermen or any other board having charge and control of the water-works in any city, or any committee or officer thereof, shall have made within three years prior to the passage of this act any necessary or required constructions or repairs or improvements to the water-works therein, and purchased materials and employed labor for that purpose, without complying with the requirements of the laws governing such city in advertising therefor, the board of aldermen or other board having charge and control of the finances of such city, upon being satisfied that such constructions and improvements have been made, shall have power to appropriate the funds necessary for the payment of such materials and labor, and shall thereupon pay said claim; said additional appropriations may be made from any moneys heretofore or hereafter available in such city for the support and construction and maintenance of the water-works, or by the issuance of temporary loan bonds, in which latter event the payment thereof shall

be provided for in the tax levy next thereafter to be made; provided that such additional appropriation shall not exceed the sum of ten thousand dollars. Proviso.

2. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 191.

An Act to amend an act entitled "A further supplement to the act entitled 'An act to ascertain the rights of the state and of the riparian owners in the lands lying under the waters of the bay of New York and elsewhere in the state,'" approved April eleventh, one thousand eight hundred and sixty-four, which supplement was approved the nineteenth day of February, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. That the act above mentioned be and the same is hereby amended so as to read as follows: Act amended.

WHEREAS, The Palisades situate in this state are liable to be irreparably injured or destroyed, unless measures be adopted for the preservation thereof; *and whereas*, by the insertion or imposition of proper and appropriate terms, conditions, restrictions and limitations in leases, grants and conveyances of the lands lying under water adjacent to or in front of the Palisades, the threatened injury or destruction thereof may, in a great degree, be averted: Preamble.

1. That hereafter the riparian commissioners shall not make any lease, grant or conveyance of any lands lying under the waters of the Hudson river adjacent to or in front of the Palisades, or adjacent to or in front of the strip of land between the base of the Palisades and the lands under water, unless there be inserted in the lease, grant or conveyance such terms, conditions, Conditions under which leases may be made.

restrictions and limitations as will, so far as possible, forever thereafter preserve unbroken the uniformity and continuity of the Palisades, and also, so far as possible, prevent the lands leased, granted or conveyed from being in any way used or devoted to injurious or destructive work or operations against the Palisades, or in connection with or for the encouragement, aid or promotion of injurious or destructive work of any kind against the Palisades; *provided, however,* that no terms, conditions, restrictions or limitations shall be inserted in any such lease, grant or conveyance which shall in anywise prevent or interfere with any work or operations, whether by blasting and removing rock, or otherwise, on any part of the land lying between the base of the vertical line of the Palisades and high-water mark on the Hudson river, for the purpose of preparing the ground for the construction of buildings, or for commercial purposes; *and provided further,* that this act shall not apply to or in any way affect any right of the state involved in any pending suit or suits, nor shall it, nor shall any of its provisions affect or impair any lease or leases, grant or grants already made by the riparian commissioners.

Proviso.

Proviso.

2. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 192.

An Act to amend an act entitled "An act for the preservation of the health of female employes employed in manufacturing, mechanical and mercantile establishments," approved April seventeenth, one thousand eight hundred and eighty-four (General Statutes, page one thousand six hundred and seventy-five, section two hundred and eighteen).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section two of the said act be and the same is hereby amended so as to read as follows:

2. That any person or corporation who shall be guilty of any violation of the provisions of this act shall be liable to a penalty of fifty dollars for each offense; *provided*, that ten days' notice in writing shall be given by any person or persons who may choose to do so, to any person or persons or corporation violating this act, that they are required to comply with the provisions of the first section of this act, and any person or corporation failing to comply therewith upon or before the expiration of ten days from the date of service of such notice, shall be liable to the said penalty of fifty dollars for each offense, to be recovered in an action of debt in any district court in any city or before any justice of the peace having jurisdiction in civil causes; such action may be brought as hereinafter provided, and the trial shall proceed as other actions of debt; the first process shall be a summons, returnable in not less than five days, nor more than ten days after the test thereof, and it shall not be necessary to endorse the same as in qui tam actions; the finding of the court shall be that the defendant has or has not (as the case may be) incurred the penalty claimed in the demand of the plaintiff, and judgment shall be given accordingly; in case execution shall issue and be returned unsatisfied, the court, on application, after notice to the defendant, may award an execution to take the body of the defendant as in other cases where a capias may issue out of any district court in this state; action may be brought for any violation of this act in the name of any person or persons of full age who will prosecute the same, and in case of recovery, one-half of the amount of the judgment recovered shall go the person or persons in whose name the action is brought, and the other half shall be paid by the person or persons recovering the same to the treasurer of the state of New Jersey for the use of the state.

Penalty.

Proviso.

Action, summons, findings, etc.

2. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 193.

AN ACT concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or water rents in towns, townships, boroughs and other municipalities except cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages and to enforce the payment thereof, and to provide for the sale of lands subject to future taxation and assessment.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Application for and appointment of commissioners of adjustment.

1. That it shall be lawful for the board of aldermen, common council, or other legislative body of any town, township, borough or other municipality in this state, with the concurrence of the board or body having charge or control of the finances of the said town, township, borough or other municipality, if there be any separate such board or body therein, in which any arrearages of taxes, assessments or water rates may exist, to make application to the circuit court of the county in which such town, township, borough or other municipality is situate for the appointment of three freeholders and residents of this state as commissioners of adjustment, at least one of whom shall be a resident of the said town, township, borough or other municipality, for the purpose of performing the duties and executing the powers conferred by the following sections of this act; at least two weeks' notice of such intended application shall be given by public advertisement, signed by the clerk of said town, township, borough or other municipality, and published at least once each week in one newspaper printed or circulating therein; such notice shall state the time and place when and where said application is intended to be made, and all persons interested therein, either as

tax-payers, owners of delinquent lands or otherwise, shall be entitled to appear and be heard before the court on said application; after such hearing, and upon due proof that notice has been given as aforesaid, on which the judgment of the court shall be final and conclusive, it shall be the duty of the court to appoint three disinterested freeholders and residents, as aforesaid, as commissioners of adjustment for said town, township, borough or other municipality for the purposes aforesaid; said commissioners of adjustment shall, before entering upon the discharge of their duties, take and file with the said clerk the oath of office required to be taken by officers of the town, township, borough or other municipality for which they are appointed, and they shall receive for their services such compensation as the said court shall determine; vacancies in the board of commissioners, caused by death or otherwise, shall be filled in the same manner as original appointments are herein required to be made.

Oath.

Compensation.

2. That the said commissioners of adjustment, when appointed for any such town, township, borough or other municipality, shall have power and jurisdiction, and they are hereby directed and required, in all cases when any tax, assessment or water rate levied or imposed, or attempted to be levied or imposed on any land therein, prior to the appointment of said commissioners, remains unpaid and in arrears, to examine into and fix, adjust and determine as to each parcel of land, how much of such arrearages and subsequent taxes, assessments or water rates, if any, ought, in the way of tax, assessment or water rate, in fairness, equity and justice to be laid, assessed and charged against and actually collected from said land for or on account of said taxes, assessments or water rates and claims for local improvements theretofore made, and the said commissioners, in dealing with the said arrearages as matters of fact, according to their judgment of what shall be equitable, fair and just as hereinbefore directed, shall treat the same without regard to any supposed want of jurisdiction, invalidity, irregularity or defect in any of the proceedings had for the levying, imposing or confirming of any of said taxes, assessments or water rates so in

Powers of commissioners.

arrears; and in ascertaining the amount that should be assessed and charged on any of the said lots, tracts or parcels of land, the said commissioners, in dealing with the assessments or claims for street or sewer improvements, shall not assess or charge any lot, tract or parcel of land, for or on account of any such improvement, in excess of the benefit derived therefrom at the time the said improvement was made, or in excess of its due and equable proportion thereof, with interest; *provided*, that in all cases in which an assessment or a re-assessment has been made on any lot or tract of land for the benefit conferred by any local improvement, the said commissioners shall have regard to that fact, and shall not reduce the principal sum of such assessment unless in their judgment after investigation they determine that the amount heretofore so assessed thereon does in fact exceed the benefit conferred upon the property at the time the improvement was made; the said commissioners shall, within thirty days after their appointment, cause a notice signed by themselves to be published in at least one newspaper printed or circulating in the town, township, borough or other municipality for which they were appointed, making known thereby that the said commissioners will meet at a time and place to be therein designated, not more than forty or less than thirty days from the date of the first publication of the notice, to hear all persons interested in the re-assessment or adjustment under this act of the taxes, assessments or water rates in arrears in the said town, township, borough or other municipality, or in such part thereof as the said commissioners shall designate in the notice; such notice shall be continued in said newspaper at least once each week until said meeting; at the time and place mentioned in said notice all persons interested in said matters, either as taxpayers, owners of assessed lands or otherwise, shall be entitled to appear before said commissioners and be heard either personally or by counsel, and said commissioners shall have the right to examine witnesses under oath in relation to all of said matters, which oath any one of them is hereby authorized to administer; after such hearing and after due examination of the property mentioned in said notice, the said commis-

Proviso.

Notice of hearing.

Proceedings at hearing.

sioners shall proceed as speedily as may be to fix and adjust the said arrearages of taxes, assessments and water rates upon the principles aforesaid; and in like manner and upon like notice the said commissioners shall proceed until all the arrearages of taxes, assessments and water rates in such town, township, borough or other municipality have been reviewed, fixed, adjusted and determined as provided in this act; the amount of taxes, assessments and water rates, for which certificates of sale have been given to and are held by the said town, township, borough or other municipality, whether such sales are invalid or not, shall be deemed to be in arrears within the meaning of this section, and to have been so in arrears from the date when said taxes, assessments and water rates were assessed, levied or confirmed, or attempted to be assessed, levied or confirmed; the term "water rates" in this act shall be construed to include "water rents." "Water rates."

3. That the said commissioners shall keep a record of their proceedings under this act, in which shall be entered their determination as to the amount to be charged and assessed upon and against each lot or tract of land as aforesaid, designating the same by block and lot numbers on assessment maps to be made for that purpose, and shall make reports, from time to time, as they proceed with the discharge of their duties, of the amounts so charged and assessed and such actual disbursements as may have been incurred in ascertaining the owners and lienors of each lot or parcel of land affected by the findings of said commissioners, such disbursement not to exceed twenty-five dollars for searches on any one lot or parcel of land, and shall file the same, with the said map, in the office of the clerk of the court by which they were appointed; said reports shall be certified by the signatures of at least two of the said commissioners, and upon the coming-in and filing of any such report, signed by the said commissioners or any two of them, the said court shall make an order directing the owner or owners and lienor or lienors of each lot or parcel of land affected by said report to show cause why said report should not be confirmed and the lands sold in fee-simple, absolute, free and clear from Record of proceedings. File reports and maps. Order by court.

any estate in or lien upon the same, to raise and pay the amounts charged and assessed with the said disbursements; that certified copies of such order to show cause shall be served personally or by residence service upon some member of defendant's family above the age of fourteen years within thirty days from its date, upon each person named therein resident in this state, and if any person named in said order is, upon careful inquiry, found to be not resident in this state, that within the same time a notice of the making of the said order, stating its date, purpose, time and place returnable, a description of the lands affected thereby, the amount of taxes, assessments and water rates due thereon with disbursements as aforesaid, and directed to each person named in such order, not a resident, shall be published in a newspaper published or circulating in the town, township, borough or other municipality in which the lands are situated, for six weeks consecutively, once a week, and within the same time mailed to the last known post-office address of such non-resident; that on the return day of said order there shall be presented to the said court proofs of the service of the said order, or of the publication of such notice and of the manner in which inquiry has been made for the post-office addresses of non-residents, and of the time and manner of mailing such notice; that if the court shall not be satisfied by the proofs that due inquiry has been made for such post-office addresses, the hearing may be continued to a later day and further order made for service of the notice as the court may think proper; that if it shall appear by the petition or by proofs on the return day that any of the persons named in the order to show cause is under disability through minority or otherwise, the court shall appoint a guardian ad litem for such person, provided proof shall be made that at least thirty days' notice of the application for the appointment of a guardian ad litem shall have been served upon the general guardian, if any, within this state, of such person under disability, or upon his father, if living in this state, or if not, upon his mother, if living in this state; that all persons claiming any interest in or lien upon said lands under any instrument which by law could be made a public record in any public office in this state,

Notice, how given.

In case of minors.

Persons affected.

and which shall not be so made matter of public record at the date of the filing of the petition above provided for, shall be bound by the proceedings taken under this act in the same manner as if such persons had been made parties to the proceedings; that where any person has been party to proceedings under this act, who by the public records appears to be the owner of some estate in or lien upon said lands, and inquiry made on behalf of the town, township, borough or other municipality does not disclose whether such person is alive or dead, such person shall be conclusively presumed to be alive, and a notice published as required by this act and mailed to the address, if given by the instrument of record, shall be conclusive against, and bind not only such person if living, but any person claiming through or under him if he be dead; *provided*, that proof of the making of such inquiry on behalf of the town, township, borough or other municipality shall be presented to the circuit court on the return day of the order to show cause; that where the lands shall be held in trust by a trustee or trustees, service of the notice prescribed hereby upon such trustee or trustees shall be conclusive on and bind all persons in any manner interested in said lands either in law or in equity; and upon the day fixed by the said order or upon any day to which the matter may be adjourned, the court, after hearing any matter that may be alleged against the same, shall, by rule or order, either confirm the said report or refer it back to the said commissioners, to reconsider the subject-matter thereof, and the said commissioners shall, upon some day to which the matter shall be adjourned, which adjournments from time to time the court may make, shall return the same to be corrected and revised, or a new report to be made by them in the premises, to the said court, without unnecessary delay, and the same, on being so returned shall be confirmed, or again referred by the said court in the manner aforesaid, as right and justice may require, and so from time to time, until a report shall be made or returned in the premises which the said court shall confirm; any commissioner who shall refuse to sign such report shall file with the same a statement of his reasons for

Proviso.

Action of court respecting report.

Refusal to sign.

Confirmed report final.

so refusing, for the information of the court; said report upon being so confirmed shall be final and conclusive upon the said town, township, borough or other municipality, and upon all persons owning or having any interest in or lien upon the said lands and against all persons whomsoever, and the amount so fixed, determined, certified and confirmed, including the disbursements aforesaid in each case shall thereupon become and be a valid and binding tax, assessment and lien on the lands so designated, in lieu and instead of all outstanding claims of the said town, township, borough or other municipality for arrearages of taxes, assessments or water rates levied or confirmed, or attempted to be levied or confirmed, prior to the making of the said report, and shall be a valid lien on said lands, having priority over all other liens, claims or demands whatsoever, except taxes, assessments or water rates levied after the making of the said report; and the proceeds thereof, when collected, shall be applied to the payment of the expenses of carrying out the provisions of this act, and any indebtedness to which the original tax, assessment or water rate was specifically pledged, and to the payment of other debts of the said town, township or other municipality, if any; but no application to any other use shall be made while any matured bonds of the town, township, borough or other municipality remain unpaid; it shall be competent for the said commissioners to include in any one report their several determinations respecting as many lots or tracts of land as may seem to them convenient, and it shall be their duty to indicate in their report how much of the new lien imposed by them on each lot or tract of land was made on account of taxes, assessments and water rates, respectively, to the end that the money to be derived from the sale of the lands, as hereinafter provided, may be applied in due proportion to the purchase or payment of any bonds or obligations that may have been issued on account of taxes, assessments and water rates respectively, or for the payment of which the same may have been pledged; it shall be the duty of the corporation attorney or counsel for the said town, township, borough or other municipality, to assist the said commission by advice, preparation of reports

Amount determined a lien.

Proceeds.

Several lots may be included in one report.

Municipal counsel and surveyor to assist commission.

and otherwise in the discharge of their duties, when requested, and the surveyor or engineer of the town, township, borough or other municipality shall make all necessary surveys and maps required; and the said commissioners shall have power to appoint a clerk and such other assistants as in their judgment shall be necessary, and fix their compensation, which appointments and compensations shall be subject to the approval of the judge of the circuit court of the county appointing the commissioners.

Additional assistance.

4. That upon the confirmation of the said report, the same or a certified copy thereof with the assessment map or maps filed therewith shall be transmitted to the clerk of the said town, township, borough or other municipality to be filed by him in his office, and a copy of said report shall be transmitted to the collector of taxes of the said town, township, borough or other municipality, who shall mark thereupon the date of his reception of the same, and thereupon the amount of said tax, assessment, search-cost and lien so fixed and certified in respect to each and every lot or parcel of land included therein shall immediately become due and payable, with interest at the rate of six per centum per annum; and if the same or any part thereof as to any lot or parcel of land included in said report shall remain unpaid for the space of three months after the delivery of the said copy of said report to the said collector of taxes, the said collector of taxes shall present to the said circuit court of the county a statement of the amount or amounts remaining due thereon, as assessed upon each lot or parcel of land, and the interest at the aforementioned rate, with proof as to the amount, if any, which has been paid thereon, and thereupon, if no sufficient cause appears to the contrary, the said court shall order the said collector of taxes of the said town, township, borough or other municipality to sell said lands at public auction to the highest bidder, in fee-simple, as hereinafter provided, to raise the amount of tax, assessments, cost and interest shown to be due by the said statement of the said collector of taxes.

Confirmed report sent to clerk and collector of taxes.

Rate.

Sale of lands upon failure to pay tax.

5. The collector of taxes shall make sale of said lands at some public place within the town, township, borough or other municipality, having first given notice of

Notice of sale.

the time and place of such sale by advertisement in a newspaper circulating in said town, township, borough or other municipality for at least four weeks consecutively once a week, and by posting the same in five public places of the town, township, borough or other municipality at least four weeks before such sale; he shall have power to adjourn the sale from time to time, but for not less than one week at each adjournment, and shall publish notice of such adjournment at least once in one newspaper circulating in the town, township, borough or other municipality; he shall not sell any tract of land for an amount less than the total sum of taxes, assessments, interest, costs and disbursements due at the date of the sale, and always subject to the lien of all taxes and assessments subsequent to those for which such sale is made.

Amount, and lien of subsequent taxes.

Purchaser.

6. The purchaser of any tract of land shall immediately, upon the same being struck off to him, pay twenty per centum of the amount bid by him, and within ten days thereafter the remaining eighty per centum thereof, and the collector of taxes shall thereupon execute and deliver to him a certificate of sale, containing a covenant on the part of the town, township, borough or other municipality, in case the title of such lands shall prove to be invalid, and, upon surrender of the certificate, to refund the amount paid by him for such land, but without interest.

Persons having lien may redeem.

7. Any person having an estate in or lien upon such lands may at any time up to the expiration of six months from the date of the certificate of sale redeem the same by paying to the collector of taxes the amount bid at such sale for the same, with interest thereon at the rate of ten per centum per annum, which sum shall be held by the collector of taxes subject to the order of the purchaser at such sale upon the surrender of the certificate, but without interest; that any person so redeeming such land shall be subrogated to the lien of the town, township, borough or other municipality for the amount paid by him, as against all other persons having any estate in or lien upon said lands, but subject, however, to all existing equi ies.

8. If said lands have not been redeemed within six months from the date of the certificate of sale, the col-

lector of taxes, at the expiration of said six months, upon the surrender of the certificate, shall execute, under the seal of the town, township, borough or other municipality, attested by the clerk of the said town, township, borough or other municipality, and proved according to law, and deliver to such purchaser, his heirs or assigns, a deed of conveyance for said lands in fee-simple, absolute, free, and discharged from any estate in or lien upon the same in favor of any person made a party to the proceedings hereinabove provided for, which deed shall not be subject to attack in any collateral proceeding, and shall be presumptive evidence of title in the grantee therein named in all courts and places and in any proceedings or actions to be by such grantee, his heirs or assigns, taken, prosecuted or defended for the recovery of the possession of the lands so sold as aforesaid, or in the establishment or defense of his or her title under such deed; and the title shall not fail or be defeated by reason of any irregularity or formal defect in the proceedings under this act.

Upon failure to redeem, land to be sold in fee-simple.

9. The town, township, borough or other municipality may become the purchaser in its corporate name at any sale of lands under this act, to the same effect as any other purchaser, and at the expiration of the period for redemption shall be entitled to a deed for the lands purchased by it, and in all cases where such lands shall be bought by the town, township, borough or other municipality under this act, it shall be lawful for the township committee, or other governing body, to sell and assign the certificates of sale, or to sell and convey such property, or any part thereof, by good and sufficient deed of conveyance; *provided*, that if sold at private sale the price for which such lands shall be sold shall not be less than the amount due the town, township, borough or other municipality thereon when purchased, including costs, with interest at the rate of seven per centum per annum.

Municipality may become purchaser.

Proviso.

10. It shall not be necessary to set out the proceedings under this act at length in the deed for the lands sold, but a general statement therein that such deed was made and executed upon proceedings taken under the authority of this act shall be sufficient, and that no writ of certiorari shall be allowed, and no action shall be brought

Statement in deed.

No certiorari, etc, after two years.

to contest or set aside any deed given pursuant to the provisions of this act, or to recover possession of the lands conveyed by such deed, after the expiration of two years from its date; that the collector of the town, township, borough or other municipality, in addition to the description contained in the record of such tax or assessment, shall describe said lands by metes and bounds, if he shall have ascertained the same.

Immediate possession

11. The purchaser at any such sale, his heirs or assigns, shall be entitled to the immediate possession of the lands purchased by him, upon the delivery of the certificate of sale to him, as hereinbefore provided.

Money received from sales.

12. All moneys received upon sales, in pursuance of this act, shall be held by the collector of the town, township, borough, or other municipality until the expiration of the time for redemption herein provided for, and thereupon the surplus, if any, remaining in any case, after deducting the amount of taxes, assessments, interest, costs and disbursements due to the town, township, borough or other municipality, shall be paid over by the collector to the clerk of the circuit court of the county, subject to the further order of said circuit court.

Conveyance free from right of dower.

Proviso.

13. The conveyance of lands pursuant to the provisions of this act shall convey the same free and clear from any estate or right of dower, or of courtesy therein; *provided*, that notice shall have been given to the person having such estate of dower or right of courtesy in the manner provided by this act; and in case the first or christian name of such person is unknown, such person may be made party to the proceedings by using in the case of a dowress the name of her husband with the prefix "Mrs.", and where the title is in the wife the prefix "Mr." before the surname of the wife, followed by the words "husband of," using the name of the wife; *and provided*, that proof of inquiry for such first or christian name shall be presented to the court on the return day of the order to show cause.

Duty of municipal counsel.

Compensation.

14. That the counsel or attorney of the town, township, borough or other municipality shall make or have made the necessary searches, and serve or have served the necessary notices provided for in this act, for which service he shall be paid at the rate of one dollar for each notice served, and the fees for such searches and notices

shall be ordered paid to him by the township committee or other governing body from time to time, upon his filing a statement, under oath, of the amount due him for such services.

Advertisement may include several tracts.

15. The collector may include in one advertisement one or more tracts of land, and the circuit court may make one or several orders thereon, as it may deem most likely to facilitate the purposes of this act, and said circuit court shall have power to adopt such rules of procedure as it may think proper to carry out the intent thereof.

Cities not affected, nor purchases made subsequent to expiration of lien.

16. The provisions of this act shall not be construed as including or affecting any city in this state, and shall not apply to or affect the right, title or interest of any bona fide purchaser, mortgagee or lienor of any lot or tract of land, whose purchase, mortgage or lien was made or accrued subsequent to the expiration of the lien of taxes provided for by the law subsisting at the time of the making of such purchase or mortgage or the attachment of such lien.

Repealer.

17. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 194.

An Act to amend an act entitled "An act in relation to the power of aqueduct boards having control of the water supply in the cities of this state, to issue bonds or borrow money on the credit of the cities wherein such boards exist, to limit the powers heretofore given to such boards, and giving the common council or other governing body of such cities powers in relation thereto, and providing for the funding and payment of indebtedness heretofore incurred by such boards," approved March twenty-sixth, one thousand eight hundred and eighty-eight.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended

1. Section four of the said act, to which this act is amendatory, be amended so as to read as follows:

Additional sum may be raised for extending mains.

4. That for the purpose of enabling such board, or its successor, to extend water mains in the streets of any such city, the common council or other governing body shall each year, if such board or its successor shall require the same, raise for its use for this purpose in the annual tax levy of such city, or by the issuing of bonds for which authority is hereby given, a sum not exceeding twenty thousand dollars, such sum to be in addition to expenditures for extending street water mains theretofore or thereafter made by such board, or its successor, out of its receipts for such fiscal year, for which authority is hereby given; and such council, or other governing body, may, at its discretion, in like manner provide a further sum each year for enlarging, extending or repairing the water-works in any such city;

Proviso.

provided, the sum so raised shall not exceed the sum of fifty thousand dollars, and the sinking fund and interest on all bonds hereafter issued under this act, or the act

to which this act is a supplement, shall be paid out of the receipts from water rents; *and provided further*, that no sum shall be raised by such common council, or other governing body, either by taxation or by the issuing of bonds, for the purpose of building or erecting a new system of water-works, unless a majority of the legal voters of the city shall have expressed their assent to the erection of such works and to the amount proposed to be expended therefor. Proviso.

2. This act shall take effect immediately.

Approved May 18th, 1898.

CHAPTER 195.

An Act to amend an act entitled "Supplement to 'A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same,'" approved March fourteenth, one thousand eight hundred and seventy-nine (General Statutes of New Jersey, p. 3353, sec. 330), which supplement was approved April second, one thousand eight hundred and eighty-eight (P. L. 1888, p. 372; General Statutes of New Jersey, p. 3359, sec. 368).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section one of said act be amended so as to read as follows: Section amended.

1. Any and all taxes which shall or may hereafter be laid, assessed or imposed, pursuant to the laws of this state, against any person or persons or corporations, for and on account of any lands, tenements, hereditaments or real estate, situate, lying and being in this state, together with interest at twelve per centum per annum thereon accruing, and all costs, fees, charges and expenses in relation to the levy, assessment and collection of said taxes, shall be and become, from and after Taxes, etc., a paramount lien.

the twentieth day of December next after such assessment, a full and complete, first and paramount lien on all lands, tenements, hereditaments or real estate, on account of which such levy and assessment shall be made, and while unpaid shall remain such lien for the space of two years, except as hereinafter provided, from the said twentieth day of December, and that any and all mortgages, alienations, devises, descents, liens and encumbrances of every kind and nature of, in, upon and against such lands, tenements, hereditaments or real estate, shall be in every respect subject and subservient to the lien of the aforesaid taxes, interest, costs, fees, charges and expenses; *provided, however*, that whenever any writ of certiorari or other legal proceeding whatever shall be taken or had to alter, correct, set aside, annul or in any wise to delay, hinder, obstruct or prevent any levy, assessment, collection or proceeding for the levy, assessment or collection of any taxes, then and in every such case the said space and period of two years of limitation from and after said twentieth of December shall be suspended and not operative against such levy, assessment, collection or proceedings therefor during the pendency of such litigation, but shall, as to all lands, tenements and hereditaments affected by such proceedings, be operative only prior to the beginning and after the conclusion of such litigation.

Proviso.

2. All acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

Approved May 18, 1898.

CHAPTER 196.

An Act to amend an act entitled "A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section nine of an act entitled "A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine (General Statutes of New Jersey, p. 3,354, sec. 338), be and the same is hereby amended to read as follows:

Redemption of property within two years.

9. The owner or owners, mortgagee, occupant or any other person having a legal or equitable interest in any lands, tenements, hereditaments or real estate sold for taxes as aforesaid, may redeem the same at any time within two years from the date of such sale by paying to the purchaser, or his legal representative, the amount of purchase-money set out in detail in such certificate, with twelve per centum interest thereon, together with such other fees, costs, expenses and charges as may have been incurred by the purchaser under the provisions of this act, and the purchaser, upon receiving such payment, if made by the owner or owners thereof, shall recover and restore to such owner or owners such real estate, and in case the owner or holder of any estate, in lien upon or right of possession of such real estate so sold, shall pay to the purchaser within the said two years the aforesaid purchase-money, interest, fees, costs, expenses and charges, the sale shall be of no further effect, and the mortgagee or other persons so redeeming shall have a lien upon the said premises for the amount

paid, with twelve per centum interest thereon, in like manner as if the same had been included in his, her or their mortgage, or other lien, and if such owner or owners, mortgagee, occupant, or other person having a legal or equitable interest as aforesaid in such lands, tenements and hereditaments, do not within such period of two years so redeem such lands, tenements, hereditaments or real estate, the title to the same shall thereupon vest absolutely in the purchaser in fee-simple; *provided*, that the said owner or owners, mortgagee, occupant, or other person having a legal or equitable interest as aforesaid shall have been notified of the sale of said lands and of his right to redeem the same as now provided by law, by payment of arrears of taxes, interest and costs; which notice shall be in writing or printing, signed by the purchaser or his agent, and served personally upon such owner or owners, mortgagee, occupant, or other person aforesaid, if resident in the taxing district where such real estate is located, or mailed to his last-known address, if non-resident, at least sixty days prior to the expiration of said period of two years.

Proviso.

Repealer.

2. All acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 197.

An Act relating to the use of the public streets by electric light, heat and power companies.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Proceedings and contracts heretofore made valid.

1. All proceedings heretofore had or taken by the several municipalities of this state, purporting to authorize the construction, reconstruction or extension of subways or pole-lines, to be used by electric light, heat and power companies for the purposes of their

business and under which subways and pole-lines have been constructed, and all contracts entered into by the several municipalities with electric light, heat and power companies, in the carrying out of which subways or pole-lines have been erected by such companies, shall be taken to be legal and binding, and to have authorized the construction of such subways and the erection of such pole-lines and to authorize their maintenance for public and commercial use; and the electric light, heat and power companies which shall have so constructed subways or pole-lines, and placed therein or thereon cables or wires for the purpose of furnishing electric light, heat or power in the streets of any municipality, shall be deemed to have and possess in such streets all legal authority necessary to be secured from such municipality in order in such streets to lawfully construct, reconstruct and maintain such subways and pole-lines, cables and wires with proper appliances for the supplying of light, heat and power for public or commercial use; *provided*, that nothing in this act shall be construed to apply to or validate any ordinance, resolution, contract or other proceeding now involved in any litigation; *and provided further*, that nothing herein contained shall be construed to limit the right of any municipality, pursuant to the terms of its charter, or of any laws now existing or hereafter to be enacted, to cause such cables and wires to be placed underground and thereafter the poles whereon the same are suspended to be removed.

Proviso.

Proviso.

2. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 198.

An Act to amend an act entitled "An act respecting conveyances" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the act entitled "An act respecting ancient deeds," approved February eighteenth, one thousand eight hundred and sixty-three, is hereby amended so as to read as follows:

Validating defects in recorded deeds.

1. Where a deed of lands, tenements or hereditaments shall, for a period of thirty years or more, have stood on record in any of the lawful books of records of deeds in this state, the record of such deed or a duly certified copy thereof, shall, if corroborated, before or after the same shall have been read in evidence, by evidence of ancient or corresponding enjoyment or other equivalent or explanatory proof, be as good evidence and have the same force and affect as if the original deed were produced and the excution thereof proved, notwithstanding any informality or defect in or entire want of the proof or acknowledgment of such deeds.

2. This act shall take effect immediately.

Approved May 18, 1898.

CHAPTER 199.

An Act to authorize boards of chosen freeholders to widen, straighten, grade and otherwise improve highways under their control, and to provide for the construction of street railroads thereon.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The board of chosen freeholders of any county in this state shall have power to widen, straighten, change the grade or location of, or otherwise improve any public highway under its control, or part thereof, and to authorize the construction and operation of a street railroad thereon; and, after making and filing in the office of the clerk of the county a map showing the proposed widening, straightening or change of location of any such highway, it shall be lawful for such board to acquire by purchase in its corporate name any real estate in the county that may be necessary for that purpose; and in case such board and the owner of any real estate required for such purpose cannot agree upon the price or terms of sale thereof, it shall be lawful for the circuit court of the county in which said lands and real estate are situate, on application in writing made by or on behalf of such board, and on such notice to the owner or agent or legal representative of the owner of such land or real estate, as the court may prescribe, to appoint three disinterested freeholders as commissioners, who after hearing such owner or agent or representative if practicable, shall make an estimate and assessment of the damages that any such owner will sustain by the taking of said lands and real estate, with the appurtenances, for the purpose aforesaid; and the said court shall appoint other persons to fill vacancies in case it shall be necessary to do so; the said commissioners, before proceeding to discharge their duties,

Freeholders to have charge of roads.

Acquire land.

In case of disagreement.

Court appoint commissioners.

Oath.

New Jersey State Library

shall make, subscribe and file in the office of the clerk of the county an oath to make an impartial estimate and assessment of such damages, and they or any two of them shall make and present a report thereof to said court as soon as practicable; that in making such estimate and assessment of damages the said commissioners shall take into account the benefits conferred by the improvement on the remainder of any lot or tract of land partly taken; upon the filing of said report either said board or any party interested in said lands and real estate shall give notice of an application to confirm the same; and at the time fixed for hearing said application the said court shall consider said report and any objections that may be made thereto in a summary manner, and confirm the same or refer it back to the said commissioners or other commissioners to be appointed by the court to consider the subject-matter thereof; the said commissioners to whom the said report shall be so referred shall return the same report corrected and revised, or a new report, to be by them made in the premises, to said circuit court, within such time as said court shall by order direct, and the same, on being so returned, shall be confirmed or again referred by said court in manner aforesaid as right and justice shall require, and so from time to time, until a report shall be made which the said court shall confirm; and such report, when confirmed by said court, or a copy thereof duly certified by the clerk of the county, shall be plenary evidence of the right of the board to enter upon, take and use the said lands or real estate, with the appurtenances, provided said board shall first tender to the owner thereof, if residing in this state, the amount so awarded, and if any owner is not a resident of this state, or on due inquiry cannot be found herein, or is a lunatic or idiot, or under age, or is for any cause incapacitated to receive the amount awarded, or will not receive the same and sign a voucher or receipt therefor when tendered, an affidavit shall be made of the facts and filed in the office of the clerk of said court, and the amount so awarded shall be deposited with the said clerk, to be disposed of as said court shall direct, and thereupon said board shall have the right to take

Report.

Confirmed report entitles board to take possession.

Tender payment.

and use said lands and real estate for the purposes aforesaid.

Construction of street railroad.

2. That whenever such board intends to widen, straighten, change the grade or location or otherwise improve any public highway under its control, or part thereof, in order to provide for the construction, and convenient operation of a street railroad thereon, that fact shall be stated in a resolution passed by the board, after filing said map, and published for at least two weeks, once a week, in two or more newspapers published in the county, and said resolution shall further state that at a time and place mentioned therein, and at least two weeks after the passage thereof, propositions to construct, maintain and operate a street railroad on the highway to be improved will be received and considered by the board, and all parties interested therein may be heard, or at some later date to which the board may adjourn; each proposition submitted in pursuance of such notice shall state (1) whether the party making the same intends to construct a single or double track street railroad, and if a single track road, the length and location of sidings and switches; (2) the motive power to be used; (3) the rate of fare to be charged; (4) the amount of money to be contributed for defraying the cost of improving the public highway, as proposed by said board, and the amount or percentage of receipts to be paid annually for the franchise, and (5) such other terms as the party making such proposition may be willing to agree to; and if any proposition to construct, maintain and operate a street railroad on such highway to be improved shall be accepted by said board, the party making the same shall forthwith give a bond to said board, conditioned for the faithful performance of such proposition in all respects; such bond to be approved as to form, amount and sufficiency of surety by the justice of the supreme court holding the circuit court in the county before any money shall be expended or obligation incurred in making the proposed improvement; *provided,* that no arrangement or agreement made by or between the person or corporation making such proposition and the board of chosen freeholders in respect of taxation shall be taken or construed to have the force of contract; nor shall any franchise be granted under this

Propositions.

Give bond.

Proviso.

Proviso.

act for a longer term than seventy-five years; *and provided further*, that such board may reject any or all propositions, and re-advertise from time to time for other propositions, and proceed thereon as in the first instance; but nothing in this act shall be construed to authorize the construction of a street railroad on any public highway on which it is not lawful at present to authorize the construction of a street railroad; nor shall any street railroad be constructed on any public highway, or part of any highway, under the control of such board in any municipality until there shall be filed in the office of the clerk of the county the consent in writing of the owner or owners of at least one-half in amount of lineal feet of property in such municipality fronting on such highway, or upon the part thereof on which it is proposed to construct such street railroad, and any such consent may be signed by an attorney in fact thereunto duly authorized by the owner or any executor or trustee holding the legal title or having power of sale, which consent shall be executed and acknowledged as is required in case of deeds entitled to be recorded; and in case such consents are not obtained and filed within six months after the acceptance of such proposition, then such proposition and acceptance thereof and bond shall be null and void, and the board of freeholders may give notice calling for other propositions and proceed thereon in the manner aforesaid.

Assent by ordinance.

3. Forthwith after the approval of such bond, a copy of such proposition, certified by the clerk of the board of chosen freeholders, shall be delivered to the chairman or other presiding officer of the council, committee or other governing body of every municipality in the county through or into which it is proposed to construct a street railroad on such highway, and the work of constructing such street railroad shall not be commenced or carried on in any municipality in the county until the governing body thereof shall by ordinance assent thereto.

Contract.

4. No contract for any work or material required by this act shall be awarded or be valid for any purpose if awarded, unless a notice specifying the work or materials required and inviting bids or propositions to do or furnish the same shall have been published for at

least two weeks, once in each week, in two newspapers published and circulating in the county; every such contract shall be based upon carefully prepared specifications of the work or materials required, to which reference shall be made in the contract, and no money shall be paid for any work done or materials furnished until the same shall have been done or furnished in strict conformity with the terms of the contract and specifications; and no contract shall be awarded or be valid for any purpose, if awarded, unless the person or party whose bid or proposition is accepted shall, at the time of signing the contract, execute a bond to the board, with sufficient surety, to be approved by the county collector, conditioned for the faithful performance of the contract; the penal sum of said bond shall be at least one-half the amount of the contract price for the work or materials; the said board may give the notice aforesaid and award contracts for parts or sections of the improvement to be made.

Compensation of commissioners.

5. The compensation for services rendered by commissioners appointed in pursuance of this act and the necessary disbursements incurred by them in the discharge of their duties shall be fixed by order of the circuit court and paid by the board of chosen freeholders of the county.

Borrow money.

6. It shall be lawful for the board of chosen freeholders to borrow such sum or sums of money as may be necessary for the purpose of widening, straightening changing the grade or location of or otherwise improving such highway, and to issue either registered or coupon bonds therefor; *provided*, that the said bonds shall be made payable at a period not longer than thirty years from their date, shall bear interest at a rate not exceeding five per centum per annum; *and provided, further*, that it shall not be lawful to issue bonds or incur any obligations in pursuance of this act to an amount in excess of two per centum of the assessed value of the real estate in the county.

Proviso.

Proviso.

Repealer.

7. All acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 200.

An Act to authorize the improvement of streets and highways in cities of this state, and to provide for the payment of the expense of the same.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Bonds issued for improving streets.

1. The common council, board of aldermen or governing body of any city in this state may, by ordinance, authorize the issuing of municipal bonds for the purpose of obtaining money from the sale thereof for the permanent improvement of the streets and highways of such city with permanent and durable material of a kind to be determined in each instance by the body or board of any city charged with the improvements of streets before the work is commenced, to an amount not exceeding ten

Amount.

dollars per capita for each of the inhabitants of said city, according to the last state census, but not more than one hundred thousand dollars of said total amount shall be raised by the issue and the sale of bonds in one year; that said bonds may be issued before or after the work is commenced; that the legislative body of any city or other body charged with the duty of improving the streets of any city may improve any street or highway, or portion thereof, with such pavements as aforesaid with

Streets and kind of pavement designated.

the money obtained from the sale of said bonds; the streets to be improved in any one year shall be designated by ordinance together with the kind of pavement pro-

Contract.

posed to improve them with; all work, however, shall be given out upon contract to the lowest responsible bidder, and only after bids therefor have been solicited and received; and the said common council, board of aldermen or other governing body as aforesaid shall have the right to reject any and all of such bids.

Description of bonds.

2. The bonds authorized to be issued as aforesaid shall be made payable at any time within ten years from the date of the same, and shall draw interest at a rate not

exceeding five per centum per annum, and shall be of such denomination as the board or legislative body hereinbefore authorized to issue the same may determine, and all such bonds shall be signed by the mayor and such other officer as the board or body issuing the same may determine, and they may either be registered or coupon bonds; all of the said bonds shall be numbered and a register of such numbers, the date of issuing and the time of payment of the same shall be made by the comptroller, or other proper financial officer, in a book to be provided for that purpose, and none of said bonds shall be sold for an amount less than its par value; that the interest on the bonds shall be raised annually by taxation, and the principal of said bonds shall be paid by the city at maturity, and that money derived from assessments made as hereinafter provided for upon the property benefited by such improvements shall when collected be held as a fund toward the payment of the bonds issued for the purpose of making such improvements.

Principal and interest.

3. After the improvement or improvements have been completed, the said board having charge of said work shall apply to the court of common pleas of the county wherein such city is situated for the appointment of commissioners to estimate and assess such benefits, of the time and place of which application notice shall be given by ten days' publication in two newspapers printed or circulating in such city, at which time and place, or at such other time and place as the court shall designate, said court shall, without unnecessary delay, appoint three commissioners, who shall be freeholders and residents of the city making the application, to estimate and assess the said benefits; the said court shall have power to remove any commissioner, and also to appoint and fill any vacancy that may occur in the office of any commissioner from any cause.

Commissioners appointed by court.

4. The said commissioners, before entering upon the execution of the duties required of them by this act, shall take and subscribe, before some person duly authorized to administer the same, an oath or affirmation that they will make all estimates and assessments required of them fairly, legally and equitably, according to the best of their skill and understanding, which oath or affirma-

Oath.

tion shall be attached to the report that they are hereinafter required to make.

Hearing.

5. The said commissioners having thus qualified shall give notice under the direction of the said court of the time and place when and where they will hear any persons in interest, who may present themselves to be heard, and at such time and place and at such other times and places to which they may adjourn for that purpose, the said commissioners shall attend and shall give a public hearing to those persons who may desire to be heard; the said commissioners shall have power to examine witnesses under oath, to be administered by any one of them, and to enter upon and view any premises that they may deem necessary, and to adjourn from time to time at their discretion, or as directed by said court; they shall use diligent efforts to ascertain the names of the owners of the lands and real estate benefited by the improvements as aforesaid, and shall state the same in the report hereinafter mentioned, but the failure to so ascertain the name of any such owner, or to state the same incorrectly, or the omission of any such name from the said report, shall not be deemed to invalidate the said assessment, nor to be a bar to the collection of the same.

Report.

6. After having given opportunity as aforesaid for a public hearing of the persons in interest, and having viewed the premises to be benefited by said improvement, the said commissioners shall make a report in writing of their estimates and assessments to the said court, accompanied by a survey and map prepared by the city surveyor or engineer, under their direction, showing the lots or parcels of land and real estate peculiarly benefited by such improvement; the said report shall state the cost of the whole work, the portion, if any, assessed upon the city at large, and shall give the names, so far as ascertained, of the owners of the said lots or parcels of lands and real estate, and the amount of the assessment to each owner for each of such lots or parcels of land and real estate for the said benefits, which assessments shall in each case be in proportion as near as may be to an amount as will be equal to the amount of benefits actually acquired by the lands and real estate bordering on any street or highway or portion thereof

so improved by reason of such improvement; in case the costs and expenses of such work shall exceed the amount of said benefits, the excess thereof shall be paid by the city at large and raised by general tax; in no case shall any property or owner thereof be assessed beyond the amount of benefit actually derived from said improvement.

Action of court upon report.

7. Upon the coming-in of any such report, signed by the said commissioners, or any two of them, said court shall cause such notice to be given as it shall deem proper of the time and place of hearing any objections that may be made to such assessment, and after hearing any matter that may be alleged against the same, the said court, either by rule or order, shall confirm the said report, or shall refer the same to the same commissioners for revision and correction, or to new commissioners, to be appointed by the said court, forthwith to consider the subject-matter thereof, and the said commissioners, to whom such report shall be so referred by the court, shall return the same corrected and revised, or a new report to be made by them in the premises to the said court, without unnecessary delay, and the same being so returned shall be confirmed or again referred by the said court in the manner aforesaid, as right and justice shall require, and so from time to time until a report shall be made or returned, which the said court shall confirm; such report when so confirmed shall be final and conclusive as well upon the said city as upon the owners of any land and real estate affected thereby; the said court shall thereupon cause a certified copy of such report and the accompanying map to be transmitted to the clerk of the said city, with a certified copy of the rule or order of said court confirming the same, which shall be forthwith delivered by the said clerk to the officer of such city charged with the duty of collecting assessments for improvements.

Confirmed report final.

Certified copy to clerk and collector.

Assessments a first lien.

8. All assessments made under the provisions of this act shall be and remain a first lien upon the lands and real estate affected thereby, notwithstanding any error or omission in stating the name or names of the owner or owners of any lot or parcel of such land and real estate, to the same extent as taxes and assessments are now a lien under the general laws of this state, and shall

bear the same rate of interest as other assessments for improvements made under the laws governing such cities, and shall be collected in the same manner that assessments are now collected under such laws; and in case of non-payment of such assessments the lands and real estate assessed therefor may be sold in the same manner provided for the sale of lands for the non-payment of assessments made under such laws; that the amount so assessed against the different lots or parcels as aforesaid may be paid as follows: one-fifth thereof in each year, with interest thereon, at the rate aforesaid.

Non-payment.

Fees.

9. The following fees shall be allowed for services under this act: to each commissioner, five dollars for every day he shall be actually engaged in the performance of the duties herein required of him; the foregoing fees shall be paid by the city in which the improvement is made.

Payment of principal and interest.

10. For the purpose of discharging the said bonds as they mature and for the payment of the interest thereon, the board of aldermen, common council or other governing body as aforesaid may provide annually by taxation in the annual tax levy of such city, such sum as will be sufficient to pay the interest of the said bonds hereby authorized to be issued as it falls due and for the creation of a sinking fund for the payment of the principal of the said bonds when they shall mature, which sum so provided shall be collected annually by the collecting officer of said city, and such portion of said sum which shall have been collected for the interest on said bonds shall be paid by him into the treasury of said city and such portion thereof which shall have been collected for said sinking fund shall be paid by him into the sinking fund of said city.

Sinking fund.

Limitation.

11. No bonds shall be issued, however, under the provisions of this act where the amount of such bonds, together with all other funded and floating indebtedness of such city, then outstanding, after deducting the available sinking funds thereof, shall exceed ten per centum of the valuation of the real and personal property of said city as assessed for municipal purposes, for the year next prior to the incurring of such indebtedness.

12. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 201.

A Further Supplement to an act entitled "An act providing for the formation, establishment and government of towns," approved March seventh, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Real estate owners may petition for drains.

1. When ten or more owners of real estate situate on one or more streets or highways of any town shall by petition ask the town council to cause an underground drain or culvert to be constructed along any one or more of the said streets or highways of said town, or parts thereof, then it shall be lawful for said town council, at its discretion, by ordinance, to direct the construction of the same, or any part thereof, of such dimensions of such materials in such manner and under such supervision as the said council may deem fit and proper for the objects petitioned for; but in no case shall any drain or culvert be constructed beyond the limits named in the petition, and no ordinance be finally passed by said town council until the petition upon which said ordinance is founded, and the notice hereinafter provided, shall have been advertised by the town clerk for at least two weeks, once in each week, successively, in the official newspaper of the town, or, if there be none, in one or more newspapers circulating in the town, and copies of said petition and notice posted in five public places in the town at least ten days prior to the time fixed for the hearing of objections to such improvement; said notice to be signed by the town clerk, stating that objections in writing to said proposed improvements shall be filed with him, and designating the time and place when and where the town council will meet to consider such objections; which time shall not be less than ten days after the date of the first publication of such petition and notice as aforesaid; and that at or before

Council may, by ordinance, direct construction.

Notice.

Objections.

the time named in such notice the said clerk shall file in his office an affidavit showing that such petition and notice have been posted and published as herein required; at the time named in such notice the town council shall proceed to consider such objections, and after hearing the same the said town council may sustain such objections or, in their discretion, pass said ordinance; and all costs and expenses incurred in such proceedings shall be paid by the petitioners, to secure which the town council shall, in all cases, require a deposit of fifty dollars before receiving said petition, in which case the deposit made by the petitioners, less any expenses that have been incurred, shall be returned to him or them; and that after the final passage of said ordinance it shall be the duty of said town council, by resolution, to instruct the town clerk to advertise for proposals for doing the work of and furnishing the materials necessary for such improvement, in the official newspaper of the town, and in such other newspapers as shall be designated by the town council, which proposals shall be presented in such form and manner and under such regulations as the town council shall prescribe; upon the coming-in of such proposals the town council may enter into contract with the lowest responsible bidder on the terms of their proposals; *provided, however*, that the town council may reject any or all bids, if they deem it for the interest of the town so to do; in which case they shall again advertise for proposals, and shall proceed in all things as if no proposals had been offered; and the town council shall require the person or persons so entering into contract with the town to give bonds, with ample freehold security, for the due performance thereof.

Costs of proceedings borne by petitioners.

Proposals.

Proviso.

Assessments.

2. No lands or real estate shall be assessed for any improvement authorized under this act for a greater amount than such lands or real estate shall be specially benefited by such improvement, and in case the whole expense of any such improvement shall exceed the amount assessable for the special benefits received, then the balance of such expense shall be paid out of the town treasury; said costs and expenses shall be ascertained and determined by the commissioners of assessment, but no assessment shall be deemed defective by

reason of any mistake in the names of the owners of lands assessed, or omitting the said names, or any of them; said commissioners of assessment shall assess each and every owner or owners of land in proper proportion, and in accordance with the provisions of this section, and shall make report thereon, and file with said report a map showing the lots and parcels of land in said town, and the amounts assessed thereon, with the town clerk, who shall publish and post notices in the same way and manner as hereinbefore prescribed for publishing and posting of petitions for the improvement, and its accompanying notice stating that the map, report and assessment of the commissioners had been filed in his office, and that the town council will consider any objections to said report, map and assessments presented in writing on or before a day named in said notice, to be fixed by the town council, which day shall be at least ten days after the first publication of such notices; after considering such report, map and assessments, and such objections as may have been presented against the same, the said town council may confirm the said report, map and assessments, or if deemed necessary may return the same to the commissioners of assessment for revision and correction, who shall return the same corrected and revised without unnecessary delay; and thereafter the town council may without further notice confirm the said report, map and assessments.

Objections to report.

3. The town council shall have the power to regulate by ordinance in what manner individuals and corporations shall make openings into the culverts and sewers and to enact fines and penalties for injuries done to the same.

Use of drain regulated by ordinance.

4. All acts or parts of acts contrary to the provisions of this act be and the same are hereby repealed.

Repealer.

5. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 202.

An Act to amend an act entitled "A further supplement to an act entitled 'An act concerning cities of the first class in this state, and constituting municipal boards of street and water commissioners therein, and defining the powers and duties of such municipal boards, and relating to the municipal affairs and departments of such cities placed under the control and management of such boards, and providing for the maintenance of the same,'" approved March twenty-eighth, one thousand eight hundred and ninety-one, which further supplement was approved March thirtieth, one thousand eight hundred and ninety-six.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section three of the act to which this is amendatory be and the same is amended so as to read as follows:

Borrow money.

3. The board having control of the finances of any city shall have power to borrow so much money as may be necessary for the purchase and acquirement of lands for the purpose mentioned in the first section of this act and for the laying out and improvement of the same, and issue the obligations of the city therefor, bearing

Rate; amount.

interest at the rate not exceeding five per centum per annum, in an amount not exceeding two hundred thousand dollars, and make the same payable at such time

Sinking fund.

and times as said board shall determine; and said board shall establish a sinking fund for the payment of said bonds.

2. This act shall take effect immediately.

Approved June 13th, 1898.

CHAPTER 203.

An Act to establish the rate of interest on arrears of taxes and assessments in cities of this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The common council or other body having charge and control of the finances of any city in this state may, by the same vote required to expend moneys, fix and change, by resolution, the rate of interest on all past-due taxes and assessments of all kinds which were due prior to January first, one thousand eight hundred and ninety-seven, at and after a rate of not less than eight per centum per annum; *provided, however*, that such rate shall apply only to such taxes and assessments as are still due and unpaid to said city, and shall not apply to any taxes or assessments that have been or may be adjusted under the act of the legislature entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water-rates or water-rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six. Rate of interest on past due taxes. Proviso.

2. That all acts or parts of acts, so far as may conflict herewith, be and the same are hereby repealed. Repealer.

3. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 204.

An Act relating to libels.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Misdemeanor to cause libellous statements published.

1. Any person who willfully states, delivers or transmits by any means whatever to the owner, manager, editor, publisher or reporter of any newspaper, magazine, publication, periodical or serial, for publication therein, any libellous statement, untrue in fact, concerning any person or corporation, and thereby secures the actual publication of the same, is hereby declared guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment at hard labor not exceeding two years, or both.

Penalty.

Amount of damage.

2. In every civil action for libel against the owner or owners, manager, editor, publisher or reporter of any newspaper, magazine, publication, periodical or serial in this state, the defendant may give proof of intention, and unless the plaintiff shall prove either malice in fact or that the defendant, after having been requested by him in writing to retract the libellous charge in as public a manner as that in which it was made, failed to do so within a reasonable time, he shall recover only his actual damage proved and specially alleged in the declaration.

Approved June 13, 1898.

CHAPTER 205.

An Act relating to official searches and certificates as to tax, assessment and other municipal liens.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Omis ions in official searches an estoppel.

1. Whenever any collector of taxes, treasurer or other public officer of any city, town, borough, township or other municipality of this state is authorized or empowered by statute or by resolution or ordinance of the common council or township committee, to make searches of the tax or assessment records thereof, or to make official certificates as to what tax, assessment or other municipal liens appear against any real estate therein, such city, town, borough, township or other municipality shall, as against purchasers and mortgagees in good faith procuring such official certificates, be estopped from collecting or continuing as liens or encumbrances upon any real estate to which such certificates shall refer, any tax, assessment or municipal liens which were encumbrances thereupon during the period covered by such searches or certificates and which were not disclosed by such searches or not shown or mentioned in any such official certificate; and, as to purchasers and mortgagees in good faith who shall have procured official certificates as aforesaid, any tax, assessment or other municipal liens not shown or mentioned therein shall be void; *provided, however*, that this act shall not be construed to authorize the appointment or designation to make such tax certificates or searches in any of the cities of this state of any officer not now appointed or authorized to make the same.

Proviso.

Who to make official certificates.

2. No collector of taxes, treasurer or other officer of any city, town, township, borough or other municipality, shall make any official certificate as to what tax, assessment or other liens appear against any real estate, unless

he shall be duly authorized and empowered to do the same by statute or by resolution or ordinance of the common council or township committee of the municipality in which he holds his office.

Liability for errors in searches.

3. Every collector of taxes, treasurer and other officer, authorized and empowered as aforesaid, and also his sureties, shall be liable on his official bond for all loss and damage whatsoever occasioned to or suffered by any city, town, township, borough or other municipality, by reason of his errors or omissions in making any official certificate as aforesaid.

Repealer.

4. All acts and parts of acts, whether general or special, public or private, inconsistent with this act, be and the same are hereby repealed, and this act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 206.

An Act respecting proceedings in certain criminal cases in cities of the first class of this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Duty of justice of the peace.

1. Hereafter it shall be the duty of justices of the peace duly elected and commissioned in and for the several cities of the first class of this state to take complaints as now provided by law against any person or persons offending against the laws of this state or any of them, in the manner now provided by law, and to issue warrants thereon, returnable before such justice issuing the same.

Admit to bail.

2. When any such person or persons charged as aforesaid with any criminal offense shall be apprehended and brought before the justice issuing said warrant, it shall be the duty of such justice, provided the offense for which such offender shall be so apprehended as aforesaid shall be bailable in law, to admit such offender or

offenders to bail for his, her or their appearance at the earliest possible day before the nearest criminal court or police justice holding court in such city.

Advise nearest court.

3. It shall be the duty of such justice of the peace forthwith to forward, properly enclosed and sealed in an envelope, and addressed to the nearest criminal court or police justice holding court in such city, the complaint and recognizance taken, together with a list or memorandum of the names and addresses of all witnesses for and in behalf of the state in such case, and all papers connected therewith.

When commit to jail.

4. In case the offense for which such offender shall be apprehended shall not be bailable in law by a justice of the peace, or such offender shall not give bail as aforesaid for his appearance before said criminal court or police justice, then it shall be the duty of the said justice of the peace to commit said offender or offenders to the common jail of such county in which said city is situate, and to send forthwith and in the manner aforesaid, the complaint or complaints and all papers connected therewith, to the nearest criminal court or police justice of such city.

Action of criminal court or police justice.

5. It shall be lawful for any criminal court or police justice of any city of the first class, upon the receipt of the complaint as provided in the section last aforesaid, to bring such offender or offenders at any time before such criminal court or police justice for examination or to admit such offender or offenders to bail in all cases now bailable before such justice or court for his or their appearance before such criminal court or police justice.

Duty of court or justice.

6. It shall be the duty of the criminal court or police justice of cities of the first class to try and determine in the manner now provided by law all cases so brought before said court or police justice of assault, simple assault and battery, petty larceny and any other crime or offense for which the punishment on conviction prescribed by law does not exceed either a fine of one hundred dollars or imprisonment for a term of six months or both, where such assault, simple assault and battery, petty larceny or other crime or offense is committed within the corporate limits of the city in which such court is established, provided the person or persons charged with any such offense shall in writing

waive indictment and trial by jury, and in all other cases of offenses not triable before such criminal court or police justice, it shall be the duty of such court or police justice to conduct the examination of such offender or offenders in the same manner as if the warrant had been issued originally by such criminal court or police justice and bind by recognizance with sufficient surety such offender or offenders to appear at the next session of the court of oyer and terminer and general jail delivery for the county in which such offense was committed, or in such other court where the said offense is cognizable; such proceedings as to detail shall be conducted in the same manner as is now provided by law.

Failure a misdemeanor.

7. If any such justice of the peace shall refuse or neglect to carry out in any respect the requirements of this act, or shall offend in anything against the true intent and meaning of this act, he shall be deemed guilty of a misdemeanor and punishable therefor.

Fees.

8. That for duties performed by the justices of the peace under the provisions of this act like fees shall be paid as are now provided by law for similar services where the complaint and other papers are by them forwarded to the prosecutor of the pleas; *provided, however*, that on all complaints taken before justices of the peace and by them forwarded to the criminal courts or police justices of offenses triable before said criminal courts no fees shall be allowed to the said justices of the peace unless the person or persons against whom such complaint is made shall be convicted thereon.

Proviso.

Repealer.

9. This act shall take effect immediately, and all acts or parts of acts inconsistent herewith are hereby repealed.

Approved June 13, 1898.

CHAPTER 207.

An Act to regulate the practice of courts of law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. It shall be lawful for any person or persons for whose benefit any contract may have been made, or may hereafter be made, and whether said contract be under seal or not, to maintain an action thereon in his, its or their own name and to use the same by way of and as matter of defense to any action in his, its or their own name, at law or in equity, notwithstanding the consideration of such contract did not move from such person or persons. Lawful to use contract as defense to any action.

2. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 208.

An Act authorizing and concerning the imprisonment of persons fined for or convicted of violating ordinances in towns or townships where police courts are or may hereafter be established, and who shall refuse or neglect to pay such fines.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. In all cases where a conviction is or shall be had for the violation of any ordinance in towns or townships where police courts are or may hereafter be established, and a pecuniary penalty or fine is or shall be imposed for such violation, if the person or persons found guilty Persons refusing or neglecting to pay fine to be committed to jail or workhouse.

of such violation shall refuse or neglect to pay the amount of such penalty or fine, together with all costs and charges incident thereto, the court, justice of the peace, police justice or recorder rendering such judgment is hereby empowered to commit such person or persons to the county jail or workhouse of the county in which such conviction shall be had for a period not exceeding ninety days, and said court, justice of the peace, police justice or recorder is further empowered, upon proof made that such person or persons so committed has or have paid such penalty or fine, together with all costs and charges incident thereto, to order said person or persons to be discharged from said commitment and released from such county jail or workhouse.

Duty of keeper of jail or workhouse.

2. It shall be the duty of the keeper of the jail or workhouse of the proper county to receive and safely keep every person who shall have been committed pursuant to the foregoing section for the time named in such commitment, unless sooner discharged by the order made as aforesaid.

Repealer.

3. All acts or part of acts inconsistent with or repugnant to this act be and the same hereby are repealed, and that this act shall be taken and deemed to be a public act and shall take effect immediately.

Approved June 13, 1898.

CHAPTER 209.

An Act to amend an act entitled "A further supplement to an act entitled 'An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates and water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment,'" passed March thirtieth, one thousand eight hundred and eighty-six, which supplement was approved April eighteenth, one thousand eight hundred and eighty-nine.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section six of the act to be amended hereby, being chapter one hundred and ninety-four of the laws of one thousand eight hundred and eighty-nine, is hereby amended so as to read as follows:

Persons bound by notices and proceedings.

6. All persons claiming an interest in or mortgage upon any lands heretofore or hereafter sold as provided in the act to which this is a supplement, by or through any deed, conveyance, mortgage, assignment, or other instrument which by any provision of law may be or might have been recorded, registered, entered or filed in any public office in this state, and which had not or which shall not have been so recorded, registered, entered or filed on or before the day on which notice as provided in the act to which this is a supplement was served, or shall have been served, upon the person or persons, by, through or under whom any such interest is, was or may be claimed, shall be bound by the proceedings had and notices given under the provisions of said act, so far as said property is concerned, from and

after the date of filing proof of service thereof, in the same manner as if such persons had been duly served with the notice mentioned in the sixth section of said act; *provided*, proof of such service of notice to redeem shall be made and filed or shall have been made and filed as provided in said act.

Proviso.

Section amended.

2. Section seven of the act to be amended hereby, being chapter CXCIV of the laws of one thousand eight hundred and eighty-nine, is hereby amended so as to read as follows:

Persons interested bound by notice served on parties claiming right by record.

7. In all cases where notice to redeem lands from a sale made under the act to which this is a supplement has been heretofore served, or may hereafter be served, upon any person or persons having or appearing to have of record an estate in or mortgage upon any lands sold as provided in the act to which this is a supplement, and proof of such service has been heretofore made and filed, or may hereafter be made and filed, as provided in the said act, any person or persons claiming by descent, devise, deed, mortgage, assignment or otherwise, through or under the person or persons so served, shall, from the time of filing said proof of service, be bound by the notice so served on such person or persons, by, through or under whom such estate, interest or lien has been or may be acquired.

3. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 210.

An Act for the construction, maintenance and operation of systems of sewerage in any municipality in this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Company formed to operate sewerage system.

1. Any number of persons, not less than seven, a majority of whom shall reside in this state, may form a company for the purpose of constructing, maintaining

and operating a system of sewerage in any municipality in this state, whether created by any general or special law, for the purpose of supplying said municipality and the inhabitants thereof with an adequate means of disposing of sewage.

File certificate stating certain facts.

2. Such persons desirous of forming a company for such purpose shall make, sign and acknowledge, before some officer authorized to take acknowledgments of deeds, a certificate in writing which shall state the corporate name adopted by the company, the amount of the capital stock, the term of its existence, the number of directors, the names of those who shall manage the affairs of the company for the first year, or until their successors are elected and qualified, and the name of the municipality in or for which such sewerage system is to be constructed and the business of such company carried on; such certificate shall be filed in the office of the secretary of state, together with the consent in writing of and the terms and condition or conditions upon which the consent has been granted by the corporate authorities, if any, of the municipality in which such sewerage system is to be constructed; *provided, however*, that the corporate authorities of any municipality shall not give said written consent unless a petition shall have been presented requesting the granting of such consent, which petition shall be signed by the owners of real estate in said municipality to the extent of at least one-half of the number of persons who, in the last preceding municipal assessment of taxes, have been assessed as the owners of the real estate in all that portion of the said municipality designated as within the limits of the proposed sewerage system on the maps and specifications of the same in this act provided for.

Proviso.

Body politic; power, &c.

3. When such certificate, conditions and consent shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate, and shall have power as such to build, erect, alter, repair, enlarge and maintain all necessary works and apparatus within or without such municipality, and to lay down all such pipes and conduits for sewerage at such times and in such places as shall be necessary and proper to enable

said corporation to carry into effect the purposes of its incorporation.

Lawful to enter upon lands.

4. It shall be lawful for such corporation to enter upon any and all lands in the neighborhood of the municipality which it is intended to supply with such system of sewerage, and to make all such preliminary examinations, explorations, measurements and levelings as may be necessary and proper for its corporate purposes, doing thereby as little damage as possible to the owner or owners.

In case of disagreement with owner of land.

5. In case said corporation cannot agree with the owner or owners, or other persons interested in any lands which said corporation may desire to take, use and occupy, as to the amount of compensation to be paid to such owner or owners for such taking, use or occupation, it shall be lawful for any justice of the supreme court of this state, upon application by the said corporation and upon two weeks' previous notice, served in person or by leaving at the dwelling-house or usual place of abode of such owner or owners; or, in case of absence from the state or legal disability, published in at least two official newspapers published nearest to the lands in question, to appoint three disinterested commissioners, residents of the county in which said lands are situated, to assess and ascertain the value of the lands so proposed to be taken, used and occupied, and the damages to be done to any lands by the laying down of such pipes and erection and maintenance of such works; which commissioners shall appoint a time and place at which they shall meet to execute the duties of their appointment, and shall cause two weeks' notice thereof to be given to the parties interested therein, either by personal service or by publication in at least two official newspapers published in the county where such lands may lie; at which time and place the said commissioners shall meet and view the premises, and hear the parties interested, and take evidence, if any be offered; and for that purpose shall have power to administer oaths or affirmations and to adjourn from day to day, and, in case of the refusal or failure of either or any of said commissioners to attend and perform their said duties, the said judge shall have power to appoint another or

other disinterested person or persons as commissioners to act in the place of such absent commissioner or commissioners; and the said corporation shall make an exhibit to the said commissioners, at their meeting aforesaid, for the use of the parties interested, a statement and description, in writing, or by drawings or maps, or both, of the lands by them sought to be taken as aforesaid, and of the use, occupation of and excavations upon any lands by them sought to be made; and the said commissioners shall thereupon ascertain and assess the value and damages aforesaid, and shall execute, under their hands and seals, or the hands and seals of a majority of them, an award to the said corporation of the lands, rights and privileges by them sought in the statements and description aforesaid, stating therein the amount of damages and compensation therefor by them assessed in favor of such owner or owners; which award shall be by them acknowledged and filed in the county clerk's office, and by him recorded in the registry of deeds.

Tender payment before entering upon lands.

6. Before taking possession of any such lands or entering thereon for the purpose of making any excavation or occupation thereof, the said corporation shall pay or tender to such owner or owners, or, in case of absence from the state or legal disability, shall deposit with the clerk of the circuit court of said county the amount of damages so awarded and the award of said commissioners, and the payment or tender or deposit as aforesaid of such damages shall vest in said corporation the lands, rights and privileges by them sought, described and set forth in said statement and description, in all respects as if the same had been conveyed to the said corporation by said owner or owners under their hands and seals.

In case of aggrievance by assessment.

7. If either party feel aggrieved by said assessment and award, such party may appeal to the next or second term of the circuit court of said county by petition and notice thereof, served upon the opposite party two weeks prior to such term, or published a like space in at least two official newspapers published nearest the lands in question, which petition and notice, so served or published, shall vest in said court full power to hear and determine said appeal, and, if required, they shall

award a venire for a jury to come before them, who shall hear and finally determine the issue under the direction of the court, as in other trials by jury, and it shall be the duty of the said jury to assess the damages to the said lands as above mentioned, and the value of such as shall be absolutely taken; and the said court shall have power to order a struck jury or a jury of view, or both, to try any such appeal, and also to order any jury which may be impaneled and sworn to try any such appeal to view the premises in question during said trial; and the right of said corporation to appeal from and dispute the correctness of any award shall not be waived or taken away by the paying or tendering the amount of the award and taking possession of the land or exercising the rights covered by such award; and the right of any owner of any such lands or rights in like manner to appeal shall not be waived or lost by the acceptance of the amount so awarded when tendered; and upon the final determination of any such appeal the said court shall render such judgment in favor of the one party and against the other as the right and justice of the case shall require, and shall award to the party substantially succeeding and prevailing in said appeal his, her or their costs of said appeal against the opposite party, and shall have power to enforce the judgment so rendered by execution as other judgments are enforced, and also by summary proceedings and attachments for non-payment thereof.

Management of company.

8. The business of said company shall be managed by a board of directors of not less than five, who shall be stockholders therein, and a majority of whom shall be residents of this state; and a majority of the directors chosen shall be a quorum; and there shall be an election of directors within one year from the filing of the articles of association, and annually thereafter at such time as shall be fixed by the by-laws of the said company; three weeks' notice thereof shall be given by publication in at least two official newspapers, if so many there be, in general circulation in such municipality; the stockholders shall be entitled to vote either in person or by proxy.

Officers.

9. The officers of such company shall be a president, who shall be one of the directors; a secretary and

treasurer, and such other officers, agents and servants as the board of directors shall deem necessary; such officers shall be elected annually by the directors, and shall be required to give bond, with penalty and surety to be approved of by said board of directors, conditioned for the faithful discharge of their duties.

Capital stock.

10. The amount of the capital stock shall be fixed by the company, but may be increased by a vote of the stockholders at any annual meeting, and such capital stock be divided into shares of not more than one hundred dollars each.

Penalty for damaging property.

11. If any person or persons shall willfully do or cause to be done any act or acts whatever, thereby to injure any conduit, pipe, cock, machine or structure whatsoever, or anything appertaining to the works of said corporation, whereby the same may be stopped, obstructed or injured, the person or persons so offending shall be considered guilty of a misdemeanor, and, being convicted thereof, shall be punished by a fine not exceeding three hundred dollars, or imprisonment at hard labor not exceeding two years, or both; *provided*, such criminal prosecution shall not in anywise impair the rights of action for damages by a civil suit, hereby authorized to be brought for any such injury, as aforesaid, by and in the name of the corporation, in any court of this state having cognizance of the same.

Proviso.

Consent of municipality may be conditioned upon specified payments.

12. Upon application to the corporate authorities of any such municipality for the consent of such authorities as provided in section two of this act, said authorities may, by ordinance, provide that such consent shall be conditioned upon the payment to such municipality of a specified sum of money, or upon the quarterly, semi-annual or annual payment to said municipality of specified sums of money or upon payment of specified quarterly, semi-annual or annual percentage of the gross receipts of the corporation to be formed pursuant to such consent; and said corporate authorities shall annex to such consent the maximum prices or rents that may be charged property owners or others for the use of such sewerage system, and any further or other terms and condition or conditions upon which said consent is granted; if the certificate referred to in section two hereof be filed, there shall be annexed thereto and filed therewith a

copy of the terms and condition or conditions upon which such consent is granted, and such filing shall be conclusive evidence that said corporation has assented to said terms and condition or conditions, and the same shall be deemed and taken to be binding and operative upon said corporation, its successors and assigns.

Authorized to use streets, &c.

13. Such company be and they are hereby fully authorized and empowered to lay their pipes beneath such public roads, streets, avenues and alleys as they may deem necessary for the purposes aforesaid, upon complying with the terms and condition or conditions upon which the consent of the corporate authorities shall have been obtained; *provided*, that the said pipes shall be laid at least three feet below the surface of the said roads, streets, avenues or alleys, and shall not in anywise unnecessarily obstruct or interfere with public travel or damage public or private property; *and provided*, that the consent shall be obtained of the corporate authorities, if any there be, of any municipality through which the same may be laid; *provided, however*, that no consent shall be granted by the corporate authorities to such company to lay their pipes beneath such public roads, streets, avenues or alleys for the purposes aforesaid until a map and specifications of the proposed system of sewerage shall have been submitted to the state board of health and to the corporate authorities of any such municipality in which such system of sewerage is proposed, and the map and specifications shall have been approved by them.

Proviso.

Proviso.

Rental.

14. Said company may contract with property owners and others for the use of said system of sewerage for such price or prices, or quarterly or annual rents, and such restrictions as said company may think proper; *provided*, that the same shall in no case exceed the maximum rates which may be named in the terms and condition or conditions on which the consent of the corporate authorities shall have been obtained.

Proviso.

Period of completion.

15. Such company shall commence the construction of the proposed system of sewerage within six months from the date of their organization, and shall complete the same within three years from the date of commencement; *provided*, that pursuant to section twelve of this act, the conditions to be annexed to the consent of the

Proviso.

corporate authorities may designate a shorter period for the completion of such works.

16. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 211.

A Further Supplement to an act entitled "An act concerning cities of the first class in this state, and constituting municipal boards of street and water commissioners therein, and defining the powers and duties of such municipal boards, and relating to the municipal affairs and departments of such cities placed under the control and management of such boards, and providing for the maintenance of the same," approved March twenty-eighth, one thousand eight hundred and ninety-one.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section eleven of an act entitled "An act concerning cities of the first class in this state and constituting municipal boards of street and water commissioners therein, and defining the power and duties of such municipal boards, and relating to the municipal affairs and departments of such cities placed under the control and management of such boards and providing for the maintenance of the same," approved March twenty-eighth, one thousand eight hundred and ninety-one, be and the said section eleven is hereby amended to read as follows:

Lighting of streets, &c.

11. The said board of street and water commissioners, by this act authorized, shall have entire control and full authority to provide for the public lighting of all streets, avenues, lanes, alleys, highways, docks, bridges, public parks and buildings of such city under the government, control and management of any such board; and the

Appropriation.

necessary appropriation for the purpose of public lighting aforesaid shall be made to such board of street and water commissioners, and appropriations existing in any city for the purpose aforesaid when this act shall take effect therein shall thereupon be turned over to such board for the current year on the books of the comptroller or other officer having charge of the same in any such city, and in the matters of public lighting aforesaid said board of street and water commissioners shall be substituted for and shall be in place of any board or authority in any such city heretofore or theretofore charged with the duty of lighting the said streets, avenues, lanes, alleys, highways and public docks, bridges, buildings and parks by this act placed under the government, control and management of such board; the board created by this act in every such city is hereby invested with the exclusive power and charged with the duty of making contracts for the public lighting under its control and management as aforesaid, and for such term or terms, not exceeding five years, as in the judgment of said board shall be deemed for the best interests of such city, with the consent of the mayor thereof; the board or authority in any such city having the power and charged with the duty of making and adopting the annual tax levy or tax ordinance of such city shall appropriate the amount necessary each year to pay the cost of such lighting or the fulfillment of any such contract or contracts, and any property, matter or thing now or hereafter in possession of any other board or authority in any such city and used for the public lighting aforesaid or for the repairing or inspection of said lamps, shall be by such board or authority immediately, upon the establishment of such board of street and water commissioners in any such city, turned over to and delivered to the board of street and water commissioners by this act authorized for such city on the demand of such board or of any person authorized by such board to demand and receive them.

Substitution of board.

Power of board.

Amount.

Repealer.

2. All acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 212.

A Supplement to an act entitled "An act to empower the rector, church wardens and vestry of Saint Peter's church, in Perth Amboy, to make sale and conveyance of certain real estate," approved March twenty-third, one thousand eight hundred and eighty-one.

Preamble.

WHEREAS, The said corporation was, by virtue of the act to which this is a supplement, authorized and empowered to sell and convey certain lands and real estate in the city of Perth Amboy, conveyed to it by George Willocks and wife, as to one undivided moiety thereof, and by John Harrison, as to the other undivided moiety thereof, etc., and through inadvertence and mistake said corporation has sold and conveyed other lands, adjoining said lands, but not embraced in the provisions of the said act, to wit: a part of certain lands and premises conveyed to it by James Parker and wife and William A. Whitehead and wife, by deed bearing date July twentieth, one thousand eight hundred and forty-three, in trust for the accommodation, use and benefit of the minister of Saint Peter's church, in Perth Amboy, for the time being, and who shall minister to the congregation of said church and celebrate the worship of God according to the liturgy of the protestant church in the United States of America, and their successors forever; and have invested the proceeds of such sales under the directions and according to the provisions of said act; *and whereas*, the remaining part of said lands have become valuable for building purposes, and it is expedient that they be sold and their proceeds devoted to the aforesaid use;

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Authorized to sell lands.

1. The minister, church wardens and vestry of Saint Peter's church, in Perth Amboy, are hereby authorized

and empowered, at their discretion, to sell and convey the said lands to them conveyed as aforesaid by James Parker and wife and William A. Whitehead and wife, by deed bearing date July twentieth, one thousand eight hundred and forty-three, in accordance with the provisions and under the directions of the act to which this is a supplement.

Former grant validated.

2. All alienations, grant and conveyances heretofore made by said corporation of any part or parts of said land and premises to any person or persons whomsoever, are hereby ratified and confirmed, and shall be as good and effectual in law as if the said lands and premises had been embraced in and particularly mentioned and described in said act, anything to the contrary in anywise notwithstanding.

Future grants.

3. All alienations, grants and conveyances hereafter to be made, as herein provided, shall be made and executed according to the provisions of an act entitled "An act to incorporate trustees of religious societies,', approved April ninth, one thousand eight hundred and seventy-five, and the several supplements thereto.

4. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 213.

A Supplement to an act entitled "An act concerning taxes," approved March twenty-eighth, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the act entitled "An act concerning taxes," approved March twenty-eighth, one thousand eight hundred and ninety-five, be amended so as to read as follows:

Property assessed at true value.

1. All real property in this state, not now by state exempt from taxation, shall be assessed for taxation at

its true value, and the full tax thereon shall be paid to a collector of taxes or other proper officer authorized by law to collect the same, and no deductions shall be made from the taxable value of such real estate to any owner thereof on account of the indebtedness of such owner to any national or state bank, where such indebtedness has been incurred within three months prior to the date as of which the assessment is made under the general tax laws of this state; *provided*, that any debt that has been, within said three months, renewed or continued in whole or in part, shall not be construed as having been incurred within said three months; *and provided further*, that nothing in this act contained shall be construed in any way to alter or amend the method of taxing bonds or mortgages or real property which is subject to mortgage or the method of taxing the property of railroad, canal and bank companies, or the methods of taxing the surplus of insurance companies in this state. Proviso. Proviso.

2. This act shall take effect immediately.

Approved June 13, 1898.

CHAPTER 214.

An Act making appropriations for the support of the state government and for several public purposes for the fiscal year ending October thirty-first, one thousand eight hundred and ninety-nine.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The following sums, or so much thereof as may be necessary, be and they are hereby appropriated out of the state fund for the respective public officers and for the several purposes herein specified, for the fiscal year ending on the thirty-first day of October, in the year one thousand eight hundred and ninety-nine, namely: Annual appropriation.

1.

EXECUTIVE DEPARTMENT.

Executive department.

For the governor, for salary, ten thousand dollars;

For the private secretary of the governor, for salary, two thousand dollars;

For compensation for assistants in the executive department, two thousand dollars;

For blanks and stationery for the use of the executive department, three hundred dollars;

For postage, expressage and other incidental expenses for the executive department, eight hundred and fifty dollars.

2.

Office of the Comptroller.

Comptroller.

For the comptroller, for salary, six thousand dollars;

For the first assistant in the comptroller's office, for salary, twenty-five hundred dollars;

For compensation for other clerical service in the comptroller's office, four thousand dollars;

For blanks and stationery for use in the office of the comptroller, five hundred dollars;

For postage, expressage and other incidental expenses for the comptroller's office, eight hundred dollars.

3.

Office of the Treasurer.

Treasurer.

For the treasurer, for salary, six thousand dollars;

For compensation for clerical services in the office of the treasurer, including assistants employed in the management of the sinking fund, fifty-nine hundred dollars;

For blanks and stationery for use in the office of the treasurer, five hundred dollars;

For postage, expressage and other incidental expenses for the office of the treasurer, six hundred dollars.

4

Office of the Secretary of State.

For the secretary of state, for salary, six thousand dollars; Secretary of State.

For the assistant secretary of state, for salary, three thousand dollars;

For compensation for all clerical services in the office of secretary of state, ten thousand five hundred and sixty dollars;

For postage, expressage and other incidental expenses for the office of secretary of state, one thousand three hundred and fifty dollars;

For blanks and stationery for use in the office of the secretary of state, four thousand seven hundred and fifty dollars;

For compiling and indexing the election laws, two hundred and fifty dollars.

5.

ATTORNEY-GENERAL'S DEPARTMENT.

For the attorney-general, for salary, seven thousand dollars; Attorney-general.

For compensation and expenses of assistants employed by the attorney-general, seventy-three hundred dollars;

For blanks and stationery for use in the office of the attorney-general, four hundred dollars;

For postage, expressage and other incidental expenses for the attorney-general's department, seven hundred dollars;

For master's fees for taking affidavits for the attorney-general's office, which shall include all such service required for the year, one hundred dollars;

For the contingent fund, to be expended only with the approval of the governor and comptroller, for the fees of assistant attorneys and counsel in litigations which may arise under chapter one hundred and fifty-nine of the laws of one thousand eight hundred and

eighty-four and chapter two hundred and eight of the laws of one thousand eight hundred and eighty-eight in the enforcement of corporate taxation, twenty-five hundred dollars.

6.

STATE BOARD OF ASSESSORS.

Board of assessors.

For the members of the state board of assessors, for salaries, ten thousand dollars;

For secretary of the state board of assessors, for salary, twenty-five hundred dollars;

For compensation for clerical service in the office of the state board of assessors, forty-five hundred dollars;

For blanks and stationery for use in the office of the state board of assessors, seven hundred dollars;

For postage, expressage and other incidental expenses for the state board of assessors, five hundred and fifty dollars;

For compensation of surveyors, local assessors and witnesses, pursuant to chapter one hundred and one of the laws of one thousand eight hundred and eighty-four, five thousand dollars.

7.

DEPARTMENT OF BANKING AND INSURANCE.

Banking and insurance.

For the commissioner of banking and insurance, for salary, four thousand dollars;

For the deputy commissioner of banking and insurance, for salary, twenty-five hundred dollars;

For compensation for assistants in the department of banking and insurance, forty-seven hundred and eighty dollars;

For blanks and stationery for use in the department of banking and insurance, twelve hundred and fifty dollars;

For postage, expressage and other incidental expenses for the department of banking and insurance, six hundred dollars.

8.

STATE BOARD OF TAXATION.

Board of taxation.

For the members of the state board of taxation, for salaries, ten thousand dollars;

For assistants in the office of the state board of taxation, two thousand nine hundred and seventy dollars;

For blanks and stationery for use in the office of the state board of taxation, one hundred and fifty dollars;

For postage, expressage and other incidental expenses for the office of state board of taxation, three hundred dollars.

9.

STATE LIBRARY.

Library.

For the librarian, for salary, two thousand dollars;

For compensation for assistants in the state library, two thousand one hundred dollars;

For the repair, preservation and purchase of useful books for the state library, three thousand dollars;

For blanks, stationery, postage, expressage and other incidental expenses for the state library, five hundred dollars.

10.

STATE BOARD OF HEALTH.

Board of health.

For the state board of health, pursuant to the provisions of chapter sixty-eight, laws of one thousand eight hundred and eighty-seven, six thousand dollars;

For compensation to the secretary of said board, pursuant to said chapter, twenty-five hundred dollars;

For expenses to be incurred pursuant to chapter two hundred and twenty-five, laws of one thousand eight hundred and eighty-six, fifteen hundred dollars;

For blanks and stationery for use in office of state board of health, twelve hundred dollars;

For maintenance of the bacteriological laboratory, three thousand dollars;

For legal expenses incurred by the state board of health, one thousand dollars;

For postage required in sending to the physicians of this state the annual report of the state board of health and of the bureau of vital statistics, two hundred and twenty-five dollars;

For additional clerical assistance in the office of the state board of health, one thousand two hundred dollars.

11.

BUREAU OF STATISTICS.

Bureau of statistics.

For the chief of the bureau of statistics, for salary, twenty-five hundred dollars;

For the secretary of the bureau of statistics, for salary, fifteen hundred dollars;

For the current expenses of the bureau of statistics, four thousand dollars;

For blanks and stationery for use in the office of the bureau of statistics, two hundred and fifty dollars.

12.

STATE DAIRY COMMISSIONER.

Dairy commissioner.

For the commissioner, for salary, two thousand dollars;

For blanks and stationery and for the actual necessary expenses of the dairy commissioner in enforcing the laws relating to milk, oleomargarine, foods and drugs, and in performing all other duties charged upon him by law, ten thousand dollars.

13.

STATE HOUSE COMMISSION.

State house commission.

For the governor, treasurer and comptroller, for the care and safe keeping of the state capitol, the property

therein and adjacent public grounds, and for expenses to be incurred in carrying out the provisions of chapter three hundred and thirty-nine of the laws of one thousand eight hundred and ninety-four, fifty-five thousand dollars;

For the governor, treasurer and comptroller, to be expended for supervising services in carrying out the provisions of chapter four hundred and thirteen of the laws of one thousand eight hundred and ninety-five, five hundred dollars.

14.

STATE MUSEUM.

Museum.

For curator, for salary, fifteen hundred dollars;

For the commission to acquire new material for the museum, five hundred dollars.

15.

GEOLOGICAL SURVEY.

Geological survey.

For salaries and expenses of department of geological survey and for the completion of the geological survey of this state, pursuant to chapter three hundred of the laws of one thousand eight hundred and ninety-five, eight thousand dollars;

For expenses in connection with the publication of the reports and maps of the geological survey, five thousand dollars.

16.

SUPREME COURT.

Supreme court.

For the chief justice and associate justices of the supreme court, for salaries, eighty-two thousand dollars;

For the judges of the circuit courts, appointed pursuant to chapter seventy-eight, laws of one thousand eight hundred and ninety-three, for salaries, twenty-two thousand five hundred dollars;

For compensation of sergeants-at-arms and criers, one thousand three hundred dollars.

17.

OFFICE OF CLERK OF THE SUPREME COURT.

Clerk of supreme court.

For the clerk of the supreme court, for salary, six thousand dollars;

For compensation for clerical service in the office of the clerk of the supreme court, fifteen thousand nine hundred dollars;

For blanks and stationery for use in the office of the Clerk of the supreme court, twelve hundred and fifty dollars;

For postage, expressage and other incidental expenses for the office of the clerk of the supreme court, twelve hundred and fifty dollars.

18.

COURT OF CHANCERY.

Court of chancery.

For the chancellor, for salary, ten thousand dollars;

For the vice-chancellors, for salaries, forty-five thousand dollars;

For compensation of sergeant-at-arms, thirty-five hundred dollars;

For compensation of stenographers, seven thousand five hundred dollars;

For compensation and allowance of advisory masters, fifteen hundred dollars;

For rent of rooms in Camden, Jersey City and Newark, for use of chancellor, vice-chancellors and advisory masters, forty-five hundred dollars;

For miscellaneous expenses in connection with such rooms, two hundred dollars.

19.

OFFICE OF CLERK IN CHANCERY.

Clerk in chancery.

For the clerk in chancery, for salary, six thousand dollars;

For compensation for clerical service in the office of the clerk in chancery, twenty-two thousand dollars;

For blanks and stationery for use in the office of the clerk in chancery, one thousand eight hundred dollars;

For postage, expressage and other incidental expenses for the office of the clerk in chancery, twelve hundred dollars.

20.

COURT OF ERRORS AND APPEALS.

Court of errors and appeals.

For compensation of judges of the court of errors and appeals, five thousand five hundred dollars;

For compensation of officers of court of errors and appeals, five hundred and twenty-five dollars.

21.

COURT OF PARDONS.

Court of pardons.

For per diem allowance and mileage for judges of court of pardons, twenty-one hundred dollars;

For compensation of subordinate officers, two hundred and fifty dollars.

22.

LAW AND EQUITY REPORTS.

Law reports.

For the publication of the chancery reports, four thousand dollars;

For the publication of the law reports, thirty-four hundred dollars;

For salary of chancery reporter, five hundred dollars;

For salary of supreme court reporter, five hundred dollars;

For binding chancery and law reports, fourteen hundred dollars.

23.

NATIONAL GUARD.

National guard.

For expenses for division, brigade and regimental headquarters, forty-five hundred dollars;

For allowances for gatling-gun companies, fifteen hundred dollars;

For allowances to cavalry troops, two thousand dollars;

For allowances to companies of the national guard, at the rate of five hundred dollars each, twenty-five thousand dollars;

For hospital and ambulance corps, one thousand dollars;

For transportation for battalion drills, inspections and parades, and pay of brigade inspectors, three thousand dollars;

For compensation of officers and employes and expenses incurred in connection with rifle range and practice, ten thousand dollars;

For pay of officers and enlisted men and expenses incurred in connection with annual encampment, forty-one thousand dollars;

For compensation of superintendent and employes and for forage, fuel and maintenance of the state camp grounds, seven thousand dollars;

For expenses, repairs, water and maintenance of the state arsenal, fifteen hundred dollars;

For expenses of military boards and courts-martial, five hundred dollars;

For military expenses incident to the signal and telegraph corps, pursuant to chapter three hundred and sixty-nine of the laws of one thousand eight hundred and ninety-five, six hundred dollars;

For transportation of disabled soldiers to the home at Kearney, fifty dollars;

For maintaining, heating and lighting the armories in Paterson, Jersey City and Camden, the sum of four thousand dollars for each armory, twelve thousand dollars;

For pay and expenses of officer detailed from U. S. army for military instruction to officers and enlisted men of the national guard, six hundred dollars.

24.

ADJUTANT GENERAL'S DEPARTMENT.

Adjutant-general.

For the adjutant-general, for salary, one thousand two hundred dollars;

For compensation for clerical service in the adjutant-general's office, four thousand dollars;

For blanks and stationery for use in the adjutant-general's office, seven hundred dollars;

For postage, expressage and other incidental expenses for the adjutant-general's office, four hundred dollars.

25.

QUARTERMASTER-GRNERAL'S DEPARTMENT.

Quartermaster-general.

For the quartermaster-general, for salary, twelve hundred dollars;

For compensation for assistants in the department of the quartermaster-general, seventy-seven hundred dollars;

For blanks and stationery for use in the quartermaster-general's department, two hundred dollars;

For postage, expressage and other incidental expenses for the quartermaster-general's department, one hundred dollars.

26.

MONMOUTH BATTLE MONUMENT.

Monmouth battle monument.

For the commission having in charge the Monmouth battle monument and grounds, pursuant to chapter one hundred and eighteen of the laws of one thousand eight hundred and eighty-six, five hundred dollars.

27.

PENSIONS.

Pensions. For amount required to pay pensions, pursuant to various act relative thereto, thirty-two hundred and eighty-four dollars;

For traveling expenses incurred in examining pension claims of New Jersey volunteers, four hundred dollars.

28.

HOME FOR DISABLED SOLDIERS.

Soldiers' home. For support of the New Jersey home for disabled soldiers and for the chaplain thereof, twenty thousand dollars;

For the purchase of additional ground for a burial plot for the home for disabled soldiers at Kearny, New Jersey, three thousand dollars.

29.

SOLDIERS' STATE PAY.

Soldiers' pay. For claims of volunteers in the late war, for state pay, pursuant to chapter thirteen of the laws of one thousand eight hundred and sixty-one, one hundred dollars.

30.

WASHINGTON ASSOCIATION OF NEW JERSEY.

Washington association. For trustees of the Washington association of New Jersey, twenty-five hundred dollars.

31.

STATE BOARD OF AGRICULTURE.

Board of agriculture. For the state board of agriculture, six thousand dollars;

For the state board of agriculture for the purpose of carrying out the provisions of an act to prevent the introduction into and the spread of injurious insects in New Jersey, to provide a method for compelling their destruction, to create the office of state entomologist, to authorize inspection of nurseries and to provide for certificates of inspection, five hundred dollars.

32.

TUBERCULOSIS.

Tuberculosis.

For expenses and payments by the state tuberculosis commission, pursuant to chapter three hundred and sixty of the laws of one thousand eight hundred and ninety-five, five thousand dollars;

For expenses and payments by the state tuberculosis commission, the additional sum of twenty-five hundred dollars; *provided*, such sum shall be authorized by enactment of the present legislature.

Proviso.

33.

AGRICULTURAL EXPERIMENT STATION.

Experiment station.

For the expenses of the agricultural experiment station, fifteen thousand dollars.

34.

BOARD OF VISITORS TO THE AGRICULTURAL COLLEGE OF NEW JERSEY.

Board of visitors to agricultural college.

For the board of visitors to the agricultural college of New Jersey, for personal expenses incurred pursuant to chapter three hundred and sixty-five of the laws of one thousand eight hundred and seventy-three, fifty dollars;

For advertising, pursuant to chapter nine of the laws of one thousand eight hundred and seventy-nine, ninety dollars.

35.

STATE HOSPITALS.

Hospitals.

For traveling expenses of managers, six hundred dollars;

For expenses in transferring insane convicts, two hundred dollars;

For medical examination of insane convicts, three hundred dollars.

State Hospital at Trenton.

Trenton hospital.

For maintenance of county patients, fifty thousand dollars;

For support and clothing of insane convicts, at the rate of five dollars per week for each insane convict, seven thousand dollars;

For support and clothing of indigent patients in state hospital at Trenton, four thousand five hundred dollars;

For salaries of resident officers twelve thousand dollars;

For appraisement of personal property, seventy-five dollars.

36.

State Hospital at Morris Plains.

Morris Plains hospital.

For maintenance of county patients, forty-eight thousand five hundred dollars;

For support and clothing of insane convicts, at the rate of five dollars per week for each insane convict, fifteen thousand dollars;

For support and clothing of indigent patients in state hospital at Morris Plains, thirteen thousand dollars;

For salaries of resident officers, twelve thousand one hundred dollars;

For appraisement of personal property, seventy-five dollars;

For improvements at the state hospital at Morris Plains, pursuant to chapter two hundred and ninety-seven of the laws of one thousand eight hundred and

ninety-five, *provided* that no contract shall be awarded without the approval of the governor, one hundred thousand dollars.

37.

COUNTY LUNATIC ASYLUMS.

County asylums.

For the support of county patients in Essex county lunatic asylum, seventy-five thousand dollars;

In the Hudson county lunatic asylum, fifty thousand dollars;

In the Camden county lunatic asylum, seventeen thousand five hundred dollars;

In the Burlington county lunatic asylum, six thousand dollars;

In the Passaic county lunatic asylum, forty-two hundred dollars;

In the Gloucester county lunatic asylum, nineteen hundred dollars;

In the Cumberland county lunatic asylum, seventeen hundred dollars;

In the Salem county lunatic asylum, twelve hundred dollars;

In the Atlantic county lunatic asylum, four thousand five hundred dollars.

38.

STATE PRISON.

Prison.

For maintenance of convicts, ninety thousand dollars;

For furniture and repairs of state prison, ten thousand dollars;

For the principal keeper, for salary, three thousand five hundred dollars;

For the supervisor, for salary, three thousand dollars;

For the deputy keepers and employes, for salaries, eighty-four thousand dollars;

For the six inspectors, for salaries, three thousand dollars;

For the keeper, for payments to discharged convicts, three thousand dollars;

For teacher and moral instructor to the convicts in the state prison, pursuant to section seven, chapter one hundred and fifty-five of the laws of one thousand eight hundred and seventy-six, for salary, one thousand dollars.

39.

REFORM SCHOOL FOR BOYS.

Boys' reform school.

For the trustees of the New Jersey state reform school for boys, pursuant to chapter one hundred and ninety-five of the laws of one thousand eight hundred and ninety-three, sixty-two thousand dollars;

For the trustees of said school, for expenses incurred by them in the discharge of their duties, pursuant to chapter four hundred and seventy-nine of the laws of one thousand eight hundred and sixty-five, two hundred and fifty dollars;

For the trustees of said school, for the purpose of erecting and furnishing a suitable chapel for the use of the school, *provided* that no contract shall be awarded until approved by the governor, fifteen thousand dollars.

40.

INDUSTRIAL SCHOOL FOR GIRLS.

Girls' industrial school.

For the trustees of the New Jersey state industrial school for girls, for the support of and necessary repairs to the school, pursuant to chapter eighty-six of the laws of one thousand eight hundred and ninety, twenty-one thousand dollars;

For the trustees and lady managers of said school, for expenses incurred in the discharge of their duties, pursuant to chapter four hundred and twenty-eight of the laws of one thousand eight hundred and seventy-one, one hundred dollars.

41.

STATE BOARD OF ARBITRATION.

Board of arbitration.

For the members of the board of arbitration, for salaries, six thousand dollars;

For the secretary of the state board of arbitration, for salary, two hundred dollars;

For blanks, stationery and other incidentals for use in the office of the state board of arbitration, one hundred dollars.

42.

BOARD OF FISH AND GAME COMMISSIONERS.

Fish and game.

For the fish and game wardens, including the fish and game protector, for compensation, fifteen thousand six hundred dollars;

For expenses of the fish and game wardens and fish and game protector, five thousand one hundred dollars;

For expenses of the fish and game commissioners, eight hundred dollars;

For the purpose of stocking the waters of the state with food-fishes and for defraying the cost of maintaining a hatchery, five thousand dollars.

43.

BLIND AND FEEBLE-MINDED.

Blind and feeble-minded.

For clothing, maintenance, support and instruction of the blind persons, inhabitants of this state, fourteen thousand five hundred dollars;

For clothing, maintenance, support and instruction of the feeble-minded persons, inhabitants of this state, forty-seven thousand five hundred dollars;

For maintenance, support and instruction of feeble-minded women, twenty thousand dollars.

44.

FACTORIES AND WORKSHOPS.

Factories.

For the inspector and six deputy inspectors of factories and workshops, for salaries, pursuant to chapter one hundred and eight, laws of one thousand eight hundred and eighty-nine, eighty-five hundred dollars;

For the necessary expenses incurred by the inspector and his deputies in the discharge of their duties, pursuant to said law, two thousand dollars.

45.

STATE CHARITIES AID ASSOCIATION.

Charities aid association.

For expenses of the association, six hundred dollars.

46.

WAR DEBT.

War debt.

For amount required to pay on account of the principal of the war debt, due January first, one thousand eight hundred and ninety-nine, one hundred and thirteen thousand dollars.

47.

SINKING FUND ACCOUNT.

Sinking fund.

For the state treasurer for "sinking fund account," for payment on account of principal of the war debt falling due on the first day of January, one thousand eight hundred and ninety-nine, ten thousand dollars;

For the state treasurer for "sinking fund account," for payment of interest on war debt falling due January first and July first, one thousand eight hundred and ninety-nine, seven thousand nine hundred and fifty dollars;

For the state treasurer for expenses in foreclosure and other necessary legal proceedings relative to sinking fund account, one thousand dollars.

48.

ADVERTISING.

For advertising proclamations issued by the governor, notices of the attorney-general in relation to delinquent miscellaneous corporations, and notices of the comptroller in regard to public printing, two thousand five hundred dollars. Advertising.

49.

PRINTING.

For printing and binding public documents, thirty-five thousand dollars; Printing.

For compensation of an expert printer for services in preparation of specifications for bids, supervision of work, examination of bills, and such other duties as may by law be imposed upon him, six hundred dollars;

For preparing index of sessions laws, one hundred dollars;

For printing and circulation of the laws, seven thousand five hundred dollars.

50.

PUBLIC ROADS.

For public roads, pursuant to the provisions of chapter two hundred and twenty-three of the laws of one thousand eight hundred and ninety-five, one hundred thousand dollars; Roads.

For public roads, the additional sum of fifty thousand dollars, *provided* such sum shall be authorized by enactment of the present legislature; Proviso.

For the state commissioner of public roads, for salary, fifteen hundred dollars;

For expenses for clerk hire, attorney and consulting engineer, fees, stationery and actual traveling expenses, one thousand five hundred dollars.

51.

OYSTER COMMISSION.

Oyster commission.

To promote the propagation and growth of seed oysters and to protect the natural oyster beds of this state, to the close of the terms of commissioners, March thirtieth, one thousand eight hundred and ninety-nine, as provided in chapter one hundred and thirty-two of the laws of one thousand eight hundred and ninety-six, four thousand dollars;

For the preservation of clams, pursuant to chapter three hundred and fourteen of the laws of one thousand eight hundred and ninety-five, two thousand dollars.

52.

LEGISLATURE.

Legislature.

For compensation of senators and members of the general assembly, forty thousand eight hundred and thirty-three dollars and thirty-two cents;

For compensation of officers and employes of the legislature, thirty thousand one hundred and fifty dollars;

For stationery for use of the legislative session, pursuant to chapter two hundred and eight of the laws of one thousand eight hundred and sixty-eight, five hundred dollars;

For manuals of the legislature of New Jersey, pursuant to chapter eighteen of the laws of one thousand eight hundred and ninety-one, two thousand dollars;

For indexing the journal of the senate and minutes of the executive sessions and the minutes of the house of assembly, and other incidental and contingent expenses of the legislature, sixty-seven hundred dollars;

For toilet and other necessary supplies for use at the legislative session, to be furnished by the state house commission, seven hundred dollars.

53.

COLLATERAL INHERITANCE TAX.

For surrogates' fees, appraisers' compensation and expenses, legal and other disbursements, pursuant to chapter two hundred and ten of the laws of one thousand eight hundred and ninety-four, ten thousand dollars. Inheritance tax.

54.

INSURANCE.

For insurance upon state house and contents thereof, two thousand dollars. Insurance.

55.

REFUNDING TAXES ON EXEMPTED MISCELLANEOUS CORPORATIONS.

For taxes improperly levied upon exempted corporations and to be refunded pursuant to law, one thousand dollars. Refunding taxes.

56.

WEATHER SERVICE.

For the continuance of weather stations and preparation, printing and distribution of reports, pursuant to chapter two hundred and fifty-eight of the laws of one thousand eight hundred and ninety-two, one thousand dollars. Weather service.

57.

BODIES THROWN UPON SHORES OF THE STATE BY SHIPWRECK.

For expenses incurred in viewing bodies cast upon shores by shipwreck, one hundred dollars. Shipwrecked bodies.

58.

BOARD OF PILOT COMMISSIONERS.

Pilot commission.

For expenses incurred by the commissioners, pursuant to chapter three hundred and seven of the laws of one thousand eight hundred and ninety-five, twelve hundred dollars.

59.

AGRICULTURAL COLLEGE FUND.

Agricultural college.

To the treasurer of Rutgers college, for interest on forty-eight thousand dollars, certificate of indebtedness of the state of New Jersey due January first and July first, one thousand eight hundred and ninety-nine, pursuant to the provisions of chapter one hundred and thirty-five of the laws of one thousand eight hundred and ninety-six, two thousand four hundred dollars.

60.

PRESERVATION OF RECORDS.

"Archives."

For the purpose of publishing the early records of this state, known as "New Jersey Archives," three thousand five hundred dollars.

61.

RIPARIAN COMMISSION.

Riparian commission.

For salaries of riparian commissioners, six thousand dollars;

For expenses incurred in the prosecution of the work of the commissioners, six thousand dollars.

62.

OBSTRUCTIONS TO NAVIGATION.

For expenses incurred in removing any boat, barge or scow stranded or sunk in any of the navigable rivers of this state, five hundred dollars. Obstructions to navigation.

63.

MANUAL TRAINING AND INDUSTRIAL SCHOOL AT BORDENTOWN.

For maintenance of the manual training and industrial school at Bordentown, pursuant to the provisions of chapter three hundred and forty-nine of the laws of one thousand eight hundred and ninety-four, three thousand dollars. Bordentown school.

64.

DEAF MUTES.

For the trustees of the New Jersey school for deaf-mutes, for the teaching, maintenance and clothing of pupils taught therein, for purchase and repair of furniture, school apparatus and other appliances, for making needed improvements and repairs in the buildings and grounds, for insurance thereof, and for maintaining the system of manual and industrial education in said school, forty-two thousand dollars. Deaf-mutes.

65.

STATE NORMAL SCHOOL.

For the support of the state normal school, forty-two thousand dollars; Normal school.

For necessary repairs to the grounds, buildings and furniture, and for keeping the same insured, four thousand dollars.

66.

FREE SCHOOL LIBRARIES.

School libraries. For the formation of libraries in the free public schools of the state, five thousand five hundred dollars.

67.

FARNUM PREPARATORY SCHOOL.

Farnum school. For the support of the Farnum preparatory school at Beverly, twelve hundred dollars.

68.

INDUSTRIAL EDUCATION.

Industrial education. For payments to schools established for industrial education, pursuant to chapter one hundred and sixty-four of the laws of one thousand eight hundred and eighty-one, nine thousand dollars;

For payments to schools for manual training, pursuant to chapter thirty-eight of the laws of one thousand eight hundred and eighty-eight, thirty-three thousand dollars;

For payments to schools established for industrial education, pursuant to chapter one hundred and fourteen of the laws of one thousand eight hundred and eighty-eight, three thousand dollars.

69.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

Department of education. For salary of state superintendent of public instruction, three thousand dollars;

For clerical service in office of state superintendent of public instruction, five thousand dollars;

For stationery and blanks, two thousand dollars;

For necessary incidental expenses incurred by the state superintendent of public instruction in the per-

formance of his official duties and for supervision of manual training, two thousand dollars.

70.

SCHOOL FUND EXPENSES.

For necessary legal and other expenses incurred by or under the direction of the trustees for the support of public schools in the investment and protection of the school fund, and in the collection of the income thereof, four thousand dollars. School fund.

71.

STATE BOARD OF EDUCATION.

For necessary expenses of the state board of education, two thousand dollars. Board of education.

72.

TEACHERS' INSTITUTES.

For expenses of teachers' institutes, three thousand dollars. Institutes.

73.

TEACHERS' LIBRARIES.

For establishment of libraries for use of teachers, six hundred dollars. Teachers' libraries.

74.

SCHOOL CENSUS.

For compensation of the person having in charge the taking of the school census, fifteen hundred dollars. School census.

75.

EMERGENCY.

For the governor, to enable him to meet any emergency requiring the expenditure of money not otherwise Emergency.

appropriated, the sum of ten thousand dollars, said sum, or any part thereof, to be paid by the treasurer on the warrant of the comptroller upon accounts approved by the governor.

76.

NEWARK ARMORY.

Newark armory. For the purpose of erecting an armory in the city of Newark, pursuant to chapter sixty-two of the laws of one thousand eight hundred and ninety-seven, fifty thousand dollars.

77.

STATE REFORMATORY.

Reformatory. For appropriation, pursuant to chapter three hundred and fifty-seven of the laws of one thousand eight hundred and ninety-five, five thousand dollars.

78.

NAVAL RESERVE.

Naval reserve. Battalion of the west, for allowance for three divisions, at the rate of five hundred dollars each, fifteen hundred dollars;

For battalion headquarters, three hundred dollars;

For pay of ship-keeper, maintenance and expenses, four thousand five hundred dollars;

Battalion of the east, for allowance for three divisions, at the rate of five hundred dollars each, fifteen hundred dollars;

For battalion headquarters, three hundred dollars;

For pay of ship-keeper, maintenance and expenses, five thousand five hundred dollars.

79.

STATE BOARD OF CANVASSERS.

Board of canvassers. For amount required to pay per diem and mileage of members and officers of state board of canvassers, and

for preparing tabular statement for the board, two hundred and fifty dollars.

80.

ANDERSONVILLE MONUMENT.

For the purchase and erection of a suitable monument or marker to the memory of soldiers and sailors from the state of New Jersey who died in confederate military prison, at Andersonville, Georgia, and for the necessary expenses of the persons appointed to carry out the provisions of chapter seventy-six of the laws of one thousand eight hundred and ninety-eight, two thousand dollars. Andersonville monument.

81.

VILLAGE FOR EPILEPTICS.

For the purpose of carrying out the provisions of an act to establish a village of epileptics, fifteen thousand dollars. Epileptics.

82.

TRENTON BATTLE MONUMENT.

For the Trenton battle monument association, for the purpose of keeping said property in good condition and repair, five hundred dollars. Trenton monument.

83.

For the commissioners appointed under an act to provide for the organization of the New Jersey home for disabled soldiers, sailors, marines and their wives, five thousand dollars. Commission to organize home for disabled soldiers, etc.

2. The following sum is hereby appropriated out of the income of the school fund for the purpose specified for the fiscal year ending on the thirty-first day of October, in the year one thousand eight hundred and ninety-nine: Appropriation from income of school fund.

84.

FREE PUBLIC SCHOOLS.

Public schools. For the support of free public schools, two hundred thousand dollars.

85.

STATE SCHOOL TAX.

School tax. 3. For the support of public free schools, for the equal benefit of all of the people of the state, there shall be paid to the county collectors of the several counties, in the manner provided by law, the following amounts on account of the annual state school tax, being ninety per centum of the amount paid by said counties, to-wit:

To the collector of the county of Atlantic, forty-four thousand five hundred and forty-one dollars and fifty-seven cents;

To the collector of the county of Bergen, sixty-four thousand and seventy-three dollars and nine cents;

To the collector of the county of Burlington, fifty-seven thousand six hundred and twenty-four dollars and eighty-eight cents;

To the collector of the county of Camden, ninety-four thousand and eleven dollars and sixty-four cents;

To the collector of the county of Cape May, fifteen thousand eight hundred and ninety-three dollars and eighty cents;

To the collector of the county of Cumberland, forty-two thousand eight hundred and ninety-seven dollars and forty cents;

To the collector of the county of Essex, four hundred and eighty-six thousand one hundred and sixty-four dollars and sixty-five cents;

To the collector of the county of Gloucester, thirty-six thousand two hundred and eighty-three dollars and seventy-three cents;

To the collector of the county of Hudson, three hundred and ninety-five thousand one hundred and sixteen dollars and sixty cents;

To the collector of the county of Hunterdon, forty-five thousand five hundred and seventy-three dollars and fourteen cents;

To the collector of the county of Mercer, one hundred and ten thousand and thirty-eight dollars and thirty-two cents;

To the collector of the county of Middlesex, sixty-nine thousand seven hundred and sixty-nine dollars and eighty-three cents;

To the collector of the county of Monmouth, one hundred and fifteen thousand five hundred and ninety-seven dollars and eighty-two cents;

To the collector of the county of Morris, sixty-six thousand seven hundred and sixteen dollars and thirty-six cents;

To the collector of the county of Ocean, sixteen thousand one hundred and forty-five dollars and forty-seven cents;

To the collector of the county of Passaic, one hundred and forty-four thousand three hundred and ninety-four dollars and fifty-nine cents;

To the collector of the county of Salem, thirty-five thousand five hundred and ninety-nine dollars and ninety-nine cents;

To the collector of the county of Somerset, forty-five thousand sixty-five dollars and sixty-five cents;

To the collector of the county of Sussex, twenty-six thousand eight hundred and ninety-seven dollars and ninety-nine cents;

To the collector of the county of Union, ninety-six thousand seventy-seven dollars and twenty-four cents;

To the collector of the county of Warren, forty-seven thousand three hundred and ninety-five dollars and twenty-four cents.

In addition to the sums appropriated in this section, there shall be paid to the several counties such amounts from the "reserve fund" of two hundred and twenty-eight thousand four hundred and thirty-one dollars, being ten per centum of the amount of the state school tax paid by said counties, as shall be apportioned to them by the state board of education, as required by law; in all the sum of two million two hundred and eighty-four thousand three hundred and ten dollars.

86.

UNITED STATES APPROPRIATION TO AGRICULTURAL COLLEGE.

United States appropriation to agricultural college.

4. That there be paid to the treasurer of Rutgers college for the agricultural department thereof, for the more complete endowment and maintenance thereof for the benefit of agriculture and the mechanic arts, such sums as may be received from the United States under the act of congress approved August thirtieth, one thousand eight hundred and ninety, estimated to be twenty-four thousand dollars.

87.

AGRICULTURAL COLLEGE FUND.

Agricultural college fund.

5. That there be paid to the treasurer of Rutgers college for the agricultural department thereof the income of the agricultural college fund, established under the act of congress of July second, one thousand eight hundred and sixty-seven, held by the state treasurer, estimated to be four thousand and eighty-dollars.

88.

UNITED STATES APPROPRIATIONS FOR DISABLED SOLDIERS.

United States appropriation for disabled soldiers.

6. That there be paid to the New Jersey home for disabled soldiers such sum as may be received from the United States under the act of congress to provide aid to state and territorial homes for disabled soldiers and sailors, approved August twenty-seventh, one thousand eight hundred and eighty-eight, estimated to be thirty-six thousand dollars.

Funds used as specified.

7. No money shall be drawn from the treasury except for the objects as herein above specifically appropriated.

8. This act shall take effect on the first day of November, one thousand eight hundred and ninety-eight.

Approved June 13, 1898.

CHAPTER 215.

An Act concerning trespassing on private lands.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. It shall be unlawful for any person or persons to trespass upon the occupied lands of any other person or persons within this state for the purpose of hunting or fishing, killing or catching any of the game or fish enumerated in the statutes, without the consent of the owner or person or persons in possession of such lands being first had and obtained, provided written or printed notice forbidding trespassing shall have been posted in at least four conspicuous places on said lands within three months next before the date of such trespass; and every person violating this act shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for a term not exceeding ten days, or both; such fine and imprisonment at the discretion of the court before which such conviction is had.

Unlawful to trespass without consent.

Proviso.

Penalty.

Approved June 14, 1898.

CHAPTER 216.

An Act to provide for the sale of lands devised to commissioners of public instruction or other school boards to be held in trust for certain purposes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. When any person shall have died or shall hereafter die, and shall, in and by his last will and testament,

Lands devised for certain purposes may be sold by direction of the chancellor.

give, devise and bequeath, or shall have given, devised or bequeathed any lands and real estate to the commissioners of public instruction of any city or other municipality in this state, by whatever name or names said commissioners may be designated, in trust to take and receive the rents, issues and profits arising from the same and pay all expenses necessary to the maintenance and proper care of such premises, and the net income arising therefrom to invest in books or other school properties, or to be used otherwise for and on behalf of the schools or any school in such city or other municipality, and for the use and benefit of the scholars thereof, and the building or buildings upon said property shall be or shall become old and dilapidated and greatly in need of extraordinary repairs, or if such building or buildings be not well adapted or shall become not well adapted for business or other purposes for which they were built, or cannot be repaired or made modern so as to yield a good income without extraordinary expense, or that a fair rental, considering the value of the property, cannot be obtained for the same, or if the said premises consist in whole or in part of vacant lots which cannot be rented for a fair price or at all, but that, if sold, the proceeds arising from the sale of such premises could be invested and in that way yield a larger income than could be obtained by the renting or other use of said premises by such trustees thereof, then, and in that case, the said commissioners of public instruction or other trustees of the schools or any school of any city or other municipality in this state, may, by petition setting forth the facts and circumstances of the case, apply to the chancellor to direct such lands and other premises to be sold in fee-simple absolute, and for that purpose to inquire into the situation of such land and the merits of such application; whereupon the chancellor, being satisfied of the sufficiency of such application, shall order such reasonable notice thereof to be published as he may judge proper and the circumstances of the case may require, fixing a day for inquiry into said matter not less than thirty days distant from the date of such order, and if, upon such inquiry, it shall be made to appear to the chancellor by any person or persons whom it may concern that such sale may be had

without prejudice to the public welfare and the best interests of the school or schools for whose benefit such devise may have been made, and that it is advisable and best for the beneficiaries of such trust, and that their interests would be promoted by such sale, the chancellor may order such lands and other premises to be sold in fee by one of the masters of this court, either at public or private sale, and with such limitations as to price and as to credit for purchase-money as he may deem proper to direct, which sale shall be reported to the chancellor, and when approved and confirmed by him the said master shall execute a deed therefor to the purchaser, which deed, when given pursuant to such order, shall convey to such purchaser an estate in fee-simple absolute, freed and acquitted and freely and fully discharged from the trust in that behalf created under and by will of the testator of and concerning said lands and premises, including such devise, whether in trust or not, as is mentioned in the third section of this act.

Sold in fee simple.

2. The moneys arising from said sale shall be invested by the commissioners of public instruction or other managers of the school or schools of such city or other municipality, under the directions of the chancellor, in the name of said commissioners or other trustees, being the trustees mentioned in the will of the testator to whom the real estate so sold shall have been devised, and shall be held in trust by them for the uses and purposes in the will of the testator mentioned and set out; and the chancellor shall from time to time have power to make such further orders and directions in the premises as shall conserve the purposes of such trust and be deemed necessary to carry out the will of such testator.

Proceeds of sale

3. If any such testator as is mentioned in the first section of this act shall make a charge on any such lands so devised or to be devised to any such commissioners of public instruction, any legacy or bequest to any other person or corporation, in trust or otherwise, then and in that case no order for the sale of such lands shall be made unless such person or corporation, being the beneficiary under such legacy or bequest other than that to said commissioners of public instruction, shall be brought

Parties interested in such lands to be notified.

into such application as a party respondent, by citation or otherwise, and on such notice as the chancellor shall direct; nor shall the sale of such lands be made unless it shall appear to the chancellor that the rights and interests of such person or corporation, being the beneficiary under such legacy or bequest other than that to said commissioners of public instruction, shall not be prejudiced thereby; and if a sale of such lands shall be ordered the chancellor shall make all necessary orders for the conservation of such legacy, bequest or trust in favor of such person or corporation last aforesaid as is required in the second section of this act for the investment of the moneys arising from such sale belonging to the commissioners of public instruction aforesaid.

4. This act shall take effect immediately.

Approved June 14, 1898.

CHAPTER 217.

An Act empowering executors and trustees holding land and real estate in trust for minor children to mortgage the same and apply the proceeds to the education of the said minor children.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Real estate may be mortgaged for education of minor children.

1. That whenever any land or real estate is devised by law to any executor or executors, trustee or trustees, in trust for the benefit of a minor child or minor children until such time or until the happening of some event in said will named, and it shall be made to appear to the chancellor by petition of said executor or executors, trustee or trustees named in said will, or the survivor or survivors of them or any duly appointed person standing and acting in their place that it would be to the benefit of said minor child or minor children that the said lands should be mortgaged for the purpose of raising sufficient funds to properly educate the said minor child

or minor children, it shall be lawful for the chancellor to order and direct that the petitioner or petitioners as aforesaid be authorized for the purpose of raising the necessary funds for securing a proper education for said minor child or minor children, and upon such terms as to the chancellor shall seem meet and proper, to raise by mortgage upon the land of said minor child or children so devised in trust, such sum of money as may be deemed necessary and advisable by the chancellor for the purposes aforesaid.

2. This act shall take effect immediately.

Approved June 14, 1898.

CHAPTER 218.

An Act placing certain officers, late of the national guard of this state, on the retired list.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Franklin C. Woolman.

1. Franklin C. Woolman, formerly an officer of the national guard, who resigned his office as major and judge-advocate of the second brigade, May eleventh, one thousand eight hundred and ninety-one, is hereby placed upon the retired list of the national guard, with the rank of major.

Aaron K. Baldwin.

2. Aaron K. Baldwin, formerly an officer of the national guard, who resigned his office as lieutenant-colonel and surgeon of the first brigade, November fourth, one thousand eight hundred and ninety-three, is hereby placed upon the retired list of the national guard, with the rank of brevet-colonel.

Nathan Haines.

3. Nathan Haines, formerly an officer of the national guard, who resigned his office as colonel and aid-de-camp, personal staff of the commander-in-chief, January thirty-first, one thousand eight hundred and ninety-eight, is hereby placed upon the retired list of the national guard, with the rank of colonel.

4. This act shall take effect immediately.

Approved June 14, 1898.

CHAPTER 219.

An Act to authorize the purchase of lands and the construction of school houses thereon and the issuing of bonds to raise moneys to pay the cost of the same, in towns in this state.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Council authorized, upon adoption of resolution by board of education, to appropriate funds for school houses.

1. Whenever the board of education or other body having charge of the public schools in any town in this state shall, by resolution adopted by the votes of a majority of the members thereof, declare that additional school accommodations are needed in any such town, a copy of such resolution, certified under the hands of the president or chairman and secretary or clerk of such board or body, shall be forthwith transmitted to the council or other governing body of such town, and thereupon it shall be lawful for such council or other governing body, by resolution adopted by a majority of the votes of all the members thereof, to order an appropriation of a specific sum not exceeding fifty thousand dollars, for the purchase of lands and the erection thereon of a suitable school building, and upon the adoption of such resolution by such town council or other governing body, it shall be lawful for such town council or other governing body to issue bonds in the corporate name of such town for the amount so appropriated; the bonds so to be issued shall be designated "school bonds" and shall be of such denominations as said council or other governing body shall deem proper, and shall bear interest at a rate not exceeding five per centum per annum, and may be either registered bonds or have coupons for each half year's interest attached, at the option of the holder, and shall not be sold for less than their par value; said bonds shall be made payable in such manner that at

"School bonds."

Rate.

the expiration of three years from the date of issue thereof at least one-thirtieth part of the whole issue shall become due and payable, and thereafter annually a like proportionate part of the whole issue of said bonds shall become due and payable; the council or other governing body of such town shall provide annually for raising by taxation a sum sufficient to pay the interest on the bonds so issued and also the proportion thereof to be redeemed.

Proceeds.

2. The proceeds of the sale of said bonds, including all premiums realized thereon, shall be held by the town treasurer and shall be paid out by him on warrants issued by the board of education for the purposes specified in this act.

Purchase lands and make contracts.

3. At any time after an appropriation is voted and made as aforesaid by the council or other governing body of any town, the board of education or other body having charge of the public schools therein may purchase the necessary lands and enter into contracts for the erection of a suitable school building thereon; *provided, however*, that said board of education or other body in purchasing said lands and erecting said school building shall not make expenditures or incur indebtedness in excess of the amount realized from the sale of said bonds.

Proviso.

Repealer.

4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall take effect immediately.

Approved June 14, 1898.

CHAPTER 220.

A Supplement to an act entitled "An act respecting criminal courts in cities of the first class in this state, and providing for the increase of jurisdiction thereof, and regulating the proceedings therein," approved February nineteenth, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended.

1. Section one of the act entitled "An act respecting criminal courts in cities of the first class in this state, and providing for the increase of jurisdiction thereof, and regulating the proceedings therein," approved February nineteenth, one thousand eight hundred and ninety-five, is hereby amended so that said section shall read as follows:

Jurisdiction of criminal courts.

1. The criminal courts in any city of the first class in this state shall have jurisdiction to try and determine all cases of assault, simple assault and battery, petty larceny, and any other crime or offense for which the punishment, on conviction, prescribed by law does not exceed either a fine of one hundred dollars, or imprisonment for a term of six months, or both, where such assault, simple assault and battery, petty larceny, or other crime or offense is committed within the corporate limits of the city in which such court is established, provided the person or persons charged with any such crime or offense shall, in writing, waive indictment and trial by jury.

Action of judge when charge of simple assault and battery should have been atrocious.

2. If, on the trial of any complaint or accusation, charging any person with simple assault and battery, or petty larceny, it shall appear from the evidence that the defendant was guilty of atrocious assault and battery, or grand larceny, the judge trying such case shall not proceed therewith, but shall forthwith cause to be entered on his docket a discontinuance of said case and forth-

with send the complaint taken against the defendant and the names and residences of the witnesses, to the prosecutor of the pleas of the county in which such trial was being had, and hold the defendant to bail in the same manner as if a complaint had been originally taken against said defendant for atrocious assault and battery or grand larceny, as the case may be; and no fees shall be allowed the judge or clerk of any criminal court in any such case.

Waiving trial by jury.

3. When any person charged with any crime or offense triable in such criminal courts shall waive indictment and trial by jury, the judge of such court shall cause an accusation in writing to be made by the clerk of said court, stating the nature of the crime or offense with which such person is charged, and the time and place when and where the same was committed, to which accusation the defendant shall be called upon to plead.

Prosecutor may appear in such court.

4. The prosecutor of the pleas of any county in which courts exist may, whenever in his judgment the interests of justice so require, appear in said court on behalf of the state, and conduct the prosecution of the defendant as he may think best, and in such case the prosecutor of the pleas shall have and possess in said court, on the trial of any such accusation, the usual powers and authority appertaining to his office.

5. This act shall take effect immediately.

Approved June 14, 1898.

CHAPTER 221.

A Supplement to an act entitled "An act concerning proceedings to review judgments or other judicial proceedings of any city judge, police court, or other inferior court, had for or on account of alleged violation of city ordinances or ordinances of city boards of health," approved March twenty-eighth, one thousand eight hundred and ninety-five.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Section amended

1. Section one of the above-entitled act be and the same is hereby amended so that said section shall read as follows:

Judgments, &c., reviewable by certiorari.

1. All judgments or other judicial proceedings of any city judge, police court, or other inferior court, had for or on account of any alleged violation of city ordinances or ordinances of city boards of health, whether had with or without a trial by jury, shall be reviewable by writ of certiorari, in accordance with the rules and practice of the supreme court, or on application for that purpose, made by the defendant, within thirty days after such judgment has been rendered, the court of common pleas of the county in which such judgment was rendered may order such judgment and all the proceedings had in the case, to be certified to said court, by the court in which such judgment was had, and upon return being made to said order, said court of common pleas may review said judgment and all the proceedings had in the case, and set the same aside if said court shall find the same to be illegal.

2. This act shall take effect immediately.

Approved June 14, 1898.

CHAPTER 222.

An Act to amend an act entitled "An act to amend an act entitled 'An act relative to sales of land under a public statute, or by virtue of any judicial proceedings'" (Revision), approved March twenty-fifth, one thousand eight hundred and seventy-four, which amendment was approved March seventeenth, one thousand eight hundred and eighty-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section one of the act to which this is an amendment be and the same is hereby amended to read as follows: Section amended.

1. In all cases whatsoever where any sheriff, coroner, master in chancery, executor, administrator, guardian, commissioners, auditors, or other officers or person, is now or hereafter shall be authorized or required by any public statute, or the direction of any court of competent jurisdiction in this state, to make sale of any lands, tenements, or hereditaments or real estate, such officer or officers, person or persons, unless specially directed by law, shall give notice by public advertisement signed by himself, herself or themselves, and set up at five or more public places in the county, one whereof shall be in the township, ward or city where such real estate is situate, of the time and place of such sale at least four weeks next before the time so appointed, and shall likewise cause the same to be published in two newspapers to be designated by such officer or officers, person or persons, printed and published in the county in which the lands are situate, of which one shall be either a newspaper printed and published at the county seat of said county, or a newspaper printed and published in the municipality in said county having the largest population by the last preceding federal or state census, at Notices of sale given by public statute.

least four weeks successively, once a week, next preceding the time appointed for selling the same; and at the time and place so appointed, between the hours of twelve and five in the afternoon, such officer or officers, person or persons, shall sell the same at public vendue to the highest bidder.

2. This act shall take effect immediately.

Approved June 14, 1898.

CHAPTER 223.

An Act to repeal an act entitled "An act authorizing the discharge of executors and trustees in certain cases," approved March thirty-first, one thousand eight hundred and eighty-two.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Repealer.

1. The act mentioned in the title of this act is hereby repealed.

Approved June 14, 1898.

CHAPTER 224.

An Act to repeal an act entitled "An act to authorize executors and others to invest in the bonds of this state," approved April fourth, one thousand eight hundred and sixty-five, as amended by an act entitled "An act to amend an act entitled 'An act to authorize executors and others to invest in the bonds of this state, approved April fourth, one thousand eight hundred and sixty-five,'" approved April ninth, one thousand eight hundred and ninety-two.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The act and amendatory act mentioned in the title of this act is hereby repealed. Repealer.

Approved June 14, 1898.

CHAPTER 225.

An Act to repeal an act entitled "A supplement to an act entitled 'An act concerning executors and the administration of intestates' estates,' approved March twenty-seventh, anno domini one thousand eight hundred and seventy-four," approved March ninth, one thousand eight hundred and seventy-seven.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The supplement mentioned in the title of this act is hereby repealed. Repealer.

Approved June 14, 1898.

CHAPTER 226.

An Act to secure to mechanics and others payment for their labor and materials in erecting any building (Revision of one thousand eight hundred and ninety-eight).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

I. OF THE LIEN.

Buildings liable for debts for labor and material.

1. Every building hereafter erected or built within this state shall be liable for the payment of any debt contracted and owing to any person for labor performed or materials furnished for the erection and construction thereof, which debt shall be a lien on such building, and on the land whereon it stands, including the lot or curtilage whereon the same is erected.

Liability in case of contract.

2. Whenever any building shall be erected in whole or in part by contract in writing, such building and the land whereon it stands shall be liable to the contractor alone for work done or materials furnished in pursuance of such contract; *provided*, said contract, or a duplicate thereof, together with the specifications accompanying the same, or a copy or copies thereof, be filed in the office of the clerk of the county in which such building is situate before such work done or materials furnished.

Proviso.

In case of refusal of contractor to pay wages or for material.

3. Whenever any master-workman or contractor shall, upon demand, refuse to pay any person who may have furnished materials used in the erection of any such house or other building, or any journeyman or laborer employed by him in the erecting or constructing any building, the money or wages due to him, it shall be the duty of such journeyman or laborer or materialman to give notice in writing to the owner or owners of such building of such refusal, and of the amount due to him or them and so demanded, and the owner or owners of

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such building shall thereupon be authorized to retain the amount so due and claimed by any such journeyman, laborer or materialman out of the amount owing by him or them on the contract, or that may thereafter become due from him or them on such contract for labor or materials used in the erection of such building, giving the master-workman or contractor written notice of such notice and demand; and if the same be not paid or settled by said master-workman or contractor, such owner or owners, on being satisfied of the correctness of said demand, shall pay the same, and the receipt of such journeyman, laborer or materialman for the same shall entitle such owner or owners to an allowance therefor in the settlement of accounts between him and such master-workman or contractor, or his representatives or assigns, as so much paid on account.

In case contractor disputes claims.

4. When a notice or notices shall be served upon such owner or owners by any journeyman, laborer or materialman, under the third section of this act, and notice thereof shall have been given by such owner or owners to the master-workman or contractor, as required by said section, and said master-workman or contractor shall, within five days after receiving the notice aforesaid, notify in writing the journeyman, laborer or person who has furnished materials that he disputes his or their claim, and requests him or them to establish the same by judgment, the owner shall not pay the claim until it is so established; *provided*, the master-workman or contractor shall notify him in writing that he has given the aforesaid notice to said journeyman, laborer or materialman.

Proviso.

Liability of owner in case of lien.

5. If the owner or owners of any building or other property which, by this act, is made the subject of liens for or toward the construction, altering, repair or improvement of which labor or services have been performed or materials furnished by contract, duly filed, shall, for the purpose of avoiding the provisions of this act, or in advance of the terms of such contract, pay any money or other valuable thing on such contract, and the amount still due to the contractor, after such payment has been made, shall be insufficient to satisfy the notices served in conformity with the provisions of this act, such

owner or owners shall be liable in the same manner as if no such payment had been made.

Priority of laborers and materialmen.

6. In all cases journeymen or laborers shall have priority and preference over any employers of labor, contractors or materialmen for the payment of wages, without reference to the date when said journeymen or laborers shall have filed the lien or served the notices provided for in this act; laborers or materialmen giving notices in accordance with the provisions of the third section shall have priority and preference in the disposition of the moneys due and to grow due upon the contract over any persons claiming said moneys or any part thereof by reason of order or orders thereon or assignments thereof.

When building is erected by other than owner of the land.

7. If any building be erected by a tenant or other person than the owner of the land, then only the building and the estate of such tenant or other person so erecting such building, shall be subject to the lien created by this act and the other provisions thereof, unless such building be erected by the consent of the owner of such lands in writing, which writing may be acknowledged or proved and recorded, as deeds are, and when so acknowledged or proved and recorded, the record thereof and copies of the same, duly certified, shall be evidence in like manner.

"Building" defined.

8. Any addition erected to a former building, and any fixed machinery or gearing, or other fixtures for manufacturing purposes, shall be considered a building for the purposes of this act. The words, "fixtures for manufacturing purpose," as used in this section, shall be construed to include any building, erection, or construction of whatever description, attached or annexed, or intended to be attached or annexed, to any land or tenement, and designed to be used in the building or repairing of vessels, whether the same be permanently attached to the freehold, or so built as to be removed from place to place, and only temporarily attached to the land and whether the same be intended and designed for use on land or water.

Repair of machinery.

9. The lien given by this act is hereby extended to all mills and manufactories, of whatever description, within this state, and to the lots of land or curtilages whereon the same are erected, for all debts contracted by the

owner or owners thereof, or by any other person with the consent of such owner or owners, in writing, for work done or materials furnished for or about the repairing of any fixed machinery, or gearing, or other fixtures for manufacturing purposes, on the same.

Repair of building.

10. The lien given by this act shall be and is hereby extended to all buildings of whatever description erected or to be erected in this state and the lots or curtilages whereon the same are erected, for all debts contracted by the owners thereof, or by any other person with the consent of the owner or owners in writing, for work done or materials furnished in and for the repairing or alteration of any such building; *provided, however*, that said lien shall not be valid against a bona fide purchaser or mortgagee before said lien is filed in the office of the clerk of the county in which said lot or curtilage is situate; *and provided further*, that work done or materials furnished under contract in and for such repairs or alterations shall be liable to the said contractor alone in the manner provided by the second section of this act.

Proviso.

Proviso.

Regarding wharves, etc.

11. The lien given by this act is hereby extended to all docks, wharves and piers erected upon any navigable river in this state, and to the lots of land in front of which such docks, wharves or piers may be erected, and to all the interest of the owner or owners of such land in the soil or waters of such navigable river in front of said lands, for all debts contracted by the owner or owners thereof, or by any other person with the consent of such owner or owners, in writing, for work done or materials furnished for or about the erection or filling-in of said docks, wharves or piers.

Removal of buildings.

12. Every building or part or parts of any building which shall hereafter be removed and shall be located upon some other lot or curtilage, and which shall, when removed, constitute a complete structure or a part of a structure upon the curtilage to which the same shall be removed, shall be liable for the payment of any debt contracted and owing to any person for labor performed or materials furnished in the removal of the same, which debt shall be a lien on such building so removed and the building to which the same shall be attached or incorporated and on the land whereon the building shall be

removed, including the lot or curtilage whereon the same is located by such removal; all of the labor performed and materials furnished in erecting, constructing and repairing the foundation or superstructure, upon which such removed building shall be located upon or incorporated with some other building, shall be deemed and taken to be labor performed and materials furnished in the removal of the building.

Married women.

13. Any married woman, upon whose lands any building or buildings shall hereafter be erected or repaired, or whereon any fixtures shall be put, shall be taken as consenting to the same, and such building or buildings and curtilages whereon the same are erected shall be subject to the lien created by this act; *provided always*, that in case said married woman shall cause to be filed in the clerk's office of the county wherein such building or buildings are located a notice in writing, describing the property, and that she does not consent to the erection or repairing of such building or buildings on her lands, and that the same is being done against her wishes and consent, then, in such case, the building or buildings, and the curtilages whereon the same are erected, of any married woman, shall be free from the lien given by this act from the time she shall have filed a notice as aforesaid; *and provided further*, that nothing in this act contained shall be so construed as to make the lands of any person liable for any building or repairs not authorized by the owner, or built or done without the knowledge of the owner.

Proviso.

Proviso.

Advance money mortgages.

14. Whereas it is the practice of owners of lots or tracts of land to dispose of the same to a builder or builders, taking therefor a mortgage or mortgages in excess of the purchase money price of said lot or tract of land, the mortgagee agreeing to pay such excess to the aforesaid builders, from time to time, as the building or buildings progress, such mortgages being known as advance money mortgages; therefore, in all such transactions the building or buildings so erected shall be liable for the payment of any debt contracted and owing to any person or persons for labor performed or materials furnished for the erection and construction thereof, which debt shall be a lien on such building or buildings and on the land whereon they stand, including

Limit of such mortgages.

the lot or curtilage whereon the same are erected, and the lien for labor performed or materials furnished for the erection and construction of any such building or buildings shall be a prior lien to the lien of any mortgage created on such building or buildings and lot or tract of ground to secure either in whole or in part any advances in money to be used in and about the construction of such building or buildings, but to the extent only of the moneys remaining to be advanced by the mortgagee under such agreement; *provided*, such mortgage shall be recorded or registered before the filing of any claim in pursuance of this act. Proviso.

15. Every mortgage given or to be given upon lands in this state shall have priority over any claim that may be filed in pursuance of this act to the extent of the money actually advanced and paid by the mortgagee and applied to the erection of any new building upon the mortgaged lands or any alterations, repairs or additions to any building on said lands; *provided*, such mortgage be registered or recorded before the filing of any such claim. Extent of priority of mortgage. Proviso.

II. OF THE CLAIM.

16. Every person intending to claim a lien under the provisions of this act, shall within four months, after the labor is performed or the materials furnished for which such lien is claimed, file his or her claim in the office of the clerk of the county where the building and land subject to such lien is situate, which claim shall contain: Intent to claim lien.

I. A description of the building and of the lot or curtilage upon which the lien is claimed, and of its situation sufficient to identify the same; Description.

II. The name of the owner or owners of the land or of the estate therein on which the lien is claimed; Name of owner of land.

III. The name of the person who contracted the debt, or for whom, or at whose request the labor was performed or the materials furnished for which such lien is claimed, who shall be deemed the builder; Name of person contracting debt.

IV. A bill of particulars exhibiting the amount and kind of labor performed and of materials furnished, and the price at which and times when the same was per- Bill of particulars.

formed and furnished, and giving credit for all the payments made thereupon and deductions that ought to be made therefrom, and exhibiting the balance justly due to such claimant, which statement, when the work or materials or both are furnished by contract, need not state the particulars of such labor or materials further than by stating, generally, that certain work therein stated was done by contract at a price mentioned; and such bill of particulars and statements shall be verified by the oath of the claimant or his agent in said matter, setting forth that the same is for labor done or materials furnished in the erection of, addition to, repair of, or alteration in or of the building in such claim described, at the times therein specified, and that the amount as claimed therein is justly due; and when such claim shall not be filed in the manner or within the time aforesaid, or if the bill of particulars shall contain any willful or fraudulent misstatement of the matters above directed to be inserted therein, the building or lands shall be free from all lien for the matters in such claim.

Lien docket.

17. Every county clerk shall, at the expense of the county, provide a suitable, well-bound book, to be called the lien docket, in which, upon the filing of any lien claim, he shall enter:

Owner.

I. The name of the owner of the building and land upon which the same is claimed;

Builder.

II. The name of the builder or person who contracted the debt;

Description.

III. The description of said building and lands;

Amount.

IV. The amount claimed and by whom claimed.

Index.

And the said clerk shall make a proper index of the same, in the name of the owner of the land and building;

Fees.

and such clerk shall be entitled to twelve cents for filing each claim, or contract, and at the rate of eight cents per folio for such entry made in the lien docket, and six cents for every search in the office for such lien claim, or contract.

Lien claim must be filed.

18. No debt shall be a lien by virtue of this act, unless a lien claim is filed as hereinbefore provided, within four months from the date of the last work done or materials furnished for which such debt is due; nor shall any lien be enforced by virtue of this act unless the summons in the suit for that purpose shall be issued

within four months from the date of the last work done or materials furnished in such claim; and the time of issuing such summons shall be endorsed on the claim by the clerk upon the sealing thereof, and if no such entry be made within four months from such last date, or if such claimant shall fail to prosecute his claim diligently within one year from the date of issuing such summons or such further time as the court may by order direct, such lien shall be discharged, and all suits now pending where a claim has been filed and a summons issued within four months from the date of the last work done or materials furnished for which said debt is claimed shall be included within the provisions of this act; *provided*, that the time in which such lien may be enforced by summons may be extended for any further period, not exceeding four months, by a written agreement for that purpose, signed by said land-owner and said claimant, and annexed to the said claim on file before such time herein limited therefor shall have expired, in which case the county clerk shall enter the word "Extended" in the margin of the lien docket opposite such claim, and any claimant, upon receiving written notice from the owner of the lands or building requiring him to commence suit on such claim within thirty days from the receipt of such notice, shall only enforce such lien by suit to be commenced within said thirty days. Proviso.

19. At any time before judgment on a lien claim, a justice of the supreme court, on application of the lien claimant, and on reasonable notice to all parties interested, may order such lien claim to be amended, in matter of substance as well as in matter of form, whenever it shall appear to him that such amendment can be justly made; and whenever such amendment shall be ordered, the same shall be put in writing and signed by said justice, and shall be then filed in the office of the county clerk, and for his services under this section the said justice shall be entitled to a fee of five dollars. Amendment of lien claim.

20. At any time before the entry of final judgment in a suit under this act, it shall be lawful for a justice of the supreme court, upon the application of either the owner, builder or lien claimant, and upon reasonable notice to the others to alter the description of the cur- Description of curtilage.

tilage as set forth in the lien claim, and, in the form of a rule of court, in the suit, to determine the true size and description of the curtilage; and in all subsequent proceedings in such suit, or in relation thereto, the curtilage so determined shall be treated as if the same had been described in the original lien claims, and such justice, for his services under this section, shall be entitled to a fee of two dollars, which shall be paid by the applicant, and may be taxed with the costs in such suit; *provided*, that the amendments, authorized in this and in the next preceding section, shall not affect the rights of any bona fide purchaser or mortgagee, acquired between the time of filing the original lien claim and that of filing said amendments.

Fee.

Proviso.

Extent of curtilage.

21. When the curtilage or lot on which the building is erected shall not be surrounded by an enclosure separating it from adjoining lands of the same owner, then the lot on which the building lien shall extend, shall be such tract as in the place of its location is usually known and designated as a building lot, and bounded by the lines laid down for its boundaries on any map made for the sale of it or on file in any public office, to lay out in lots the tract including it, and in cases where no such map exists, such lot may be designated by the claimant in the lien claim, but in no case shall the same exceed half an acre, or include any building not used and occupied with, or intended to be used and occupied with, the building for the cost of which the lien is claimed.

Not to exceed half acre.

In case two or more buildings are built by same person.

22. Whenever any person or persons shall hereafter furnish any materials or perform any labor, for the erection and construction of two or more buildings, where such buildings are built and constructed by the same person or persons, it shall be lawful for the person or persons so furnishing such materials or performing such labor to divide and apportion the same among the said buildings, in proportion to the value of the materials furnished to and the labor performed for each of said buildings, and to file with his, her or their lien claim therefor a statement of the amount so apportioned to each building, in lieu of the bill of particulars required by the sixteenth section of this act, which said lien claim when so filed may be enforced under the provisions of this act in the same manner as if said materials had been furnished and

Value of labor and materials apportioned.

labor performed for each of said buildings separately; and if the person or persons who shall have furnished such materials or performed such labor shall have released his or their lien claim against any one or more of such buildings, or if any one or more of such buildings shall have been built and constructed under a contract in writing duly filed, pursuant to this act, such release or such filing of a contract shall not affect or impair the lien or claim of such person or persons against the building or buildings not so released, or not so built and constructed by contract, nor the lots or curtilages whereon the same are erected.

Release of claim against one building not to impair lien against others.

III. SUIT AND PROCEEDINGS TO ENFORCE CLAIM.

Proceedings to enforce claim.

23. When a claim is filed agreeably to the provisions of this act, upon any lien created thereby, the same may be enforced by suit, in the circuit court of the county where such building is situated, which suit shall be commenced by summons against the builder and the owner of the land and building and every person holding a mortgage of record against the property affected by said claim whose mortgage would be cut off by a sale under said claim, in the following or like form:

Form of summons.

Summon A. B. builder, and C. D. owner (or if the owner contracted the debt, A. B. builder and owner), and E. F. mortgagee (if there be a mortgage or mortgages) to appear before the Circuit Court in and for the County of ———, at ——— in the said County, on the ——— day of ———, That the said A. B. (the builder) may answer unto G. H. (the claimant) of a plea (as in an action upon contract) for which the said G. H. claims a building lien on a certain buildings and lands of said C. D. (describing the building and lands as in the claim on file); and upon which said E. F. holds a mortgage of record.

Serving, &c., of summons.

And the said summons shall be directed, tested, and made returnable, and may be served and returned in the same manner as other writs of summons; and such summons may be served upon the defendants, or either of them, in any county of this state, by the sheriff thereof, and for this purpose the same or a duplicate thereof,

When defendant is not found.

may be issued to such sheriff; and if any defendant cannot be found in this state, it may be served upon him by affixing a copy thereof upon such building, and also by serving a copy on such defendant personally, or by leaving it at his residence ten days before its return, which shall be deemed actual service, or in case such defendant resides out of this state, by affixing a copy on such building and sending a copy by mail, directed to him at the post office nearest his residence, or in case his residence is not known to the plaintiff, then by affixing a copy to such building, and by inserting it for four weeks, once in each week, in some newspaper of this state, published or circulating in the county where such building is situate, either of which shall be legal service; and when an affidavit shall be made and filed of the facts authorizing and constituting any such service, not made by a sheriff or officer, the suit may proceed against the party so served as if such summons had been returned served by the sheriff.

Declaration.

24. The declaration in such case shall, after reciting that the owner and builder and other defendants were summoned, and how served, and why such other defendants were made defendants, be against the builder, and in the same form as in other actions upon contract, and

Aver the debt a lien.

shall conclude with an averment that said debt is, by virtue of the provisions of this act, a lien upon such building and lot, describing the same as in said claim; and to said declaration a schedule may be annexed, and

Proceedings, etc., as in circuit court.

the practice, proceedings and pleadings thereon shall be conducted, and the judgment entered, as in suits in said circuit court to recover money due on contract; and all

Plea of defendants.

or any of said defendants may, jointly or severally, have any defence or plea to the same that might be had by the builder to any action on said contract without this act; and in addition thereto, the owner or mortgagee may plead that said building or land are not liable to said debt, and in such case it shall be necessary for the plaintiff, to entitle him to judgment against the building and lands, to prove that the provisions of this act, requisite to constitute such lien, have been complied with; and any defendant mortgagee may have a

Further plea.

further plea that said lien claim is subject to such mortgagee's lien, and the judgment in any such case shall

determine the priority of the liens of the plaintiff and each of said defendants, and any judgment or proceeding under the same shall not affect the lien of any of said defendants whose lien shall be determined to be paramount to that of the plaintiff; and in case a verdict be rendered or judgment be given against the builder only, judgment shall be given for the land-owner, with costs against the plaintiff; and in case judgment be given for the plaintiff, it shall be entered against the builder when he was actually served with the summons, generally, and with costs as in other cases; and when only legal service of the summons has been made, judgment against the owner and also against the builder, shall be specially for the debt and costs, to be made of the building and lands in the declaration described; and in case no general judgment is given against the builder, such proceedings or recovery shall be no bar to any suit for the debt, except for the part thereof actually made under such recovery; and if the proceeds of the sale of the buildings or lands under any such judgment shall be more than sufficient to pay the judgment of said plaintiff, and any concurrent mechanics' lien claims entitled to payment out of the proceeds of said sale under the provisions of this act, any surplus shall be distributed by the court out of which the execution issued to the said defendants holding liens, subject to that of the plaintiff, according to the priority of their respective liens as determined in said judgment.

Verdict against builder.

Judgment for plaintiff.

If proceeds of sale are in excess of judgment.

25. It shall be lawful for the court, or any judge thereof, at all times, to amend all defects and errors in any suit or proceeding under this act, so that the merits of the controversy between the parties may be determined; and that said amendments may be made with or without costs, and upon such terms as to the court or judge may seem fit.

Defects and errors may be amended.

26. In case of the death of the builder, the suit on the lien claim may be against his executors or administrators; and if the owner be dead, such suit may be against his heirs or devisees.

In case of death of builder.

Amended Laws 1905 P. 454

27. Where judgment is entered generally against the builder, a writ or writs of fieri facias may issue thereon as in other cases, and when judgment shall be against the building and lands, a special writ of fieri facias may

Where judgment is generally against builder writ of fieri facias may issue.

issue to make the amount recovered by sale of the building and lands; and when both a general and special judgment shall be given, both writs may be issued, either separately or combined in one writ, and one may be issued after the return of the other for the whole or residue, as the case may require; and such judgments may be docketed in the supreme court, and execution had thereon as in the case of other judgments.

Action of sheriff.

28. Under such special fieri facias the sheriff or other officer shall advertise, sell and convey said building and lot in the same manner as directed by law in case of lands levied upon for debt, and the deed given by such sheriff or other officer shall convey to the purchaser the estate which the owner had in the lands at the commencement of the building, or which he subsequently acquired, and also in the building, subject only to all mortgages and other encumbrances created and recorded, or registered prior to the said commencement of the improvement, and, also, subject to the lien of any mortgage given and recorded, or registered, under the circumstances contemplated by and in conformity with the provisions of sections 14 or 15 of this act; and in case of gearing or machinery, the bringing of the same upon the premises shall be such commencement; and such prior encumbrances shall have priority to all subsequent builders' liens upon said lands and upon the erections thereon, except such as may be removable, as between landlord and tenant, which may be sold and removed by virtue of any building lien for the construction of the same, free from such prior encumbrances.

Prior encumbrances.

All liens concurrent and to be paid pro rata.

29. All lien claims for erecting, adding to, repairing or altering the same building shall be concurrent liens upon the building and the land whereon the same is erected, and shall be paid pro rata out of the proceeds thereof, when sold by virtue of this act; and for the purpose of distribution, the sheriff or other officer shall pay such proceeds to the clerk of said circuit court, to be by said court distributed among such claims filed, or as shall be filed according to this act before petition filed in said court for distribution thereof, and among such only; but the amount paid to any claimant shall not be paid over to him until after his claim shall have been filed for three months; and if a caveat be filed against such

Caveat filed.

claim by the owner, or by any claimant or claimants owning together one-third of the lien claims filed against such building, then not until such claim shall have been established by a special judgment thereon; and such circuit courts shall have full power to adopt such rules of practice and pleading, and to make all orders necessary and proper to carry into effect the objects of this act, and to secure a proper disposition of the proceeds of sales to all persons entitled thereto by the provisions of this act.

Summons subsequently issued stayed.

30. Where a summons has been issued and served in any way prescribed by this act, to enforce any building claim lien against any building and lands, all other suits commenced by summons subsequently issued, to enforce concurrent liens against the same building and lands, may be stayed by the claimant therein, or by order of the court, until judgment in such first suit, unless notice to enforce such other claim has been served, or a caveat has been filed against paying the same, as hereinbefore provided.

IV. DISCHARGE OF LAND FROM LIEN.

Discharge of lien.

31. Such land and building may be discharged from any lien created by this act:

By payment to claimant.

I. By payment and receipt therefor, given by such claimant, which, when the same is executed in the presence of, and is attested by any officer entitled to take the acknowledgment of the execution of a deed, or when acknowledged or proved before such officer, shall be filed by such clerk, and the words "discharged by receipt" shall be entered by him in said lien docket, opposite the entry of said lien;

By payment to county clerk.

II. By paying to said county clerk the amount of said claim with interest and costs; which amount said clerk shall pay over to said claimant;

By expiration of time limit.

III. By the expiration of the time limited for issuing a summons on such lien claim, without any summons being issued, or without notice thereof endorsed on said claim;

By filing affidavit.

IV. By filing an affidavit that a notice from the owner to the claimant, requiring such claimant to

commence suit to enforce such lien in thirty days from the service of such notice; and the lapse of thirty days after such service without such suit being commenced, or without any entry of the time of issuing such summons being made on such claim;

By satisfactory proof to judge of supreme court.

V. When it shall be made to appear by affidavit or otherwise, to the satisfaction of the justice of the supreme court holding the circuit court in the county wherein said lien is filed, that said lien has been duly paid and satisfied, and that the claimant under said lien, and his attorney, have died or removed from this state since the filing of said lien, and said lien still remains on record as unsatisfied, the judge of said court shall have power to forthwith order the clerk of said court to enter a discharge of said lien in said lien docket, opposite the entry of said lien.

Proceedings if landowner desires to contest claim.

32. Any landowner desiring to contest any claim, and to free his building and land from the lien thereof, may pay to the county clerk the amount of such claim, with interest thereon, for six months after such payment, and twenty-five dollars in addition thereto, with notice to said clerk not to pay over the same until such claim be established by suit; which sum, or so much thereof as is necessary, shall be paid to such claimant upon his obtaining judgment against such building and lands, in the manner prescribed in this act, and said claim shall from the payment of such money to such clerk, be a lien on said money, and said building and lands shall be discharged therefrom, and no execution shall issue against the same by virtue of such judgment; but if such suit is not commenced within the time at which the said lands would be discharged by the provisions of this act without suit, or in case judgment be given therein without being against said lands, said sum shall be repaid to him by said clerk, and if judgment be given against such lands for an amount less than that so deposited, then the surplus shall be returned by said clerk to said landowner.

Repealer.

33. The act entitled "An act to secure to mechanics and others payment for their labor and materials in erecting any building" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, and all acts amendatory thereof and supplemental

thereto, except so far as incorporated herein and re-enacted herein, are hereby repealed; and all acts and parts of acts, general and special, inconsistent with this act, are hereby repealed; but this repealer shall not revive any act heretofore repealed.

Repealer not to affect acts or rights commenced previously.

34. The repeal of any statutory provision by this act shall not affect or impair any act done or right vested or accrued or any building lien filed or any proceeding, suit or prosecution commenced before such repeal take effect; but every such act done or right vested or accrued or building lien filed, or proceeding, suit or prosecution had or commenced, shall remain in full force and effect to all intents and purposes, as if such statutory provision so repealed had remained in force, except that where the course of practice or procedure for the enforcement of such right or such building lien or proceeding, suit or prosecution shall be changed, all suits pending or thereafter commenced shall be conducted as near as may be in accordance with such altered practice or procedure.

Masculine gender and singular number defined.

35. Whenever in describing or referring to any person, party, matter or thing, any word importing the singular number or masculine gender is used in this act, the same shall be understood to include, and shall apply to, several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it be otherwise provided, or there be something in the subject or context repugnant to such construction.

Approved June 14, 1898.

CHAPTER 227.

An Act to repeal sundry acts relative to mechanics' liens.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Repealer.

1. The act entitled "An act to secure to mechanics and others payment for their labor and materials in

erecting any building," Revision approved March 27, 1874, is hereby repealed.

Repealer. 2. The act entitled "A supplement to the act entitled 'An act to secure mechanics and others payment for labor and materials in erecting any building,'" approved March 30, 1876, is hereby repealed.

Repealer. 3. The act entitled "An act to amend an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building, (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which amendatory act was approved March 9, 1877, is hereby repealed.

Repealer. 4. The act entitled "A supplement to an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April 1, 1878, is hereby repealed.

Repealer. 5. The act entitled "A further supplement to an act to secure to mechanics and others payment for their labor and materials in erecting any building, approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March 4, 1879, is hereby repealed.

Repealer. 6. The act entitled "A further supplement to the act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building,' extending liens to alterations," which supplement was approved February 8, 1883, is hereby repealed.

Repealer. 7. The act entitled "A supplement to an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April 25, 1884, is hereby repealed.

Repealer. 8. The act entitled "A supplement to an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April 16, 1888, is hereby repealed.

Repealer. 9. The act entitled "A supplement to an act entitled 'An act to secure to mechanics and others payment for

their labor and materials in erecting any building,' approved March twenty-seventh, in the year of our Lord one thousand eight hundred and seventy-four," which supplement was approved June 19, 1890, is hereby repealed.

Repealer.

10. The act entitled "A supplement to an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building,' approved March twenty-seventh, one thousand eight hundred and seventy-four, for the purpose of extending the rights and remedies under said act to the labor performed and materials furnished to and for the removal of any building or buildings or part or parts of a building from one curtilage to that of another; and further to extend the lien for such removal to the land or curtilage to which the said building, buildings or part or parts of a building shall be removed and located under the contract," approved March 17, 1893, is hereby repealed.

Repealer.

11. The act entitled "A supplement to an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March 14, 1895, is hereby repealed.

Repealer.

12. The act entitled "Supplement to an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building,'" approved March 19, 1896, is hereby repealed.

Repealer.

13. The act entitled "An act to amend an act entitled 'A supplement to an act entitled "An act to secure to mechanics and others payment for their labor and materials in erecting any building," (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four,' which supplement was approved March fourteenth, one thousand eight hundred and ninety-five," which amendatory act was approved March 30, 1896, is hereby repealed.

Repealer.

14. An act entitled "An act to amend an act entitled 'A supplement to an act entitled "An act to secure to mechanics and others payment for their labor and materials in erecting any building," approved March twenty-seventh, in the year of our Lord one thousand eight

hundred and seventy-four,' which supplement was approved June nineteenth, one thousand eight hundred and ninety," and which amendatory act was approved March twenty-ninth, one thousand eight hundred and ninety-two, is hereby repealed.

Former rights not affected.

15. Nothing herein shall affect or impair any right vested or accrued before this act takes effect. This act shall not operate to revive any act heretofore repealed.

Approved June 14, 1898.

CHAPTER 228.

An Act concerning district courts (Revision of one thousand eight hundred and ninety-eight).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

CONSTITUTION AND ORGANIZATION.

District courts in cities

1. All district courts now constituted and established by, under, or in pursuance of any law of this state, shall continue in existence under the provisions of this act, and there shall hereafter be district courts in the several cities of this state as follows: In cities having one hundred thousand inhabitants or over, two district courts, to be called respectively the first and second district courts of such cities; in cities having over twenty thousand inhabitants and less than one hundred thousand inhabitants, one district court, to be called the district court of such city.

Courts of record.

2. District courts shall be courts of record and have a seal which shall bear the imprint of the name of said court; all persons shall be amenable to punishment for contempt of said courts in the same manner as in other courts of record of this state having power to punish for contempt of court.

A continuous court.

3. Every district court shall be a continuous court of record, and when any judge thereof shall cease holding his office, every suit and proceeding pending in said court, whether originally commenced in or removed to said court, shall be continued and proceeded with by and before the succeeding judge thereof, who shall also, in any suit or proceeding which may have been previously removed from said district court by appeal or on certiorari, take cognizance thereof and proceed therewith.

Judges, how appointed, and term.

4. The judges of such courts shall be appointed by the governor, with the advice and consent of the senate, and shall continue in office for five years from the date of such appointment.

Ministerial officers.

5. The ministerial officers of each of said courts shall be a clerk, and such of the constables of the city or county wherein such court may be established as the judge thereof may designate.

Salaries of judges.

6. The salaries of the judges of said courts shall be fixed as follows: In cities having one hundred thousand inhabitants or over, an annual salary of three thousand dollars; in cities having between thirty thousand and one hundred thousand inhabitants, an annual salary of two thousand five hundred dollars; in cities having between twenty thousand and thirty thousand inhabitants, an annual salary of two thousand dollars; and in all other cities where district courts now exist, an annual salary of twelve hundred dollars.

Clerks, appointment and term.

7. The clerks of each district court shall be appointed by the judge thereof, and shall hold office during the pleasure of the judge thereof until the appointment and qualification of his successor, and such clerk shall be the legal custodian of all books, papers, records, seal and all property appertaining to said court.

Salary of clerks.

8. The salary of the clerks of said courts shall be fixed as follows: In cities having over one hundred thousand inhabitants, an annual salary of fifteen hundred dollars; in cities having between thirty thousand and one hundred thousand inhabitants, an annual salary of twelve hundred and fifty dollars; in cities having between twenty thousand and thirty thousand inhabitants, an annual salary of nine hundred dollars; and in all other

cities where district courts now exist, an annual salary of six hundred dollars; which salaries of such clerks shall be in lieu of all other fees whatsoever.

Salaries, when paid.

9. The salaries of the judges and clerks of said courts shall be paid by the cities in which such courts are established, in monthly installments, to be computed from the date of the appointment of such officers.

Compensation of constables.

10. For their services the several constables shall receive from the clerk of the court the fees hereinafter provided, and one dollar per day for every day's actual attendance upon the sessions of the court—to be paid monthly by the cities in which such courts are established, unless a sergeant-at-arms, as hereinafter provided, be appointed by the judge, when no per diem fees shall be paid as above to any constable of any such court having a sergeant-at-arms.

Sergeant-at-arms, duties, etc.

11. The judge of any district court may appoint a sergeant-at-arms to attend the sittings of the court, preserve order therein, and perform such other duties as said judge may prescribe; such sergeant-at-arms shall during his continuance in office be invested with and possess all the rights, privileges, powers and duties of a constable of such city or county, and all papers, warrants and process issued out of any court of record in this state shall be as binding and effectual when served or executed by such sergeant-at-arms as if served or executed by a constable.

Term and bond.

12. Sergeants-at-arms so appointed shall hold office during the pleasure of the judges appointing them; before entering upon the discharge of their duties each sergeant-at-arms shall file in the office of the city clerk of the city in which the district court to which he is attached is located, a bond, with like condition, surety and penal sum as is required by law to be filed by constables, which bond shall, before being so filed, be approved as to form and sufficiency of surety by the judge making said appointment, provided that nothing herein shall affect the term of office or any bond heretofore filed by any sergeant-at-arms, nor require any sergeant-at-arms heretofore appointed to file any new or additional bond.

Compensation.

13. Sergeants-at-arms shall receive for their services the sum of one dollar for each day's actual attendance

upon the sittings of said court, to be paid monthly by the city in which such court is established, and for other services the same fees allowed to constables for like services.

Suitable accommodations.

14. The mayor and common council of each city where said courts may be established shall provide suitable rooms for the transaction of the business of said court or courts and procure suitable furniture therefor, and such books, stationery, fuel and supplies as may be necessary.

JUDGES—THEIR POWERS AND DUTIES.

Oath of judge.

15. The judge of any district court shall, before he enters on the execution of his office, take and subscribe the following oath, to wit:

"I, (A. B.), do solemnly promise and swear that I will administer justice without respect to persons, and faithfully and impartially perform all the duties incumbent on me as judge of ——— district court of the city of ——— according to the best of my abilities and understanding, agreeably to the constitution and laws of the state of New Jersey, so help me God; and I do sincerely profess and swear that I do and will bear true faith and allegiance to the government established in this state, under the authority of the people—so help me God."

Which oath shall be administered by the clerk of the inferior court of common pleas of the county in which said courts may be established, or in his absence or refusal by any person authorized to administer an oath in this state, and same shall be filed in said clerk's office—and a copy of same shall be filed by the judge in the office of the clerk of the city wherein said courts may be established.

Judge to make rules.

16. The judges of said district courts shall make such rules as may be necessary for the orderly conduct and business and proceedings of their said courts respectively; the rules of said courts shall be uniform in each county.

Re-trial; stay.

17. In every case tried in any of said courts the judge may, if he sees fit, order a new trial to be had upon such terms as he shall think reasonable, and in the meantime stay proceedings, provided that application for such new

trial, except where the said application is based upon newly-discovered evidence, shall be made within thirty days after judgment.

Cash deposit in lieu of bond.

18. In all cases where, by the provisions of any section of this act, any party shall be required to give bond or recognizance, such party may deposit a sum of money equal to the amount of the penalty of such bond or recognizance, which sum shall be paid to the clerk of the court and shall be deposited by him in a bank to be designated by the judge of the court and shall be drawn therefrom by check signed by the clerk of said court and countersigned by the judge thereof; and the payment to the clerk shall be for the benefit of the party entitled to the security of any such bond or recognizance and shall have the same force and effect as though a bond or recognizance had been given in pursuance of any section of this act.

When other judges may conduct business.

19. The judge of any district court or any judge of the court of common pleas may preside in and conduct the business of any district court when requested so to do by the judge thereof, and aid in the transaction of the business of any district court, and while so acting such judge shall have the same powers and authority as the judge appointed for said court.

Absence, &c., of clerk.

20. In case of the illness, absence or disability of the clerk of any district court, it shall be lawful for the judge of such court to designate and appoint in writing some fit person to sign the name of the clerk to and to issue any writ or other instrument out of said court during the illness, absence or disability of the clerk, and any writ or other instrument so signed and issued shall be as valid in law as if signed and issued personally by such clerk.

Judge whose term has expired may conclude case.

21. Any judge of any district court whose term of office may hereafter expire shall proceed to the final determination of any cause or proceeding then undetermined before him, and also make return to all writs to him directed, issuing out of any court in this state, in the same manner as if his term of office had not expired.

Judges to continue in office until expiration of term.

22. Judges of district courts in this state heretofore appointed and now in office shall continue in office until the expiration of the terms for which they were severally

appointed or until their death or resignation, in the same manner as if this act had not been passed.

CLERKS — THEIR DUTIES.

Oath of clerk.

23. The clerks of said courts shall, before they enter upon the execution of their respective offices, take and subscribe the following oath, to wit: "I, A. B., being appointed clerk of the ——— district court of the city of ———, do solemnly promise and swear that I will truly and faithfully enter and record all the orders, judgments and proceedings of the said court; that I will justly and honestly keep the records, parchments, papers, writings and books to me committed and to be committed by virtue of my said office, and that I will faithfully and impartially perform all the duties of the said office according to the best of my abilities and understanding, so help me God"; which oath shall be administered by the judge of the district court appointing such clerk.

Give bond.

24. The clerks of each of said courts shall enter into bond to the state of New Jersey, with at least two good and sufficient sureties, being freeholders in the county where said court or courts may be established, in the sum of three thousand dollars; which bond, with the condition thereof, shall be in the form following, that is to say:

Form of bond.

"Know all men by these presents, that we, A. B., C. D. and E. F., of the county of ———, are held and firmly bound unto the state of New Jersey in the sum of three thousand dollars, to be paid unto the state of New Jersey, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, dated the ——— day of ———, in the year of our Lord one thousand eight hundred and ———. The condition of this obligation is such that if the above bounden A. B. shall well and truly execute the office of clerk of the district court of the city of ———, in the county of ———, and in all things touching and concerning said office shall well and truly, faithfully and impartially execute and perform the same

according to law, as well with respect to all persons concerned as the state of New Jersey, and at the expiration of his said office shall deliver to his successor in office all the books, papers, records, writings remaining in the same, seal, moneys on deposit, and other property of the court, or appertaining thereto, then this obligation to be void, otherwise to be and remain in full force and virtue"; such bond shall be approved by the judge of the court of common pleas of the county where said courts may be established, and when so executed and approved shall, together with the oath or affirmation of office, duly taken and subscribed, be recorded in the office of the secretary of state and filed in the same, to be by the said secretary of state kept among the public papers of his office; and in case any person appointed clerk as aforesaid, before he shall enter into the security aforesaid, shall perform any of the duties required of him by law in said office, he shall for such offense forfeit and pay, for the use of the state, one hundred dollars, to be sued for and recovered in the name of the state, with costs of suit.

Clerks to enter in docket all proceedings touching suits.

25. It shall be the duty of every clerk of every district court wherein any suit shall be instituted, to enter in a book to be called a docket, and to be kept for that purpose, and to remain a record of said court, the names of the plaintiff and defendant, the style and nature of the action, the sum demanded, the time of issuing process and when returnable, the return made thereto by the constable when the copy of the account or state of demand or set-off was filed by the parties or either of them, the time of taking the recognizance, or making or filing any order, plea, affidavit, complaint, pleading or other papers in the cause, the adjournment, the rule of reference and report of referees; the jury, when and by whom demanded; the venire, when issued and how returned; the time of trial, and names of the jurors and witnesses; a description of each paper offered in evidence, the verdict and judgment, and, when given, the execution or executions, when issued, the indorsement thereon, and how returned by the constable or sergeant-at-arms; the appeal, when and by whom demanded, and all the proceedings before said court

touching the said suit; also the items of costs in each case and the amount paid by each party; and further, it shall be the duty of such clerk to grant to either party, when required, a certified copy of such proceedings; a transcript of the docket in any case certified to be a true transcript by the clerk under the seal of the court, shall be admitted in evidence in any court of this state, and shall be of the same effect as if the docket were then and there produced.

Duty regarding all moneys received and disbursed, monthly statement.

26. The clerk of every district court shall keep an accurate account of all fees, costs and moneys received by him, and of all fees, costs and moneys paid by him, in cases where he is required by this act to pay any moneys, and to whom paid, and he shall render detailed monthly statements to the treasurer of the city where said court may be established, of such fees, costs, receipts and disbursements, and pay over to such treasurer, monthly, the balance remaining in his hands, except moneys held by him on deposit under the order of the court, and on the appointment and qualification of his successor turn over to him all writings, books, records, papers, moneys held on deposit, seal, and property in his custody pertaining to said court; and every clerk of said court, and his legal representatives, shall and may at all times after the said docket or dockets are delivered to his successor in office as aforesaid, have free access to the same without payment of any fees to the clerk therefor, to enable him to recover any costs which may be due the said city thereon, and if any clerk of any district court shall neglect or refuse to deliver his docket or dockets to his successor in office, in the manner by this act directed, he shall forfeit and pay the sum of three hundred dollars, to be recovered with costs, in any court of competent jurisdiction, which suit shall be brought by the city treasurer, in the name and for the use of the city, on the direction of the judge of said district court.

Clerk may adjourn court and receive verdicts.

27. The clerk of any district court may, in the absence of the judge thereof, adjourn any cause depending therein and receive the verdicts of juries in like manner as the judge of said court might do if present.

No additional compensation.

28. It shall not be lawful for the clerk of any district court in this state to receive any pay or reward for

framing or drawing any state of demand, plea, rule of court or other pleading, which is to be used in the court of which he is clerk.

JURISDICTION.

Territorial limits.

29. The territorial jurisdiction of every district court shall be co-extensive with the limits of the county wherein the city is situated in which such district court is established.

Jurisdiction

30. Every suit of a civil nature at law, or to recover any penalty imposed or authorized by any law of this state, where the debt, balance, penalty, damage or other matter in dispute does not exceed, exclusive of costs, the sum or value of three hundred dollars, shall be cognizable in district courts of this state, provided always that this act shall not extend to any action wherein the title to any lands and real estate shall come in question; district courts shall also have jurisdiction in proceedings between landlords and tenants and in actions of forcible entry and detainer, and in actions of replevin, and in attachment, as hereinafter provided in this act.

When justice of peace has no jurisdiction.

31. No justice of the peace or court for the trial of small causes shall have jurisdiction over any cause or proceedings cognizable before a district court, where the defendant or defendants reside within the limits of any city where a district court is established, nor shall any justice of the peace resident within the limits of any city where a district court is or may be established exercise any civil jurisdiction whatever.

Suits to amount of $300 cognizable.

32. Whenever the amount really due or recoverable upon any bond, bill, note or other contract in writing does not exceed, exclusive of costs, the sum or value of three hundred dollars at the time when the suit is instituted, such amount shall be recoverable in said district courts, without regard to any kind of penalty expressed therein, in the same manner as any other debt or demand of three hundred dollars or under is made recoverable by this act.

In case amount exceeds $300.

33. Where the debt, balance or other matter in dispute, or amount really due or recoverable as aforesaid, exceeds, exclusive of costs, the sum or value of three

hundred dollars, the plaintiff or defendant may recover in such court a sum not exceeding three hundred dollars and costs, but such recovery shall be a bar to the recovery of the residue of such debt, balance or other matter in dispute in any court whatsoever; and it shall be lawful for the plaintiff or for the defendant in a set-off to waive the excess over three hundred dollars.

Entering action without process by agreement.

34. Parties may agree in writing to enter, without process, any action before a district court, to the decision of which it is competent if process had been executed, and the court shall proceed thereon to final judgment and execution, in the same manner as if a summons or warrant had been issued and duly served.

Some particular jurisdiction.

35. District courts shall have jurisdiction over actions by or against boards of chosen freeholders, quasi domestic, foreign and municipal corporations equally with natural persons.

PARTIES.

Who may appear as counsel.

36. No person, except in his own case or in the case of an infant, shall be permitted to appear and prosecute or defend any action in any district court but such as is an attorney-at-law, licensed by the supreme court of this state; the judge of any district court may practice in any court of this state, except in another district court or in the court of common pleas in cases of appeals taken from a district court.

Attorneys may be sued.

37. All attorneys-at-law shall and may be sued in said court in like manner or form of action as other citizens of this state are liable to be sued in said court.

Assignable paper.

38. All bills, bonds and other writings, whether sealed or not, containing any agreement for the payment of money, and all contracts for the sale and conveyance of any real estate, and all judgments and decrees recovered in any of the courts of this state, or in any other state or territory of the United States or of the District of Columbia, and all other choses in action arising on contracts, shall be assignable at law, and the assignee or assignees may sue thereon in his, her or their own names, but in such suit there shall be allowed all just set-offs, discounts and defences not only against the plaintiff, but

also against the assignor or assignors before notice of such assignment shall be given to the defendant.

Marriage of female no abatement of action.

39. No action now pending or hereafter to be brought in any district court wherein a female is or may be a party, shall abate by reason of the marriage of such female after suit brought; but the action shall proceed to final judgment in the name of such female as plaintiff, or as defendant, as the case may be, notwithstanding such marriage.

Actions against executors or administrators.

40. In actions against several executors or administrators, all the same executors or administrators shall be considered as one person, representing the testator or intestate, and such of the executors or administrators as shall be returned summoned shall answer to the plaintiff; and in case judgment shall pass for the plaintiff, he shall have his judgment and execution against such of the executors or administrators as shall have been returned summoned, and against all others named in the writ, of the goods and chattels of the deceased, the same as if they had all been summoned or had appeared.

Executor proving will may maintain suit.

41. In case any executor or executors have refused, or shall refuse, in writing, to prove the last will and testament of any testator, and shall file such refusal in the surrogate's office of the proper county, the executor or executors who have proved, or shall prove, said last will and testament, may maintain a suit at law, without joining in such suit such executor or executors so refusing as aforesaid.

Ignorance of name of defendant.

42. When the plaintiff is ignorant of the name or part of the name of a defendant, he may designate such defendant in the summons and in other process or proceedings in the action by a fictitious name, or by as much of the name as is known, adding a description identifying or tending to identify such defendant, and the person intended shall be thereupon regarded as a defendant in the action, and as sufficiently described therein, for all purposes, including service of the summons, and such summons shall be served in the way and manner as other writs of summons in said court, and when the name or the remainder of the name of the person becomes known an order shall be made by the court upon notice and terms as the court shall prescribe that the proceedings already taken be amended by the

insertion of the true name in place of the fictitious name or part of a name and that all subsequent proceedings be taken under the true name.

Construction of singular number, masculine gender, plaintiffs and defendants.

43. Whenever, in describing or referring to any person, party, matter or thing, any word importing the singular number or masculine gender is used in this act, the same shall be understood to include and shall apply to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it be otherwise provided, or there be something in the subject or context repugnant to such construction; and the word "plaintiff" wherever used in this act, shall be taken to include "plaintiffs" or "person or persons instituting proceedings," or "corporation" or "corporations"; the word "defendant" shall be taken to include "defendants," or "person or persons proceeded against," or "corporation" or "corporations."

PROCESS.

Process to compel appearance.

44. The first process to compel an appearance, except as in this act otherwise specially provided, shall be a summons, or a warrant in the nature of a capias ad respondendum; *provided*, that no warrant shall issue against the body of any female; the summons may be used in any case whatsoever; the warrant shall only be used in the cases hereinafter provided.

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Summons returnable.

45. The summons shall be made returnable between the hours of nine o'clock in the forenoon and three o'clock in the afternoon, both inclusive, and shall specify a certain place and time, not less than five nor more than fifteen days from the date of such process, and shall be served at least five days before the time of appearance mentioned therein, by reading the same to the defendant and delivering to him a copy thereof, if he or she shall be found, and if not found by leaving a copy thereof at his or her dwelling-house or place of abode, in presence of some person of the family, of the age of fourteen years, who shall be informed of the contents thereof, and the officer serving such summons shall, on

How served.

the oath of his office, endorse thereupon the time and manner he executed the same, and sign his name thereto.

Summons served upon domestic corporation.

46. If the defendant be a domestic corporation, the summons shall be served on the president or head officer or agent in charge of its principal office in the county, or left at his dwelling-house or usual place of abode at least five days before its return, and in case the president or other head officer or agent cannot be found to be served with process, and has no dwelling-house or usual place of abode within the county in which such district court is established, it shall be served on the clerk or secretary of the corporation, if any there be in such county, or left at his dwelling-house or usual place of abode at least five days before its return; and if there be no such clerk or secretary in such county, then on one of its directors, or left at his dwelling-house or usual place of abode at least five days before its return; if the defendant be a foreign corporation, the summons shall be served upon any officer, director, agent, clerk, or engineer of such corporation, either personally or by leaving a copy thereof at his dwelling-house or usual place of abode in such county, or by leaving a copy at the office, depot or usual place of business of such foreign corporation in such county at least five days before its return.

Served on foreign corporation.

Served on municipal corporation.

47. If the defendant be a municipal corporation, the summons shall be served upon the mayor or clerk thereof, or by leaving a copy of the same at the office of such mayor or clerk with the person in charge thereof, ten days at least before the time of appearance mentioned therein; if the defendant be a board of chosen freeholders the summons shall be served by leaving the same with the director of the board or clerk thereof at least thirty days before the time of appearance mentioned therein.

Sum demanded to be specified.

48. The clerk shall enter in the body of every summons or warrant the sum demanded and endorse the same, with costs, on the said summons or warrant; if the defendant pay such debt, damages or demand, with costs, so entered or endorsed, without any further proceedings in the cause, then it shall be lawful for the officer to receive the same, and his receipt shall be a full discharge of such debt, damages, or demand and costs;

if any officer shall not pay the money so by him received to the clerk issuing such process, or to the plaintiff, his legal representative or attorney within five days after he shall have received the same, such officer shall pay to such plaintiff the amount of the said debt, damages or demand, with interest, and with double costs. Constable to pay money received within five days.

ARREST.

49. The warrant shall be used in the following cases only: When warrant shall be used.

I. Where the defendant is not a freeholder and resident of the county in which process shall issue, where, the action being founded upon contract, express or implied, due proof is made, on oath or affirmation, to the satisfaction of the judge, of the amount of the debt or damages claimed, and that there is a debt or demand founded upon contract, express or implied, due to the plaintiff from the defendant, specifying the nature and particulars of said debt or demand, and establishing, by the oath or affirmation of the plaintiff, or some other person, to the satisfaction of the judge, one or more of the following particulars: that the defendant is about to remove any of his property out of the jurisdiction of the court in which an action is about to be commenced, with intent to defraud his creditors; or, that the defendant has property or rights in action which he fraudulently conceals; or, that the defendant fraudulently contracted the debt or incurred the obligation respecting which such suit is brought;

II. Where the defendant is not a freeholder and resident of the county in which such process shall issue, and where, the action being founded upon tort, due proof is made, on oath or affirmation to the satisfaction of the judge, of the amount of the damages claimed, and of such other facts and circumstances as would, by the practice of the supreme court, warrant a justice thereof in making an order to hold to bail in a case of tort; When action is founded on tort.

III. If the defendant be a freeholder and resident of the county in which such process shall issue, and due proof is made on oath or affirmation, to the satisfaction of such judge, that the defendant has assigned or dis- On assignment with fraudulent intent.

posed of, or is about to assign or dispose of all his land lying in said county, with intent to defraud his creditors, then such defendant may be held to bail in like manner and upon the same proof that would warrant his arrest in case he were not a freeholder and resident in the county in which such process shall issue.

Warrant issued upon proper proof.

50. Upon proof made as aforesaid the judge shall make and subscribe an order that a warrant issue against the defendant for such amount as such proof shall justify and require; but before said warrant issue, such order and the affidavit or affidavits upon which the order is founded shall be filed with clerk.

Warrant returnable forthwith.

51. The warrant commanding the defendant to be arrested shall be returnable forthwith after service thereof; and the officer serving said warrant shall, according to the tenor thereof, forthwith convey the said defendant before the judge who issued the same, who shall thereupon, at his discretion, either cause the said

Defendant may enter into recognizance.

defendant to enter into recognizance in the manner hereinafter mentioned, or, on neglect or refusal, shall command the said officer to convey the said defendant to the jail of the county, to be there detained in custody until time may be had for the hearing or trial of the cause, not exceeding three days from the time of the return of the said warrant, or such judge may direct the said officer to hold the said defendant in custody until the plaintiff shall be notified and have time to appear and

Duty of officer.

proceed to such hearing or trial; and the officer who served the said warrant as aforesaid shall, on the oath of his office, indorse thereon the execution of the same,

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and sign his name thereto; *provided*, if any person whatsoever shall be arrested by virtue of such warrant, it shall be lawful for the officer who served the same to permit the defendant to enter into bond to the plaintiff, with a good and sufficient freeholder, resident in the county, to the amount of the debt or damages and costs indorsed on the warrant, for his appearance on the day and hour mentioned in the bond, not more than eight days (excluding Sundays) from the service of the warrant; the bond to be entered into by the defendant shall be in the form and to the effect following, to wit:

Form of bond.

"We, A. B. and C. D., do hereby acknowledge ourselves indebted to E. F. in the sum of ———, to be

paid to said E. F. on the following conditions: That if the said A. B. shall be and appear before ———, the judge of the ——— district court of the city of ———, in the county of ———, on the ——— day of ———, at ——— o'clock ——— noon, at the ——— district court in the city of ——— aforesaid, and answer unto the complaint of the said E. F., then this bond to be void, or else to be and remain in full force and virtue; in witness whereof we have hereunto set our hands and seals the ——— day of ——— in the year of our Lord one thousand eight hundred and ———; sealed and delivered in the presence of G. H.; signed A. B. and C. D."; which bond the said officer is hereby ordered and directed, when taken, to deliver to the clerk on the return of the warrant, to be by him filed for the use of the plaintiff, for which service the officer shall be entitled to thirty-five cents costs, to be paid by the defendant, and not recoverable by him from the plaintiff; and all cases the said officer shall attend at the said district court, on the day and hour mentioned in said bond to be there and then ready to secure and take into his custody the said defendant, and if the said judge shall not be present at the usual place of holding trials, the said defendant shall be permitted to renew his bond, with sureties as aforesaid, for his appearance at some future day, not exceeding ten.

Bond filed.

Officer's fee.

Renewal of bond.

52. The recognizance directed in the preceding section of this act shall be entered into by the defendant with at least one surety, having sufficient freehold and residing in the county, the plaintiff in the said action, in the amount of the demand specified in the warrant, according to the effect and meaning of the following form:

Nature of recognizance.

"City of———, county of ———;

Form of recognizance.

"Whereas, A. B. hath been arrested and is now in custody, by virtue of a warrant issued out of the ——— district court of the city of ———, at the suit of E. F., in an action of ——— for the sum of ——— now, be it remembered, that on the ——— day of ——— in the year of our Lord one thousand eight hundred and ———, the said A. B. and G. H., of the ——— of ———, in the county of ———, and state of New Jersey, personally appeared before me, and jointly and severally acknowledged themselves to owe to the said E. F. the sum of

———, to be made and levied of their several goods and chattels, upon condition that if the said A. B. shall not appear on the ——— day of ——— next, before the said court, or if he does appear and judgment is rendered against him in the said action, he shall pay the said judgment and the costs of said action or surrender himself to the constable or sergeant-at-arms, on the execution to be thereafter issued against him, and if he fails so to do, that he, the said G. H., will pay the said judgment and costs for him, or in default thereof suffer judgment to be rendered against him for the same."

"Acknowledged the day and year last above said, before me, C. D., the judge of the ——— district court in and for the said city of ———"; which recognizance shall be filed with the clerk of said court; and in case the judge of said court shall not attend or be present to take such recognizance, another judge of any district court attending is hereby empowered to take the same, for the benefit of the plaintiff in the suit.

How warrant may be set aside and defendant released.

53. The defendant arrested upon such warrant may, at any time before the trial of the cause, make application to a justice of the supreme court to set aside said order, upon reasonable notice to the plaintiff or his attorney of such application; and the giving bond or entering into recognizance in manner hereinbefore directed shall be no waiver of the defendant's right to make such application; if such justice of the supreme court shall deem the proof made insufficient to warrant an arrest, he may direct that the order made by said district court be set aside; the bond or recognizance, if any have been given, shall be void, and such action shall thereafter proceed as if it had been begun by summons; the defendant shall be considered in court, and the judge of such district court shall fix a day for the trial on or before which the plaintiff shall file his demand; and the order made by the justice of the supreme court shall be filed with the clerk of the district court from which the warrant issued.

When order is set aside.

Signing of blank warrants or summons.

54. Any clerk of said district courts who shall sign his name to any blank summons or warrant, and allow any constable or other person to fill up the blank or blanks in the said process, without the special direction of the said clerk and in his presence, and shall after-

wards issue the said process or suffer the same to be served, such clerk shall be deemed guilty of misbehavior in office, and shall forfeit and pay the sum of fifty dollars, to be recovered in an action on contract by any person who shall prosecute for the same in any court having jurisdiction of the case, one-half for the use of the person suing and the other half for the city in which such court is established, and the service of any such process and any judgment or other proceeding afterwards had or taken thereon shall be void. Penalty.

55. All precepts, summons, warrants, writs and other process of said district courts shall issue under the seal thereof, and shall be tested the day on which they are respectively issued in the name of the judge and signed by the clerk thereof. All processes tested on date of issue.

56. Every person summoned as a juror or subpœnaed as a witness, who shall not appear, or appearing, shall refuse to serve or give evidence in any such action, shall forfeit and pay for every such default or refusal, unless some reasonable cause be assigned, such fine, not exceeding fifty dollars nor less than one dollar, as the judge shall think proper to impose, and in default of the payment of such fine shall be committed to the county jail of the county in which said court is established until such fine is paid, unless sooner discharged by the order of the court; which fine, when collected, shall be paid over to the treasurer of the city in which such court is established. Failure to obey summons. Penalty.

57. Writs of subpœna for witnesses may issue out of any district court into any county or counties of this state. Where writs of subpœna hold.

58. If any constable of any county, or any sergeant-at-arms, shall neglect or refuse to execute or return any precept, writ or other process to him directed, and delivered, by virtue of this act, he shall, for every such offense, forfeit and pay a sum not exceeding three hundred dollars to the party aggrieved, to be recovered with costs. Neglect or refusal of officers. Penalty.

PLEADING.

59. All suits which formerly would have been either actions of debt, covenant, assumpsit, or trespass on the Action of debt, etc., styled upon contract.

case for injuries arising from breaches of contract or the non-performance of duties arising from contract, shall be in the name and style of actions in contract, and counts for said causes of action may be joined in the same suit; and all actions which formerly would have been either actions of trespass, replevin, trover or trespass on the case shall be in the name and style of actions in tort, and counts for said causes of action may be joined in the same suit.

Action of trespass, etc., styled actions in tort.

When demand and plea to be filed.

60. The plaintiff in such suit shall, on or before the time specified for appearance in the process or summons, or on the return of the warrant, or at the time of appearance specified in the recognizance, file with the clerk a copy of his account or state of demand against the defendant, and in default thereof the said plaintiff shall be nonsuited, with costs; and if the defendant have any account or demand against the plaintiff, he shall be permitted to discount or set off the same against the account, debt or demand of such plaintiff; but such copy of his or her account, or state of his or her demand, so intended to be set off, shall be filed with the clerk on or before the time specified for appearance in the process, summons, or on or before the final hearing, or, if on a warrant, then at the time of hearing of the cause; and in default thereof the said account, set-off or demand shall not be received in evidence on the trial of the said cause; but if the said warrant shall not have been executed three days prior to the day of hearing, then the said defendant, if he or she have any account or demand to set off, and will enter into recognizance, as directed by the fifty-first section of this act, shall be allowed further time, not exceeding three days, to deliver to the said clerk such copy of his or her account or state of demand as aforesaid.

Set-off.

Copy of account or demand filed.

Further time to file set-off.

Neglect to file set-off a bar to further action.

61. If any defendant neglect or refuse to deliver a copy of his or her account or state of demand against such plaintiff, he or she shall forever thereafter be precluded from having or maintaining any action for such account or demand, or from setting off the same in any future suit; *provided, always*, that where the balance found to be due to such defendant exceeds the sum of three hundred dollars, then the said defendant shall not

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be precluded from recovering his or her account or demand against such plaintiff in any other court of record having cognizance of the same.

Title to lands pleaded.

62. When, in any action to be brought by virtue of this act, the defendant shall, as a justification, plead title to any real estate in himself or another under whom he acted or entered, such defendant shall commit the said plea to writing, and, having signed the same, shall deliver such plea to the said judge, who shall countersign and deliver it to the said plaintiff; and thereupon it shall and may be lawful to and for such plaintiff to commence and prosecute his action against such defendant in the supreme court, or in the circuit court of the county wherein such action shall have been commenced; and if, in such action, the plaintiff recover any damages, he shall be entitled to and recover therewith all costs of suit, and on every trial so to be had in such action when title is pleaded, the plea so as aforesaid, signed by the said defendant, shall be conclusive evidence that such defendant relied on title by way of justification.

Bond required on filing plea of title.

63. The judge to whom a plea of justification is tendered as aforesaid shall, before he receive such plea, require and obtain from the defendant a bond, with one good surety, being a freeholder in the said county, in the penalty of three hundred dollars, executed to the plaintiff, and conditioned that if the said plaintiff shall commence such action in the supreme court or in the circuit court of the county where the said judge holds his court, within three months thereafter, the said defendant will appear thereto within twenty days after the writ to be thereupon issued against him shall be returned served, and pay such costs as may be awarded against him in the said action; and in case such plea is tendered, and the defendant shall not forthwith enter into such bond to the plaintiff, the said judge shall proceed in the same manner as if such plea had not been tendered.

In action on contract defendant may set up defect, &c.

64. In actions on contract, whether under seal or not, the defendant may set up as a defence in abatement of the damages to be recovered by the plaintiff, a defect in or partial failure of the consideration of the contract sued on; the defendant may also recoup all damages which he may have sustained by reason of any cause of action arising out of the contract or transaction set forth in the

May recoup damages.

plaintiff's demand or connected with the subject of the action; and if the defendant shall recoup damages and the amount of such damages shall be found to exceed the demand of the plaintiff, judgment shall be given in favor of the defendant and against the plaintiff in such action for such excess, with costs.

DEPOSITIONS.

When and by whom depositions may be taken.

65. If a material witness in an action instituted in any district court be in the state, but is ancient or very infirm, or is sick, or is bound on a voyage, or is about to go out of the state, the deposition of such witness may, at the option of either party, be taken before a clerk of any district court or before any master in chancery, provided the person at whose request the deposition is to be taken shall cause notice to be given to the adverse party of the time and place and before whom the deposition shall be taken immediately, or at such short day as the cause in the opinion of the said judge may require, to attend and be present at the taking thereof, and to put questions and cross-examine if he shall think fit, and a deposition so taken and offered in evidence shall be subject to the same rules and exceptions that the witness would be if personally present.

Proviso.

Manner of taking depositions.

66. Every person deposing as last aforesaid shall be carefully examined and cautioned, and sworn or affirmed, to testify the whole truth, and shall subscribe the testimony by him or her, given after the same shall be reduced in writing, which shall be done only by the clerk of the said court, or master in chancery, taking the deposition, or by the deponent in his presence, and the deposition so taken shall be retained by such clerk or master in chancery until he deliver the same, with his own hand, into the court for which it was taken, or shall be by him, the said clerk or master in chancery, sealed up, directed and transmitted to such court, and remain under his seal until opened in court, and when so opened the same shall be deposited in the district court in which the action shall be brought, there to remain on record, and that either of the parties in the said action or suit may, at his costs and charges, take copies of such deposition as soon as it is deposited in the court as aforesaid.

Judge may issue commission to examine witnesses.

I. If a material witness in any action or proceeding in any district court of any city in this state, reside out of this state, it shall be lawful for any judge thereof, on proof thereof to the satisfaction of the said judge, and on such terms as said judge may direct, to award and issue, under the seal of the court, a commission to such person or persons as the judge may think fit, authorizing such person or persons, or any two or more of such persons, to examine de bene esse the said witness on oath or affirmation;

Interrogatories approved and annexed to commission.

II. The name of every witness to be examined by virtue of such commission shall be inserted in the said commission; and the interrogatories for the examination of such witness shall be drawn and signed by the parties or their attorneys in the cause in which the testimony is to be used, or such of them as shall request the said commission, and be approved of by the judge, and shall be annexed to the commission; and each party shall be at liberty, with the approbation of the said judge, to insert in the said interrogatories such questions as he or she may think proper or necessary;

Notice of application for commission.

III. A party intending to apply for a commission to examine a witness or witnesses in any cause, shall give eight days' notice of such application and of the name or names of the witnesses to be examined, and of the place of his residence, and also the name or names of the person or persons whom the party applying intends to nominate as commissioner or commissioners; and shall serve therewith a copy of the interrogatories intended to be annexed to the said commission, in order that the adverse party may examine the same and submit cross-interrogatories if he think proper; the notice mentioned in this section shall be served on the attorney when the party appears by attorney;

Issuing of commission on shorter notice.

IV. The issuing of the commission may be ordered and the interrogatories may be approved upon shorter notice than is directed by the foregoing section by consent of parties, or upon matter being made to appear to the said judge to excuse the want of full notice, and that shorter notice is necessary to prevent delay;

Commissioners to make oath.

V. The commissioner or commissioners, or such of them as shall act, shall, before they enter upon their duties, take an oath or affirmation faithfully, fairly and

impartially to execute the said commission, which oath or affirmation may be taken before any person lawfully authorized to administer an oath or affirmation in the state, territory or kingdom where the said commissioner or commissioners reside or may be at the time;

Examination reduced to writing and signed.

VI. The said commissioner or commissioners shall and may examine every witness named in the said commission, or such as can be met with, upon the interrogatories annexed to the said commission, on oath or affirmation, to be administered to each and every witness by the said commissioner or commissioners, and cause the examination of each witness to be reduced to writing and signed by such witness; and the said commissioner or commissioners shall also sign the same;

Examination annexed to commission and returned to clerk.

VII. The said commissioner or commissioners shall annex such examination to the said commission, and close the same up under the hand and seal of the said commissioner, or under the hands and seals of the said commissioners, and direct the same to the clerk of the court out of which the same issued, at the place of holding the said court, and may place the same in any postoffice, certifying thereon the time when and the postoffice in which the same may be so placed; and the clerk of the said court may take the same out of the postoffice in which it may be found in this state and open the same, and indorse thereon when and how he received it, and immediately file the said commission in the said district court, there to remain as a record.

Testimony taken otherwise than by commission.

VIII. Any party in any action or proceeding in any district court of any city in this state desiring the testimony of any witness who resides out of this state may, instead of taking his testimony by commission, take the testimony of such witness de bene esse before any judge of any supreme, circuit or district court, or court of common pleas of the state where such witness is, or before any commissioner of deeds appointed by the governor of this state, resident in the state where such witness is, or before a commissioner specially appointed for that purpose by the judge of the district court in which such action is pending, or before a master in chancery of this state; *provided*, that notice in writing of the time and place of such examination, and of the names of the witnesses to be examined, shall be given to the

Proviso.

adverse party, or his attorney, that he may be present and put interrogatories, if he shall see fit, which notice shall be served, allowing time for attendance after service not less than at the rate of one day (Sundays excluded) for every fifty miles of travel; *provided, also,* that Proviso. in all cases at least ten days' notice, exclusive of Sundays, shall be given; *and provided further,* that in cases Proviso. where such testimony is desired to be taken of witnesses residing in any foreign state or kingdom, or in any state or territory of the United States situate upon the Pacific ocean, so many days' notice shall be given as shall be directed by the judge of the district court in which such cause shall be pending; the officer taking such testimony shall first take an oath or affirmation, fairly and impartially to take the same, before some person authorized to administer an oath in the state, territory or kingdom where he shall reside; the testimony of such witness shall be taken on oath or affirmation, administered according to the law of this state, upon interrogatories to be then and there put by the parties, or any of them, or any person authorized in their behalf, and such interrogatories and the answers thereto shall be reduced to writing by the officer taking such testimony, or by a stenographer in the presence of the said officer, which stenographer, before taking the said testimony, shall be sworn by the said officer to carefully, faithfully and impartially take said evidence and to make a true and correct transcript thereof, which oath shall be in writing and shall be attached to and be a part of the return of the said officer; and such interrogatories and answers having been reduced to writing, shall be subscribed in the presence of said officer by the deponent; and thereupon the same shall be signed, sealed up, endorsed, directed and forwarded as is required in case of depositions taken under the preceding subdivisions of this section, or if the testimony of such witness be taken before a master in chancery, such testimony may be certified and delivered by the master taking the same to the clerk of the district court in which such action is pending or to the judge thereof.

REFERENCES.

References may be ordered upon certain conditions.

67. In every suit to be instituted before any judge of any district court by virtue of this act, and in every appeal to be made before any court of common pleas, it shall and may be lawful for such judge of any district court or court of common pleas, as the case may be, with the assent and at the request of the parties, to enter rules of reference of the matters in difference, to such person or persons as the parties shall choose, and to insert such their agreement in their submission, or the condition of the bond or promise, whereby they oblige themselves respectively to submit to the award or umpirage of any person or persons; which agreement being so made and inserted in their submission or promise, or condition of their respective bonds, shall or may, upon producing an affidavit thereof, made by the witnesses thereunto, or any one of them, and reading and filing the said affidavit in court, be entered of record in said court, and a rule shall thereupon be made by said court that the parties shall submit to and finally be concluded by the arbitration or umpirage which shall be made concerning them by the arbitrators or umpire pursuant to such submission; and in case of disobedience to such arbitration or umpirage, the party refusing or neglecting to perform and execute the same, or any part thereof, shall be subject to all the penalties of contemning a rule of court, when he is a suitor or defendant in such court, and the court, on motion, shall issue process accordingly, which process shall not be stopped or delayed in its execution by any order, rule, command or process of any other court, either of law or equity, unless it shall be made to appear, on oath or affirmation to such court, that such arbitrators or umpire misbehaved themselves, and that such award, arbitration or umpirage was procured by corruption or other undue means:

Affidavit to be entered of record.

In case of disobedience to arbitration.

When void.

I. Any arbitration or umpirage procured by corruption or undue means shall be judged and esteemed void and of none effect, and accordingly be set aside by the court, so as complaint of such corruption or undue practice be made in the court where the rule is made for submission to such arbitration or umpirage;

Confirmed report of referee final.

II. Whenever a cause shall be referred by rule of court to referees, the report or award of such referees, or of the major part of them, if confirmed by the court, shall be final and conclude the parties; and if any sum be thereby found for the plaintiff or plaintiffs, judgment shall be entered and execution issued for the same with costs; and if the referees, or the major part of them, report any sum to be due to the defendant or defendants, and the report be confirmed, then judgment shall be entered, and execution against the plaintiff or plaintiffs for the sum so reported to be due to such defendant or defendants, with costs;

Oath of referee.

III. In every cause referred by rule of court, each referee shall, before he proceeds to the business of the reference, take an oath or affirmation faithfully and fairly to hear and examine the cause in question, and make a just and true report according to the best of his skill and understanding; which oath or affirmation any judge of any court of record of this state is hereby authorized and required to administer;

Oath of arbitrator.

IV. In all cases of arbitration, every arbitrator shall, before he proceeds to the business submitted to him, take an oath or affirmation of the like nature with that hereinbefore prescribed to be taken by referees, and to be administered in like manner;

Referee may examine witnesses under oath.

V. In every cause referred by rule of court, process of subpœna may issue out of said court to convene witnesses before the referees, and the said witnesses shall be examined on oath or affirmation; which oath or affirmation the referees in the said cause are hereby authorized to administer; and there shall be allowed to every such referee one dollar for every day necessarily spent in the business of the reference, besides a reasonable allowance for his expenses, which in the first instance shall be paid by the prevailing party, and shall afterwards be allowed to such party in the taxation of costs where costs are recoverable;

Compensation.

Subpœnas for witnesses.

VI. In all cases of arbitration, it shall be lawful for any judge of any district court within the city wherein such arbitration may be to issue subpœna for witnesses, to appear before the arbitrator or arbitrators, and for him or such arbitrator or arbitrators to swear or affirm such or any other witnesses before the same; and if any

Penalty for refusal.

such witness does not appear when so subpœnaed or, if appearing, shall refuse to be sworn or affirmed and give evidence, he shall be liable to the same fines and penalties as he would be by laws for such default or refusal if committed in any court of record of this state.

PRACTICE.

Practice of circuit courts to apply to district courts.

68. The practice of the circuit courts, in so far as applicable, shall apply to district courts, excepting however, in cases where there may be some express provision of law providing otherwise.

IN ATTACHMENT CASES.

Attachment may issue against absconding or non-resident debtors for $300.

69. If any creditor, his agent or attorney, shall make oath or affirmation either that he verily believes that his debtor absconds from his creditors, and is not to his knowledge or belief resident in this state at the time, or that the person against whose estate an attachment is about to be issued, is not to the knowledge or belief of said creditor resident in this state at the time, and that he owes to said creditor a certain sum of money, specifying as nearly as he can the amount of the debt or balance, the clerk of any district court in any city of this state shall, and he is hereby required to, issue out of said district court an attachment under his hand and the seal of said court, for any sum not exceeding three hundred dollars, directed to a constable, or a sergeant-at-arms, who shall execute the same in the following manner, that is to say: the officer to whom it is directed shall go to the house or lands of the defendant, or to the person or house of the person in whose custody or possession the defendant's property or estate may be, and then and there declare, in the presence of one credible person, at the least, that he attaches the rights and credits, moneys and effects, goods and chattels of such defendant, at the suit of the plaintiff in the said writ named; the property attached shall be inventoried, and appraised by the officer with the assistance of one disinterested person—and safely kept by the officer, and his

Writ, how executed.

inventory and appraisement shall be annexed to and returned with the writ, and such writ shall bind the property attached from the time of executing the same; and upon the return of such attachment the said judge of the district court shall appoint a day for the hearing of the said cause, not less than twenty days from the issuing of the said writ; on or before which day so appointed the plaintiff in the said attachment shall file a copy of his account or state of demand, and if the creditor shall make sufficient proof of the debt due to him, the said court shall give judgment therein for the plaintiff and award execution thereon to the constable against the effects of the defendant, as in other cases cognizable before said court, but the effects of the defendant thereon taken shall not be sold in less than one month (unless the same are perishable) to the end that the debtor or his friend may redeem the same, and in the meantime the same shall be safely kept in such manner as the court shall direct, or the same may be disposed of if the situation of the property, the expenses of its care, or its nature shall require, whereupon, on the written order of the court, on application for that purpose, and filed with the clerk, execution shall issue immediately for the sale of the property attached.

Hearing of the case.

State of demand filed.

70. It shall be the duty of the plaintiff forthwith, after the issuing of such attachment, to advertise, in three of the most public places in the county, that an attachment has been taken out from such district court against such absconding or absent debtor, in order that any person having a greater demand against such debtor than is cognizable before said district court may have an opportunity to take out an attachment for the recovery of the same.

Plaintiff must advertise after issuing writ.

71. It shall be lawful for the defendant in any attachment issued out of any district court, on or before the day appointed for the hearing of the said cause, to cause his appearance to be entered, by filing with the clerk a bond to the plaintiff, executed by one or more sufficient sureties, being freeholders and residents in the county in which such attachment shall issue, in double the value of the property attached, conditioned for the due and safe return of the goods and chattels, rights and credits, moneys and effects seized and taken

Defendant may enter appearance by filing bond.

by virtue of such writ of attachment in case judgment shall be rendered for the plaintiff; which said bond shall be approved by the judge and filed with the clerk, for the use and benefit of the plaintiff; and thereupon the property attached shall be restored to the defendant and released from the lien of the said attachment.

Entry of appearance.

72. The defendant in any attachment issued out of a district court, instead of entering his appearance by filing with the clerk a bond, may, if he so elect, enter his appearance at any time after the executing of the writ of attachment and before the hearing of the cause by filing with the clerk a statement signed by the defendant or his attorney, that the defendant enters his appearance to the action and intends to defend the same, whereupon the court shall forthwith fix a time for the trial, not less than three nor more than ten days from the filing of such statement, and the defendant or his attorney shall forthwith in writing notify the plaintiff or his attorney of the day so fixed; the plaintiff shall file a copy of his account or state of demand on or before the time so fixed, and thereafter the cause may be adjourned and shall be conducted in all things in like manner, and the court shall have like jurisdiction of the parties, as if the action had been commenced by summons; the effects, rights and credits of the defendant shall remain in the custody of the officer who executed the writ, subject to the lien of the attachment during the pendency of the action, but if judgment be given for the defendant, the same shall thereby be released from such lien and restored to the defendant, and the defendant shall have execution for his costs; if judgment be given for the plaintiff, the court shall award execution thereof against the effects of the defendant, which execution may be satisfied by sale of the effects taken in attachment or of any other effects of the defendant, and shall be returned in the same time and manner as other executions are returned; and the provision in the sixty-ninth section of this act, that the effects shall not be sold in less than one month, shall not apply to cases where the defendant's appearance is entered under this section.

Time for trial.

Hearing

Effects, &c., subject to lien pending action.

73. It shall be lawful for the defendant or any garnishee to make, execute and file with the clerk of the

court a bond with one or more sufficient sureties to be approved by the court to the plaintiff in attachment in double the sum sworn to on the issuing of the writ, conditioned for the payment of such moneys as may be adjudged plaintiff, and thereupon it shall be lawful for the court to order the lien of the attachment to be released, and the suit shall thereupon proceed as though the defendant had entered his appearance according to the seventy-first section of this act.

Defendant or garnishee may give bond for payment of moneys adjudged plaintiff.

74. After filing either of the said bonds, as above provided by sections seventy-one or seventy-three, or the entry of defendant's appearance, the said defendant shall file his plea, copy of account, or set-off, if any he have, and the said cause shall and may be adjourned and conducted in all things in like manner as if the same had been commenced by summons under this act.

Proceedings after filing bond.

75. The plaintiff in such attachment, notwithstanding the garnishee's denial of his having any moneys, goods, chattels or effects of the defendant in his custody or possession, or of his being indebted to him, may, if he really believes that the said garnishee hath such moneys, goods, chattels or effects in his custody or possession, or that he is indebted to the defendant and is in fear of the said garnishee's absconding before judgment and execution can be had against such garnishee, and shall make oath or affirmation thereof, and deliver the same to the clerk as aforesaid, institute a suit against the said garnishee, by summons, or, in case of fraud duly proved, by warrant, and if he shall make sufficient proof of the debt due to him, and also of the effects, right or credits in the hands of the garnishee, the said court shall give judgment therein for the plaintiff, and award and issue execution therefor to the constable or sergeant-at-arms against the garnishee, as in other cases cognizable by district courts in accordance with this act; and if the plaintiff shall not make sufficient proof of the effects, rights or credits in the hands of the garnishee, he shall pay the garnishee his costs, and, if need be, execution shall issue out of said court against the plaintiff for the same; any moneys realized on the execution against a garnishee shall be by the constable paid to the clerk of the court to await the order of the court, on any judgment or proceedings in the cause under the writ of attachment.

When plaintiff may institute suit against garnishee.

By summons.

By warrant.

Where judgment is entered against defendant a scire facias shall be issued against garnishee.

76. Where judgment shall be entered against the defendant a scire facias shall (except in cases under the seventy-fifth section of this act) issue against the garnishee to show cause at such time as the court shall appoint why the plaintiff should not have execution of the money due by such garnishee to, or held by him for the defendant, and in his hands, or the value of the goods and chattels, rights and credits of the defendant, which were in the custody or possession of the garnishee at the time of executing the writ of attachment, and if the garnishee shall appear at the return of said scire facias, and on oath or otherwise to the satisfaction of the court, confess the amount of the debt due from him to the defendant, or the true value of the defendant's goods and chattels, rights and credits, which were as aforesaid in his possession, and pay the same to the clerk thereof, then the said garnishee shall be acquitted and discharged from the debt or amount due by him to the defendant in attachment or the value of the goods and chattels and rights and credits aforesaid, with costs; and if the said writ of scire facias having been returned served, or in case service cannot be made, such notice of same having been published as the court may direct; and the garnishee shall not appear, confess and pay as aforesaid, then the court shall determine the amount of the debt due from such garnishee, or the value of the goods and chattels, rights and credits so as aforesaid in his custody and possession, and judgment shall be thereupon entered for such amount, with costs, against the garnishee in favor of the plaintiff in attachment, and if the garnishee shall appear at the return of the scire facias and plead thereto that he had no goods and chattels, rights and credits of the defendant in his custody or possession, either at the time of executing the writ of attachment or at any time since, or that he was not indebted to the defendant, and the plaintiff on trial shall prove that he was indebted or had such goods and chattels or rights and credits, then the court shall find for the plaintiff and assess damages to the amount or value of such debt, goods or chattels, rights or credits, with costs, and judgment shall be entered accordingly, and execution may be issued against the goods and chattels of such garnishee, but if the court shall determine against the plaintiff and in favor of the

Appearance and confession of garnishee.

Return of writ.

In case of non-appearance.

garnishee, then he shall recover costs against the plaintiff and have execution for the same.

Writ of attachment issued by supreme court, &c., a supersedeas to any issued by district court.

77. Any writ of attachment against any absconding or absent debtor, which may be issued out of the supreme court or any circuit court or court of common pleas, shall be a supersedeas to any attachment issued by any district court of this state, undetermined at the time of serving the said writ; and it shall and may be lawful for the sheriff or his deputy to take into his possession all goods and chattels attached by the constable or sergeant-at-arms, as fully, to all intents and purposes, as if the attachment issued out of said district court had not been served, but the plaintiff in said attachment shall proceed to judgment in said district court in the same manner as if there had been no supersedeas, and upon proof of such judgment before the auditor appointed by such higher court, or the sheriff, if no auditor be appointed, such judgment debtor in the district court shall be paid his judgment in preference to any other claims against the defendant established before said auditor, or the court issuing said attachment to the sheriff; *provided, however*, that no constable shall be obliged to remove any goods taken into his custody by virtue of any attachment after the same shall have been seized and attached by the sheriff, and when an attachment issued by any district court as aforesaid shall be superseded by an attachment out of a higher court, the plaintiff in the attachment so superseded shall be entitled to be first paid out of the property attached the full amount of his debt and legal costs and expenses which may have accrued on the attachment so superseded.

Proviso.

Writ of attachment against goods, &c., of defendant, whether resident or not.

78. In all causes in which a capias ad respondendum may issue against a defendant or defendants in any action upon contract, the court or a judge thereof may, at the request of the plaintiff, upon filing the affidavits required as a foundation for an order for bail by an order made for that purpose, award a writ or writs of attachment against the goods and chattels, rights and credits, moneys and effects of the defendant or defendants in this state, whether such defendant or defendants, or either of them, be a resident of this state or not, and such writ may be so awarded against the property of individuals, copartnerships, married women, joint stock associations,

Proceedings, &c., in issuing writ.

corporations, or any defendant or defendants in any action at law, and the practice and procedure in relation to the issue, the levy and return of the said writ or writs, and the vacation thereof, when improperly issued, and the practice and proceedings in all respects shall be the same as in cases of attachment against non-resident debtors as provided in this act; that in all actions commenced under this section it shall be lawful at any time before the trial for a judge of the court out of which said writ shall issue, upon the application of any defendant, and upon two days' notice in writing to the plaintiff, or his attorney, of such application, to make an order for the taking of testimony concerning the truth of the affidavit or affidavits, and proofs upon which the order for said writ was made and said writ issued, which testimony shall be taken orally before said judge, or in writing before any supreme court commissioner or master in chancery, that the said judge shall nominate and appoint, which testimony, when taken before such commissioner or master, shall be filed in the office of the clerk of the court out of which said writ issued; and if, from the testimony so taken, the said judge shall be of opinion that the said writ was improperly or improvidently issued, or should not have been issued against the defendant or defendants therein, the said judge shall order the said writ quashed, and thereupon the property attached shall be returned to the defendant or defendants discharged from the lien of said attachment; that the giving of a bond by the defendant under section seventy or seventy-three of this act shall be no waiver of the right to apply for an order to take testimony concerning the truth or sufficiency of the affidavits upon which the order for said writ was made and said writ issued.

Application may be made for order to take testimony concerning truth of affidavits.

In case of perishable property.

79. In case property of a defendant shall be attached which shall be perishable the court, upon affidavit or affidavits setting forth sufficient facts, may make such order as it shall deem proper for a sale of same, upon such notice of sale as the court may direct.

Duty of court officers.

80. It shall be the duty of the constable, or sergeant-at-arms, by whom any writ of attachment shall be executed, to deliver any property attached by virtue of such writ to the person in whose possession same shall

be found, upon the execution, in the presence of the officer, of a bond with one or more sufficient sureties, to the plaintiff, by such person, conditioned that the defendant shall perform the judgment of the court in the action, or that the property or its value shall be forthcoming and subject to the order of the court for the satisfaction of such judgment.

Motion to quash without filing bond.

81. In all cases of an attachment hereafter issued by any district court of any city of this state, when an affidavit shall be filed on behalf of the defendant, setting forth facts which would render said attachment illegal or void, it shall be the duty of said district court, upon a motion to quash the writ of attachment, to try said facts without requiring the defendant to file a bond according to the requirements of this act, and to give judgment on said motion, provided notice of such motion, and a copy of the affidavit filed, shall have been served on the plaintiff in attachment, or his attorney.

IN ACTION ON BILLS AND NOTES.

Initials and abbreviations of christian names sufficient.

82. In all actions in any district court in this state upon bills of exchange, promissory notes or other written instruments, any of the parties to which are designated by the initial letter or letters, or some contraction of the christian or first name or names, it shall be sufficient in every affidavit to hold to bail and in the process to designate such party by the same initial letter or letters, or contraction of the christian or first name or names, instead of stating the christian or first name or names in full.

All parties liable may be included in one action.

83. The holder of any bill of exchange or promissory note, instead of bringing separate action against the parties separately liable thereon, may include all or any of them in one action, and proceed to judgment and execution in the same manner as though all the defendants were joint contractors, subject, however, to the qualifications hereinafter provided.

Plaintiff must annex to demand copy of bill or note.

84. In every such action the plaintiff shall annex to the state of demand a notice containing a copy of the bill or note with the endorsements, and stating that the

action is brought to recover the amount due thereon; but shall not recover judgment against any several drawer, maker, indorser or acceptor not served with process, and any joint drawer, maker, indorser or acceptor may prove in abatement the non-joinder of any other joint drawer, maker, indorser or acceptor; but judgment may be obtained against joint contractors some only of whom have been served with process, and such judgment shall have the same effect against the joint contractors as heretofore.

In case judgment be rendered against one defendant and in favor of another.

85. In any such action judgment may be rendered for the plaintiff against some one or more of the defendants, and also in favor of some one or other of the defendants against the plaintiff, according as the rights and liabilities of the respective parties shall appear, either upon confession, default or trial; and any person sued shall be entitled to set off his demands against the plaintiff in the same manner as though such defendant had been sued in the form heretofore used; and when judgment shall be rendered in favor of any defendant, he shall recover his costs against the plaintiff in the same manner as though judgment had been rendered for all the defendants.

When set-off equals or exceeds amount allowed plaintiff.

86. If upon trial of any such action, the whole amount of the set-off allowed shall equal or exceed the amount allowed to the plaintiff, then, in the first case, the verdict or judgment shall be in favor of the defendants generally, and in the last case for the excess; and in all cases the verdict or judgment shall certify the amount allowed to each defendant as a set-off.

Rights of several defendants to remain as determined by judgment.

87. The rights and responsibilities of the several parties to any such bill or note as between each other, shall remain as heretofore, saving only the rights of the plaintiff, so far as they may have been determined by the judgment; and any one or more of the defendants shall be entitled to the testimony of any co-defendant as a witness in all cases where he or they would be entitled to his testimony had the suit been brought in the form heretofore used; and the plaintiff shall be entitled to the testimony of any defendant as a witness in all cases where he would be entitled to his testimony against the other parties to the bill or note, had the suit been brought in the form heretofore used.

Duty of officer making levy.

88. Whenever an execution against goods and chattels shall issue in any such suits or actions upon a bill or note, as hereinbefore provided, it shall be the duty of the constable or sergeant-at-arms, after making a levy upon the property liable to execution, to make the money out of property of the person or persons principally liable as between themselves for its payment, if it can be done before selling the property of the person or persons secondarily liable, and for the information of such officer, it shall be the duty of the clerk of said court, under and by the direction of the judge thereof, to indorse on the execution of the order in which the defendants, according to the terms of the bill or note, are liable as between themselves for its payment; and if judgment be paid by a defendant or defendants secondarily liable as between themselves, it shall not be considered satisfied as against the defendant or defendants liable over on the bill or note to the defendant making such payment, but he shall have (on application to said district court, giving two days' notice thereof to the other parties to the judgment and subject to such regulations as may be imposed) the full benefit and control of such judgment for the purpose of compelling repayment, and on this application the said court may order an issue to try the question in controversy.

Endorsement on execution.

IN CERTIORARI PROCEEDINGS.

No certiorari allowed when appeal lies.

89. Where the court has jurisdiction, no judgment in any district court from which an appeal is given to the court of common pleas by this act shall be removed into the supreme court by certiorari or otherwise, for the correction of any supposed error therein; but the party thinking himself aggrieved shall have relief upon the appeal only; in case where no appeal is given, and it is not otherwise provided in this act, the judgment, order or proceeding shall be removed by certiorari and not by writ of error.

Proceedings to obtain certiorari.

90. No justice of the supreme court shall grant or allow any certiorari to remove any judgment, order or proceeding to be had by virtue of this act, unless the party applying for such certiorari shall present to the

said justice the reasons therefor, drawn up in writing and subscribed by himself or some attorney-at-law, and the same to be deemed by the said justice to contain a probable cause for allowing such certiorari; and also, unless such applicant shall enter into bond to the other party in the sum of three hundred and fifty dollars, with one or more good surety or sureties, conditioned that such applicant shall prosecute the said certiorari in the supreme court, shall pay the sum recovered in the court below, with interest and costs, if the judgment be affirmed, and shall in all things stand to and abide the judgment of the said supreme court respecting the judgment, order or proceeding given or made by the court below; which said bond shall likewise be tendered to the justice granting such certiorari, to be by him filed with the clerk of the supreme court for the benefit of the obligee therein named, and on failure thereof no certiorari shall be allowed.

Applicant to enter into bond.

Bond filed.

Proceedings to obtain certiorari.

91. In cases arising under section one hundred of this act, no justice of the supreme court shall grant or allow any certiorari to remove any judgment, order or proceeding to be had or made by virtue of this act, unless the party applying for such certiorari shall present to the said justice reason for the allowance thereof, drawn up and subscribed by himself or some attorney-at-law, to be deemed by the said justice to contain a probable cause of reversal; and unless such applicant shall also enter into bond to the other party in the sum of two hundred and fifty dollars, with one or more sufficient surety or sureties, being freeholders and residents of this state, conditioned that such applicant shall prosecute the said certiorari in the supreme court, shall pay the yearly value of the premises in dispute from the time of granting the said certiorari to the determination of the same, together with the costs of the suit before the court below, and such further costs as may be taxed if the judgment be affirmed; and shall in all things stand to and abide the judgment of the supreme court respecting the judgment, order or proceeding given or made by the court below; which bond, together with the reasons, shall be filed with the clerk of the supreme court for the benefit and use of the obligee.

Applicant to enter into bond.

Bond filed.

Rehearing may be ordered.

92. If in any cause or proceeding removed by certiorari, it shall appear equitable and just that a rehearing thereof should be had before the district court, the supreme court may order that such rehearing be had upon such terms and conditions as are reasonable, and said district court shall thereupon proceed to rehear said cause or proceeding, and give judgment as in other cases.

Judgment not to be reversed for error unless it impairs rights.

93. No judgment, order or proceeding of any district court shall be reversed for any irregularity or informality in the proceedings of such court unless such irregularity or informality tends to defeat or impair the substantial right or interest of the prosecutor in certiorari, and no judgment, order or proceeding of any district court removed by certiorari to the supreme court shall be reversed in the whole on account of any error or mistake made by the court in which such judgment may have been rendered in the entering, calculating or awarding of the costs of suit, but such error or mistake the supreme court is hereby empowered to correct without costs to either party.

Costs on affirmance and reversal.

94. If any judgment, order or proceeding had or made by virtue of this act shall, on removal by certiorai, be affirmed by the supreme court, the prosecutor in certiorari shall pay to the defendant all costs arising on such suit in said supreme court, for which the party entitled to such costs may have execution, to be issued out of the supreme court, against the body or goods and chattels of the adverse party; but if such judgment be reversed the prosecutor in certiorari shall be entitled to costs, and in case any judgment shall be affirmed in part and reversed in part, neither party shall pay costs in certiorari to the other, unless the court shall otherwise order, and any writ of certiorari shall be determined by the supreme court at the first term after due return thereto shall be made, or be dismissed with costs, unless the court shall think proper to continue the same to the next or some subsequent term.

IN FORCIBLE ENTRY AND DETAINER CASES.

Unlawful entry prohibited.

95. No person shall enter upon or into any lands, tenements or other possessions, and detain and hold the

same, but where entry is given by law, and then only in a peaceable manner.

What constitutes forcible entry and detainer.

96. If any person shall enter upon or into any lands, tenements or other possessions, and detain or hold the same with force or strong hand, or with weapons, or breaking open the doors, windows or other part of a house, whether any person be in it or not, or by any kind of violence whatsoever, or by threatening to kill, maim or beat the party in possession, or by such words, circumstances or actions as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors, or carrying away the goods of the party in possession, or by entering peaceably and then turning by force or frightening by threats, or by other circumstances of terror, the party out of possession; in any such case every person so offending shall be guilty of a forcible entry and detainer within the meaning of this act.

Forcible detainer.

97. No person who shall lawfully or peaceably enter upon or into any lands, tenements or other possessions, shall hold or keep the same unlawfully and with force, or strong hand, or weapons, or violence, or menances, or terrifying words, circumstances or actions aforesaid; and it is hereby declared that whatever words or circumstances, conduct or actions will make an entry forcible under this act, shall also make a detainer forcible.

What estates comprehended.

98. The three next preceding sections of this act shall extend to and comprehend terms for years, and all estates, whether freehold or less than freehold.

Tenant holding over by collusion guilty of unlawful detainer.

99. If any tenant or tenants for term of life or lives, year or years, or other person or persons who are or shall be in the possession of any lands, tenements or hereditaments by, from or under, or by collusion with such tenant or tenants, shall willfully and without force, hold over any lands, tenements or hereditaments, after demand and notice in writing given for the delivery of the possession thereof, by his landlord, lessor or the person to whom the remainder or reversion of such lands, tenements or hereditaments shall belong, his agent or attorney, thereunto lawfully authorize, then such person or persons so holding over shall be guilty of an unlawful detainer.

On complaint of lands, etc., forcibly detained, clerk to issue precept.

100. When complaint to any judge of any district court in any county wherein the lands lie shall be made in writing and signed by the party grieved, his agent or

attorney, specifying the lands, tenements or other possessions so forcibly entered upon and detained, or forcibly or unlawfully detained, by whom and when done, and the estate therein, and shall be filed with the clerk of any district court, it shall be the duty of such clerk to issue a precept under his hand and the seal of said court, directed to any constable of the county, wherein said district court may be established, or any sergeant-at-arms of the court out of which the writ shall issue, commanding him to cause to come before the said court twelve good and lawful men of the said county, qualified to serve as petit jurors in the court of general quarter sessions of the peace, to inquire into and try such forcible entry and detainer, or forcible or unlawful detainer; which precepts shall be in the form or to the effect following, that is to say:

Form of precept.

"City of ———, county of ———, to wit: The state of New Jersey to any constable of our county of ———, greeting:

"Whereas, complaint in writing is made to (A. B.), judge of ——— ——— district court in and for our said city, of a certain forcible entry and detainer (or if detainer, only, then say of a forcible detainer, or of a certain unlawful detainer) made by E. F. into the messuage (or upon the lands) of C. D. in the county aforesaid; we therefore command you that you cause to come before the said court, at ———, in the county aforesaid, at the hour of ——— in the ——— noon of the ——— day, twelve good and lawful men of the body of your county, being citizens of this state and resident within the county, above the age of twenty-one and under the age of sixty-five years, and who are in nowise of kin to the said C. D. or E. F. to make a jury of the county, to inquire of and try the said forcible entry and detainer (or forcible or unlawful detainer); witness ——— judge of said court and the seal of said court at ——— the ——— day of ———, in the year of our Lord, one thousand ———. ———, clerk."

Form of summons.

101. The said clerk shall issue a summons out of said court to the party complained against, in the words or to the effect following, that is to say:

"City of ———, county of ———, to wit: The state of New Jersey to any constable of our county of ———, greeting:

"We command you that you summon E. F., of———, to appear before the ———district court in and for our said city, at———, in the county aforesaid, at the hour of——— in the——— noon of the——— day of———, to answer to and make defense against the complaint of C. D., of a forcible entry and detainer (or if detainer only, then say of a forcible detainer, or of an unlawful detainer), made by the said E. F., into the messuage (or upon the lands) of the said C. D., in the county aforesaid; and have you then and there this writ, with a return of your proceedings thereon; witness———, judge of the said——— court, and the seal of said court at———, on the——— day of———, in the year of our Lord one thousand———. ———, clerk."

Service of summons.

102. The said summons shall be served upon the party against whom the said complaint is made, either personally or a copy thereof left at his usual place of abode five entire days before the appearance therein mentioned; and such service of the said summons in any part of the state, as well as without the said county as within it, shall be good and effectual in law; and,

When no jury may be had.

further that no jury shall, by virtue of this act, be sworn to inquire of and try any forcible entry and detainer or forcible or unlawful detainer, where such previous notice shall not have been given as aforesaid.

Plea and issue.

103. The party against whom such complaint is made may, at the time of appearance mentioned in the said summons, and before the jury is sworn, plead not guilty to the said charge or complaint, or that he hath been three years in quiet possession, and his estate therein not ended or determined, agreeably to a subsequent clause in this act; and thereupon the said parties shall be at issue and the

Trial by jury.

jury so returned shall be sworn to inquire of and try the same; and if the said party against whom the complaint is made aforesaid does not appear at the time specified in the said summons, or, appearing, does not plead to the said complaint, then it shall be lawful for the said court to proceed in the same manner as if he had pleaded not guilty; to the said jurors and each of them, who shall be returned to inquire of and try the said

complaint, the clerk of said court shall administer the following oath or affirmation: "You do swear (or affirm) that you will well and truly try this issue joined between C. D. and E. F. and a true verdict give according to the evidence"; when the jury shall be so sworn as aforesaid the said complaint shall be read to them, and the complainant called upon to support the same; if the jury find the party against whom such complaint is exhibited guilty, or find against his plea of possession, it shall be the duty of the clerk of the said court to record the said verdict and the court to give judgment thereon with treble costs; and also to issue a writ of restitution, directed to any constable of the county, or sergeant-at-arms, to cause the complainant to be re-seized or re-possessed, to which shall be added a clause commanding the said officer to levy the said costs of the goods and chattels of the offender, and for want thereof, to take the body of such offender, and him safely keep in close custody in the common jail of the county until he shall pay the same, or be thence delivered by due course of law.

Form of oath to jury.

104. No writ of restitution shall be issued by any district court, upon any judgment rendered therein in pursuance of the provisions of the preceding section of this act, until eight entire days, exclusive of Sundays, shall have elapsed after rendition of such judgment; which writ of restitution, when issued, shall be returned within one month thereafter by the constable or sergeant-at-arms, to whom the same has been delivered, with his proceedings thereon, to the court which issued the same; if the jury find against the complainant, the said court shall cause the said verdict to be recorded, and give judgment accordingly, with costs, and shall issue execution, directed as aforesaid, for the said costs, against the goods and chattels, and, in want thereof, against the body of the said complainant.

Writ of restitution, when issued.

105. The estate or merits of the title shall in no wise be inquired into any complaint which shall be exhibited by virtue of this act; *provided always*, that this act shall not extend to any person who hath had the uninterrupted occupation or been in the quiet possession of any lands or tenements for the space of three whole years together, immediately preceding such complaint so

Estate not inquired into.

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exhibited to the said judge, and whose estate therein is not ended or determined, but every such person may plead the same to the said complaint, which shall be tried in the manner hereinbefore prescribed.

Proceedings removed by certiorari only.

106. The proceedings had by virtue of this act, on such forcible entry and detainer, or forcible or unlawful detainer, may be removed before the supreme court by writ of certiorari, and in no other way, and then only after judgment, provided that neither the judgment nor anything in this act shall bar or prevent the party injured from bringing action of trespass or other action against the aggressor or party offending.

IN LANDLORD AND TENANT CASES.

When tenants may be removed.

107. Any tenant or lessee at will, or at sufferance, or for part of a year, or for one or more years, of any houses, lands, or tenements, and the assignees, undertenants or legal representatives of such tenant or lessees, may be removed from such premises by any district court of any city within the limits of the county in which such premises are situated in the manner hereinafter prescribed in the following cases:

Possession after expiration of term.

I. Where any such person shall hold over and continue in possession of the demised premises, or any part thereof, after the expiration of his or her term, and after demand made and notice in writing given for delivering the possession thereof, by the landlord or his agent for that purpose, which notice shall be served either personally upon the tenant or such person in possession, by giving him a copy thereof, or by leaving a copy thereof at his usual place of abode, with some member of his family above the age of fourteen years;

Default in payment of rent.

II. Where such person shall hold over after any default in the payment of the rent, pursuant to the agreement under which such premises are held, and satisfaction for such rent cannot be obtained by distress of any goods.

Affidavit of landlord or lessor.

108. Any landlord or lessor, his legal representatives, agents or assigns, may make oath in writing of the facts which, according to the preceding section, authorize such proceedings against a tenant and describing therein

the premises claimed, and if proceedings are begun under the provisions of subdivision II of section one hundred and seven of this act, then said oath shall state the amount of rent claimed to be in default and may file the same with any clerk of any district court of the city within the limits of the county in which the premises are situated; and on filing such affidavit the clerk shall issue a summons, describing the premises, in respect of which such proceeding is had, and requiring such tenant or any person in possession of said premises or claiming the possession thereof, forthwith to remove from or surrender the same, or to show cause before the said court, at a certain place and time to be therein specified, not less than five nor more than fifteen days from the date of such summons, why possession of such premises should not be delivered to such claimant, which summons shall be served in the same manner as other writs of summons issued out of said court, and either party may demand and have a trial by jury of twelve men; *provided*, that if proceedings shall be instituted under the provision of subdivision II of section one hundred and seven of this act, then, if the tenant or person in possession of the demised premises shall at any time on or before the return day of the said summons pay to the clerk of the court out of which said summons has issued, the rent claimed to be in default by the oath filed with said clerk, together with the accrued costs of the proceedings, all proceedings shall be stopped and the receipt of said clerk shall be evidence of such payment, and the said clerk shall forthwith pay all moneys so received to the landlord or to the person making oath for him.

Clerk to issue summons.

Summons, how served.

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109. No judgment for possession shall be ordered in a case of tenancy at will or at sufferance, or from year to year, unless the judge shall be satisfied by due proof that such tenancy has been terminated by giving three months' notice to quit, which notice shall be deemed and taken to be sufficient, and in tenancies from month to month, one month's notice shall be deemed and taken to be sufficient.

Notice to quit.

110. Where admission to the dwelling or premises occupied by the tenant is denied to the officer attempting to serve any of the notices required

Where admission is refused officer or tenant is absent.

by the one hundred and seventh section of this act, or a summons issued under the one hundred and eighth section of this act, or where the tenant resides out of or is absent from the county in which the demised premises are located, and there is no person in actual occupation thereof, it shall be lawful service of such notice or such summons, if the said officer shall post or affix a copy of the same upon the door or other conspicuous part of such dwelling or premises, and the said officer shall make an affidavit of such service of such notice and a return of such service of such summons accordingly; *provided*, that in case the tenant shall not be a resident of the county in which said demised premises are situated and the same shall be in the occupation of any other person or persons, then such notice or such summons shall be served either personally upon such person or persons, or by leaving the same with a member of his or their family above the age of fourteen years.

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When judge may issue warrant and put claimant in possession.

111. If at the time appointed in the said summons, or at the time to which said suit may be adjourned, no sufficient cause be shown to the contrary, and it shall appear to the said judge that the summons has been duly served and that the rent claimed and costs accrued have not been paid, the said court shall forthwith issue its warrant to any constable of the county, in which the premises are situate, or sergeant-at-arms of the court, commanding him to remove all persons from the said premises, and to put the said claimant into full possession thereof, and to levy and make the costs out of the goods and chattels of such person or persons in possession; *provided*, it shall be necessary for said claimant, if required by the defendant, to prove to the satisfaction of the judge, or of the jury if there be a trial by jury, the facts which, according to the one hundred and seventh section of this act authorize such proceedings against the tenant; and whenever in any suit for dispossession of a tenant, on the return day of a summons, or any adjourned day, there is no appearance by or on behalf of any tenant named therein, or if any defendant shall appear, but make no defence, the court may, if it appear that the summons has been duly issued and served, hear

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and determine the cause upon the affidavit filed, without the production of any witnesses or other proofs.

Proof of right to possession necessary.

112. If upon the said trial the plaintiff shall not be able to prove, by lease or other evidence, his right to possession of the premises claimed by him without proving title to lands, tenements and hereditaments, it shall be the duty of the said judge to dismiss the action.

Proceedings not to be appealed or removed by certiorari.

113. Proceedings had by virtue of the one hundred and seventh section of this act shall not be appealed from nor removed by certiorari; but the landlord shall remain liable in an action of trespass for any unlawful proceedings under this act.

When circuit court may have cognizance of proceedings.

114. Any time after a summons has been issued, according to the one hundred and eighth section of this act, and before the return thereof either the landlord or the party in possession may apply to a justice of the supreme court, who, if he shall deem the case of sufficient importance, may order the said judge forthwith to file said oath or complaint of the landlord and other papers appertaining to the proceedings in the office of the clerk of the circuit court of the county in which such proceedings were commenced, and thereupon such circuit court shall have full and exclusive cognizance of the case; and said court shall be always open for such purpose.

Judge of circuit court to issue a venire for a jury.

115. Immediately upon such papers being filed in said clerk's office, the judge of said circuit shall cause a venire facias for a jury to be issued, returnable into said court in not more than one week from the time of issuing the same; and which said writ shall be served by the sheriff or other officer according to the practice of said court in like cases; and on the day of the return of the said writ the case shall be tried, unless for good cause shown the said trial shall be adjourned; that said adjournment and all other adjournments shall be for the shortest period practicable, and such notice of the trial shall be given as the said judge may direct; the parties, if they agree so to do, may waive a trial by jury, and submit the case to the judge on the law and facts, and a judgment shall be entered upon the finding of the judge or the jury, and if the same be in favor of the landlord a writ shall issue to the sheriff of the county commanding him to put the landlord in possession of the premises in

Trial may be adjourned for cause.

Waive jury trial.

On judgment for landlord, sheriff to put him in possession.

question, and to levy, and make the costs out of the goods, chattels and lands of the person in possession; and if judgment be rendered for the defendant he shall have an execution in like manner for his costs.

Power and jurisdiction of circuit court.

116. Said circuit court shall have the same power with respect to said proceedings, and the same control over the verdict and judgment, as it has in other cases within its jurisdiction, and from the judgment so entered a writ of error shall lie to the supreme court; but such writ shall not stay the execution of such judgment unless upon an order to that effect, indorsed on said writ by the said circuit judge, and upon a bond with sufficient surety being given in an amount which he shall designate, conditioned to indemnify the party in whose favor said judgment was rendered, against all losses and damages which he may sustain by reason of final process being stayed.

Where no term is agreed upon.

117. In any letting where no term is agreed upon, and the rent is payable monthly, so long as the tenant pays the rent as agreed, it shall be unlawful for the landlord to dispossess the tenant before the first day of April succeeding the commencement of such letting without giving the tenant three months' notice in writing to quit; *provided, however,* that in case any such tenant shall be so disorderly as to disturb the peace and quiet of any other tenants living in the premises or in the neighborhood, or shall wilfully destroy, damage or injure the premises, or shall constantly violate the landlord's rules and regulations governing said premises, and a copy of which rules and regulations said landlord has caused to be conspicuously placed on such premises; in any such case the landlord may cause a written notice of the termination of said tenancy to be served on said tenant and a demand that said tenant remove from the premises so occupied by him within three days from the service of such notice, and in case said tenant shall not so remove, it shall be lawful for said landlord or his agent, after the expiration of said three days, to make and file with the clerk of any district court an affidavit setting forth either or any of the causes for removal above set forth, and of the service of such notice, and thereupon it shall be lawful for such court to issue a summons in ejectment such as is provided by this act

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for the summary removal of tenants holding over the expiration of his or her term, and on proof before said court on the return of said summons of any one of the causes for removal aforesaid, it shall be lawful for said court to give judgment for said landlord and issue a warrant for such removal and take such other proceedings as is herein provided for the summary removal of tenants.

IN REPLEVIN CASES.

Wrongfully taken.

118. If the goods or chattels of any person be taken and wrongfully detained, writs of replevin may issue out of any district court in any county of this state where the goods or chattels may be, in all actions where the value of the goods or chattels of which replevin is sought does not exceed the jurisdiction of the court.

Unlawful detainer.

119. Any unlawful detention of goods and chattels from their lawful owner, or the person entitled by law to the possession of the same, shall be deemed an unlawful taking for the purpose of supporting an action of replevin.

Action of officer.

120. The constable or sergeant-at-arms executing the writ of replevin shall cause the goods or chattels so taken and wrongfully detained to be replevied and delivered, and shall summon the person who took them to appear at the return of the said writ and answer the plaintiff of the taking and unjust detention of the same.

Does not lie in case of distress for tax or fine.

121. No replevin shall lie in case of distress for any tax, assessment or fine, to be collected or levied in pursuance of any law of this state; and if any person or persons shall hereafter sue out or prosecute a replevin, in any such case, he or they shall forfeit one hundred and fifty dollars, to be recovered, with costs of prosecution, by any person who shall sue for the same, by action of contract, in any court of record having cognizance thereof; the one moiety of the said forfeiture to the person who shall sue for the same and the other moiety to the state.

Writs of replevin and summons, how served and returned.

122. All writs of replevin, and the summons therein, shall be issued, served and returned in the manner prescribed for writs of summons in other cases in said district courts, in case such service can be made; but if the

summons cannot be served in the manner aforesaid by reason of the absence of the defendant, and his non-residence within the county in which the goods and chattels are replevied, then the same shall be served as the court may by an order direct.

Bond by plaintiff.

123. Every constable, or sergeant-at-arms, before he makes deliverance of any goods or chattels by virtue of any writ of replevin, shall take in his own name from the plaintiff, with sufficient surety, a bond in double the value of the goods and chattels mentioned in the writ, such value to be ascertained by the oath or affirmation of one or more disinterested witnesses, which oath or affirmation may be made before such officer, or before any officer authorized by law to administer oaths, and conditioned for prosecuting the suit with effect and without delay, and for duly returning the said goods and chattels in case a return shall be awarded; *provided*, the said officer executing the writ may accept in lieu of such bond a deposit in cash amounting to double the appraised valuation of such goods and chattels; in case the said officer shall accept a deposit in cash in lieu of a bond, such cash shall forthwith be paid by said officer to the clerk of the court, out of which the writ of replevin shall have issued; the said clerk shall make a record of such payment in his docket, and immediately deposit all such moneys in a bank or banks to be designated by the judge of the court out of which the writ issued, and which moneys shall be drawn upon the check of the clerk, countersigned by said judge; and if any officer shall take security otherwise, or neglect to take sufficient security, he shall answer for the value of the goods and chattels.

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Liability of officer.

Approved by judge.

124. The replevin bond and the sufficiency of the sureties shall be approved by the judge holding the court out of which the writ shall issue, which approval shall be indorsed on the bond, and the bond, with the affidavit of justification, shall be filed with the clerk.

Bond may be assigned to defendant.

125. The constable or sergeant-at-arms taking bonds as is mentioned in the preceding section shall, at the request and costs of the defendant, assign the same to the defendant, under his hand and seal; and if the bond so taken and assigned be forfeited, the defendant may, in his own name, bring an action and recover

thereon; and the court wherein such action shall be brought may, by rule of the court, give such relief to the parties upon such bond as shall be agreeable to justice; and such rule shall have the nature and effect of a defeasance to such bonds.

Goods delivered unless claimed by defendant.

126. The constable, or sergeant-at-arms, to whom any writ of replevin shall be delivered, shall take the goods and chattels whereof deliverance is sought, into his own custody and possession, notwithstanding any claim of property therein by the defendant, and shall proceed to make deliverance thereof to the plaintiff in the said writ named, unless the said defendant shall, within twenty-four hours after service of the writ of replevin upon him in the manner hereinbefore prescribed, deliver to such constable, or sergeant-at arms, a written claim of property, specifying the goods and chattels so claimed, and shall also, within the time aforesaid, deliver to such constable, or sergeant-at-arms, a bond, with one or more sufficient sureties, being freebolders and residents in the county, and in double the value of the goods and chattels so claimed, with condition to deliver the said goods and chattels in as good condition as the same were at the time of making such claim, to the plaintiff or his lawful representatives, if the same shall be adjudged to the plaintiff; which bond the said constable, or sergeant-at-arms, is hereby required, at the request and costs of the plaintiff or his lawful representative, to assign to such plaintiff or his lawful representative, who are hereby authorized, if the said bond shall be forfeited, to bring an action, and recover thereon, in his or their own name.

Bond given.

Bond may be assigned and sued on.

Return made by officer.

127. In case the property replevied shall be delivered by the constable, or sergeant-at-arms, to the defendant, on his presenting a written claim of property and giving bonds as above provided, the constable, or sergeant-at-arms, shall make return of the facts to the court, and shall annex the said claim of property to the said writ, and return the same therewith; and the said suit shall be proceeded in and determined in the same manner, in all respects, as if such claim of property had not been made; and, if the plaintiff recover, the court or the jury, if there be a jury, shall find the value of the

Suit tried as if claim had not been made.

goods and chattels as well as the damages of the plaintiff, and the plaintiff shall have judgment thereon in damages as well for the value of the goods and chattels as for taking and detaining them; and upon such judgment, the plaintiff (in addition to his remedy on the bond) may have execution against the goods and chattels of the defendant in replevin, and for want of such goods and chattels an execution against the body of the defendant in the nature of a capias ad satisfaciendum.

Execution thereon.

Penalty for unlawful delivery.

128. If a constable, or sergeant-at-arms, to whom any writ of replevin shall be delivered, shall make deliverance to the plaintiff of the goods and chattels mentioned in such writ, or of any part thereof, before he shall have served a copy of the said writ upon the defendant as aforesaid, or within twenty-four hours after such service, or shall omit or refuse, upon the tender of such claim of property and bond as hereinbefore mentioned, to restore the goods and chattels so claimed to the defendant, such constable, or sergeant-at-arms, shall be answerable to such defendant for all damages he shall sustain therefrom.

Officer may break open building.

129. If any person shall take the goods and chattels of another, and put them into any stable, building, house or place of strength, and the person from whom the same goods or chattels shall be taken sues for a replevin thereof, the constable, or sergeant-at-arms, shall solemnly demand deliverance thereof at the stable, building, house or place where the same are detained; and if neither the taker nor any person on behalf of such taken, shall, upon demand, deliver the same, or if no person shall come upon such demand to deliver the same, the constable, or sergeant-at-arms, shall break open such stable, building, house or place of strength, and make replevin according to the writ.

Who may be joined as parties.

130. All such persons as by the common law may join the plaintiffs or defendants in the said writs of replevin, as well without process as by process, shall and may join the said plaintiffs or defendants, as well without process as by process, and have like defences and like advantages in all things (defences of disclaimer only excepted), as they might have had by the common law before the making of this act.

Death not to abate action.

131. Where there is a sole plaintiff, or defendant, if either die, the action shall not abate; but the death of such party being suggested upon the record, the name of the executor or administrator of such deceased party being entered upon the record, the action shall proceed to final judgment at the suit of the plaintiff, or if he be dead, at the suit of his executor or administrator against the defendant, or if he be dead, against his executor or administrator.

Executors have same remedies as original party.

132. The parties to such action of replevin, and their executors or administrators, shall have the like remedy upon any bond given pursuant to this act as the original party would have had if both parties were living at the time of pursuing such remedy; and the constable or sergeant-at-arms taking any bond in an action of replevin, shall assign the same to the then plaintiff, in case the original plaintiff would have been entitled to the same, if there had been no death, or to the then defendant in case the original defendant would have been entitled to the same if there had been no death.

Pleadings when filed.

133. The plaintiff shall file his state of demand on or before the return day of the summons and the case shall proceed as other actions, without further pleadings; on the trial of the cause, the defendant may set up any and all defences to which he may be entitled; the plaintiff shall bring on the trial of the cause, as in other actions, and shall be liable to judgment of nonsuit for failure to do so, and in case of a trial the plaintiff may set up any and all defences to which he may be entitled.

Plaintiff to bring on trial.

If plaintiff nonsuit, court may award a return.

134. If the plaintiff shall be nonsuit for failure to file his state of demand, or to bring on the trial of the cause as required by law, the court, besides a judgment of nonsuit, shall, in all cases, except where the taking was a distress for rent, award a return of the goods and chattels to the defendant if they have not been redelivered to him by the constable, or sergeant-at-arms; and the defendant shall thereupon be entitled to his costs, and the same remedy in all respects upon the replevin bond, as he would be entitled to on the awarding of the return of the goods and chattels on the verdict of a jury.

135. In any action of replevin, where the goods or chattels replevied shall not be delivered to the plaintiff,

Defendant claiming property in himself not to claim property in another.

by reason of a claim thereto made by the defendant, of property in himself, it shall not be lawful for the defendant to make any defense, justifying the taking of the same as the property of any person other than himself.

In case of distress if plaintiff be non-suit, etc.

136. In all cases where the goods and chattels have been taken as a distress for rent, if the plaintiff in replevin shall be nonsuit or judgment be rendered in favor of the defendant on the trial of the cause, and the defendant shall make a suggestion in the nature of an avowry or cognizance for such rent, the court upon the prayer of the defendant, instead of awarding a return of the distress shall proceed to inquire touching the sum in arrears for such rent, at the time of such distress taken, or the value of the goods or chattels distrained, and five days' notice being given to the plaintiff or his attorney of the time of making such inquiry; and on the demand of either party, the court shall award a venire for a jury to inquire of the matters above mentioned; and the hearing shall be had as in other cases of trial by jury; and if there be no demand for a jury, the inquiry shall be by the court, and the defendant shall have judgment to recover against the plaintiff the arrearages of such rent, in case the goods and chattels distrained shall amount to that value; and in case they shall not amount to that value, then so much as the value of the goods and chattels so distrained shall amount to, together with his full costs of suit, and, in addition to any remedy on the bond, shall have execution against the goods and chattels of the defendant, and for want of such goods and chattels, an execution against the body of the defendant in the nature of a capias ad satisfaciendum; if on a trial of the cause in cases arising under this section, the finding of the court, or jury, be in favor of the defendant on the merits of the case, the court or jury shall thereupon forthwith make like inquiry as in this section above provided, and the defendant shall have the like judgment and execution as in this section is provided.

Trial by jury.

In cases except distress for rent.

137. In all cases, except where the goods and chattels shall be taken as a distress for rent, if the plaintiff shall be nonsuit before issue joined, or for not bringing on the trial, and the goods have not been redelivered to the defendant, instead of awarding a return of the goods

and chattels, the court, upon a suggestion of property in the defendant, may ascertain the value of the goods and chattels and the damages of the defendant by an inquiry, either by the court, or a jury if one be demanded by either party; and if upon the trial of an issue of property in the defendant, the court, or the jury if one shall find against the plaintiff, the court, or the jury if there be a jury, shall on the request of the defendant find the value of the property of the defendant in such goods and chattels and his damages and judgment shall be thereupon entered for the defendant for such sum, and defendant, besides any remedy on the bond, shall have execution against the defendant's goods and chattels, and for want of same, execution against defendant's body, in the nature of a capias ad satisfaciendum; provided that five days' notice of the time of making such inquiry shall have been given by defendant to plaintiff or his attorney; and if a jury be demanded by either party the court shall award a venire for a jury; and the hearing shall be had as in other cases, whether the hearing be by a jury, or by the court.

Court may award writ of inquiry.

Judgment thereon.

Execution.

138. In all actions of replevin, except where the taking was as a distress for rent, if the property replevied shall have been delivered by the constable or sergeant-at-arms to the party against whom the issue of property shall be found, the party succeeding on such issue may, instead of pursuing his remedy for the damages, by execution or by action on the bond, apply to the court in which the action is pending, for an order that the said goods and chattels be restored to him; and thereupon it shall be lawful for the court in its discretion to make an order that the said goods and chattels be delivered to the party in whom the property therein has been found, and to enforce the performance of such order by a writ in the nature of a writ of restitution, or by an attachment as for contempt; and the party succeeding in such action, may, notwithstanding such order, recover his costs in the suit by execution as in other cases.

When property delivered by officer to party against whom issue of property is found.

139. If the plaintiff be nonsuit, or a verdict be found in favor of the defendant, the defendant shall recover his damages and costs against the plaintiff if the plaintiff would have recovered damages and costs, if he had succeeded in the action.

When defendant may recover damages and costs.

Demand and refusal of defendant.

140. In cases where the property has been delivered to the plaintiff by the officer, if the defendant does not appear and make defence, but suffers judgment to be entered by default, there shall be no judgment for damages or costs, except in case of a demand being made in writing before the commencement of the action, and the refusal of the defendant to deliver the property in pursuance thereof; and in such case the plaintiff shall be at liberty to suggest the facts upon the record, and instead of taking judgment by default, may enter a discontinuance of the action without costs.

Costs assessed on replevin bonds.

141. In actions upon replevin bonds, the costs taxed in the original actions shall be included as part of the damages to be assessed therein.

If officer die, etc., bond assigned by successor.

142. When any constable, or sergeant-at-arms, shall have taken any bond by virtue of this act, and such constable, or sergeant-at-arms, shall die, abscond or remove out of the state before assigning such bond, it shall be lawful for any successor in office of such constable, or sergeant-at-arms, by order of the court in which the action was brought, to assign such bond in writing, under his hand and seal, to the party entitled to the same, or to his lawful representatives, who are hereby authorized, if the said bond shall become forfeited, to bring an action and recover thereon in his or their own names.

In case plaintiff does not require delivery of property.

143. If the plaintiff does not require the delivery to him of the property in question, the constable to whom the process shall issue, shall, if so directed in writing by the plaintiff or his attorney, serve the process as in other cases, without taking possession of or delivering the property, and upon the process being returned into court, the cause shall be tried and determined as other causes in said court, and upon judgment being entered awarding possession of the property in question to the plaintiff, an order may be made by the court as a part of the judgment, directing the constable to take possession of and deliver the property in question in accordance with such judgment, and it shall thereupon be the duty of the officer so directed to execute such order and deliver the property to the party to whom it has been so awarded; in the cases provided for in this section no bond shall be required of the plaintiff unless ordered

by the court; the order of the court shall be a justification to the officer for the delivery of the property; and if in any action it shall appear to the court that parties not before the court have some ownership in the property replevied, the court may require a bond or other security for their protection before awarding the property to the plaintiff or other persons. Order of court to justify officer.

144. Where a constable, or sergeant-at-arms, shall take a bond, conditioned for the return of the goods and chattels mentioned in any writ of replevin, in case a return shall be awarded in such suit, and it shall appear to the court that the condition of the said bond has been fulfilled, it shall be lawful for a judge thereof, either in term time or vacation, to direct that said bond be delivered up to the plaintiff to be canceled. Cancellation of bond.

145. Whenever a warehouseman at the time any goods or chattels are placed on storage with him shall obtain from the party placing such goods or chattels on storage a statement in writing that such goods are the sole and absolute property of the bailor aforesaid, and in any action of replevin thereafter brought in any court for the recovery of such goods or chattels by any person other than the bailor aforesaid, no costs of suit shall be adjudged, taxed or recovered against said warehouse keeper in any action aforesaid, whenever judgment is obtained against the defendant in such action. Regarding warehousemen.

TRIAL.

146. If the defendant does not appear at the time and place expressed in the summons, or recognizance, and no sufficient reason shall be assigned to the judge why the defendant does not appear, and if, where the process is a summons, it shall further appear by the return endorsed thereon that the summons was duly served, the court may proceed to hear and determine the cause in the absence of such defendant and render judgment therein. Trial to proceed if defendant is absent without sufficient reason.

147. When the parties in any suit to be instituted by virtue of this act shall appear at the place and the time expressed in the summons or at the return of the warrant, or at the time of appearance mentioned in the Proceedings when parties appear.

recognizance, or the time fixed for trial in any case, the court shall proceed to hear and examine their respective allegations and proofs and render judgment in the cause, unless the judge shall think it proper to adjourn the trial.

When adjournment may be had.

148. Any district court in which a suit or proceeding is instituted by virtue of this act may, to prevent fraud or surprise on either side, or on reasonable cause being assigned by or in behalf of either party, adjourn the trial to such time as may be fixed by the court; or if either of the parties to a suit cannot on the day set for trial safely go to trial for the want of a material witness in the cause, whom he shall name, and thinks he can produce on a future day and shall file an affidavit setting forth such facts, the court may adjourn the trial to any future day to be fixed by it on payment of costs by the party who makes application for the same; *provided, however*, if defendant shall file a set-off on the first adjourned day and plaintiff shall allege surprise, the court may adjourn the cause and require defendant to pay plaintiff's witness fees for the day; any district court shall also have power, at the request of either plaintiff or defendant, or in their absence, to order a case to be marked "not moved"; in such case either party may bring said cause to trial by directing the clerk of said court to put said case on the list for a certain day, and by serving the adverse party personally, or his or her attorney who has appeared in said cause, with a written notice of the day fixed for said trial at least five days in advance thereof, proof of which service shall be filed with the clerk of said court; in case said adverse party be a corporation said service shall be made upon the president or other head officer thereof, or attorney thereof as hereinbefore directed.

Proviso.

Trial by jury may be demanded.

149. Either party may demand a trial by jury, and if a jury is demanded a venire shall be issued to summon a jury of six men, and no more, if the debt, demand or matter in dispute does not exceed the sum of fifty dollars, or a jury of twelve men if the debt, demand or matter in dispute exceed the sum of fifty dollars, being citizens of this state above the age of twenty-one years and under the age of sixty-five years, and in no wise akin to the plaintiff or defendant, nor interested in the

Qualifications of jurors.

suit, to be and appear before the said court at such time and place as shall be expressed in the venire, to make a jury for the trial of the action between the parties mentioned therein; and the constable, or sergeant-at-arms, shall, at the return of the said venire, return, annexed thereto, a panel containing the names of the jurors whom he shall have summoned by virtue thereof; and if, on the return of the venire, it shall appear that one or more of the jurors are disqualified to serve, or do not appear then, it shall be lawful for the constable, or sergeant-at-arms, who served the same, by order of the court, immediately to summon others who shall serve in their stead; unless a demand for a trial by jury shall be made at least one day before the time fixed for the trial, the demand for trial by jury shall be deemed to be waived, but the judge of any such court may, in his discretion, grant a venire, notwithstanding the failure of a demand as hereinbefore specified.

Return of names of jurors.

150. If the defendant shall file a set-off, the plaintiff shall not be permitted to discontinue his suit, or suffer a judgment of nonsuit, without the consent of the defendant; *provided*, the defendant shall have filed an affidavit at the time of filing his set-off that same is not filed for the purpose of delay, and that the plaintiff is indebted to him in a certain sum, which shall be stated in the affidavit; but the case shall be heard on motion of the defendant, if the plaintiff neglect or refuse to move the same, and if it shall appear upon evidence produced by the defendant that the plaintiff is indebted to him or that defendant is entitled to a judgment in his favor, judgment shall be rendered in favor of the defendant for the amount due him, or such judgment shall be rendered as the defendant shall be entitled unto on a determination of the matter by the court.

If set-off filed, plaintiff not to withdraw suit.

Proviso.

151. Whenever the nature of the plaintiff's demand is such that his book or account of original entries would be competent evidence, and the defendant does not appear at the hearing, or, if appearing, does not require the production of said book or account, a copy of the entries therein, so far as they relate to the plaintiff's demand, together with a statement of the credits or allowances, if any, to which the defendant is

Proof by affidavit of book account.

entitled, shall be received in evidence, with the same effect as if the plaintiff's books or accounts were produced and proved; *provided*, such copy and statement be accompanied by an affidavit or affidavits setting forth that the copy is a true copy of said original entries, and that all the credits and allowances to which the defendant is entitled appear on such statement, or in case the defendant is not entitled to any, then setting forth that the defendant is not entitled to any credits or allowances, and that the sum of money or balance claimed by the plaintiff is justly due and owing to him.

Proviso.

Proof of partnership.

152. When a copy of said entries may be used by the plaintiff, it shall be competent to prove any partnership or incorporation by affidavit, and it shall also be competent to prove by affidavit any partnership or incorporation in any other suit or proceeding which may be proved by affidavit under any of the provisions of this act.

Proof of notes, checks, etc.

153. In actions upon promissory notes, bills of exchange, checks, drafts, or other written contracts, whether simple or under seal, and in all other actions of contract for the payment of money only, when the damages or sum recoverable are a mere matter of calculation or can be readily ascertained if the defendant does not appear at the hearing, or if he appears and consents thereto, the plaintiff may prove his case by affidavit; the affidavit or affidavits shall contain a copy of any writing or writings sued on, if any there be, and shall set forth and aver such facts and circumstances as would warrant a recovery in case such facts and circumstances were proved by witnesses.

What affidavit shall contain.

Proceedings where proof made by affidavit.

154. In all cases in which proof is made by affidavit, it must appear by affidavit that the affiant or affiants have competent knowledge of the fact or facts sworn to, and in actions upon promissory notes, bills of exchange, checks, drafts, or other written contracts, simple or under seal, for the payment of money only, such notes, bills, checks, drafts or other contracts must be produced at the hearing or their non-production accounted for by affidavit.

Defendant may pay into court certain amount.

155. It shall be lawful for any defendant, within such time as shall be directed by the rules made for regulating the practice of the said courts, to pay into court such

sum of money as he shall think in full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and notice of such payment shall be communicated by the clerk to the plaintiff or his attorney, by the post, or by causing the same to be delivered at his usual place of abode or business, and said sum of money shall be paid to the plaintiff; but if the plaintiff shall elect to proceed, and if he shall recover no further sum in the action than shall have been so paid into court, the plaintiff shall pay to the defendant the costs incurred by him in said action after such payment, which costs may be collected as other costs are collected in said court.

Plaintiff may proceed, however.

156. When a warrant to take the body of any defendant shall issue out of any district court in this state, it shall be lawful for the defendant, upon the trial of said cause, to give testimony as to the truth of the affidavits upon which the order for the warrant was made; and if it shall appear that the defendant was not, in fact, guilty of the fraud alleged, it shall be the duty of the court to so certify upon the record of the court, and to make order in said cause that no execution to take the body shall issue against the defendant if a judgment pass against him, and in case such an order be made only an execution against the goods and chattels of the defendant shall issue.

When warrant against body of defendant may issue.

157. To the jurors, and each of them, who shall be returned to try the said cause the clerk shall administer the following oath or affirmation:

Form of oath to jurors.

"You do swear, in the presence of Almighty God (or do affirm, as the case may require), that you will well and truly try the matter in difference between ———, plaintiff, and ———, defendant, and a true verdict give according to the evidence."

158. To every witness produced at the said trial the said clerk shall administer the following oath or affirmation:

To witness.

"You do swear, in the presence of Almighty God (or do affirm, as the case may require), that the evidence you shall give to the court and jury in this matter in difference between ———, plaintiff, and ———, defendant, shall be the truth, the whole truth and nothing but the truth."

To officer.

159. To the constable or sergeant-at-arms who shall be appointed to attend the jury, the clerk shall administer the following oath or affirmation:

"You do swear, in the presence of Almighty God (or do affirm, as the case may require), that you will to the utmost of your ability, keep every person sworn (or affirmed) on this jury together in some private or convenient place, without meat or drink, water excepted; that you will not suffer any person to speak to them, nor speak to them yourself, except by order of the court, unless it be to ask them whether they have agreed on their verdict, until they have agreed on their verdict."

Disagreement.

160. If the jury disagree, other writs of venire may issue in the same cause until a verdict is obtained.

AMENDMENTS OF DEFECTS AND ERRORS.

Defects and errors in proceedings may be amended.

161. In order to prevent the failure of justice by reason of mistakes and objections of form, it shall be lawful for any district court or the court of common pleas, on an appeal taken thereto, at all times, to amend all defects and errors, in any suit or proceeding, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend by or not, and all such amendments may be made with or without costs and upon such terms as to the court may seem fit; and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made.

Officer may amend defective return

162. If the constable's or sergeant-at-arm's return to any summons, warrant or process be defective, and such officer has in point of fact complied with all the requirements of this act in serving such writ, whether the defendant appears or does not appear, and whether he objects or does not object, such constable may amend his return in such manner as to make it conform to the fact, at any time before the entry of judgment.

JUDGMENT.

When judgment shall be given against plaintiff.

163. If the plaintiff other than executors or administrators in any action shall be nonsuited or shall discontinue or withdraw his action without the consent of the defendant where he may lawfully do so, judgment shall be given against such plaintiff for the costs which have accrued, or if such plaintiff shall appear to owe, or be indebted to the defendant, then judgment shall be given against him for the debt, or damages and costs, as the case may require.

Confession of judgment.

164. Any person may appear before any district court and confess, under oath, that he is indebted to any person by him named in any sum by him specified and within the jurisdiction of the court, and thereupon judgment shall be entered against the debtor and in favor of such creditor for the amount so confessed to be due, with costs; *provided*, that an affidavit shall first be made by the plaintiff, his attorney or agent, and filed, that the true consideration of the bill, bond, deed, note or other instrument of writing, or demand, or contract for which the judgment is confessed, is justly and honestly due and owing to the person or persons to whom the judgment is confessed, and that the said judgment is not confessed to answer any fraudulent intent or purpose, or to protect the property of the defendant from his other creditors.

Proviso.

Affidavit on judgment by confession.

165. Judgment by confession on bond and warrant of attorney may be entered against a defendant, but unless an affidavit shall first be made by the plaintiff, his attorney or agent, of the true consideration of the bill, bond, deed, note or other instrument of writing or demand, for which the judgment is confessed, which affidavit shall further set forth that the debt or demand for which the judgment is confessed is justly and honestly due and owing to the person or persons to whom the judgment is confessed, and that the said judgment is not confessed to answer any fraudulent intent or purpose, or to protect the property of the defendant from his other creditors, which affidavit shall be filed with the clerk, such judgment shall not operate or have any effect against any person or persons not parties in said action, but shall be binding and have its full effect so far as relates to the parties in the suit only.

Sum due on bond or contract and not the penalty to be taken.

166. When an action shall be brought on a bond, bill or other contract containing a penalty, or if any bond, bill or contract with such penalty as aforesaid shall be set off by the defendant in any action, the sum really due on such bond, bill or contract, and not the penalty, shall be deemed and taken to be the debt due, and judgment shall be entered for the amount ascertained to be due, without regard to the amount of such penalty, and where the condition of such bond is for the performance of more than a single act, an action brought thereon in respect of the breaches occurring before the commencement of such action shall not be a bar to the bringing of any other action or actions for breaches occurring after the commencement of such action.

Right to nonsuit.

167. Every district court shall have power to nonsuit the plaintiff in every case in which satisfactory proof shall not be given entitling either plaintiff or defendant to the judgment of said court.

DOCKETED JUDGMENTS.

Final judgments may be docketed in court of common pleas.

168. Any final judgment of any district court, if not less than ten dollars, including costs, remain due thereon may be docketed in the court of common pleas of that county, by the party recovering the same or by his executors, administrators or assigns, in the manner hereinafter directed.

Clerk of court to provide and keep docket.

169. The clerk of every court of common pleas shall provide and keep a docket, in which shall be entered, upon complying with the provisions of this act, all such final judgments, if not less than ten dollars remain due thereon as aforesaid.

Mode of docketing judgments.

170. When a judgment is obtained in any district court, and there remains due thereon an amount not less than ten dollars, including costs, the clerk of such court of common pleas of the county, upon filing in his office a statement, signed by the clerk of the district court under the seal of the court, which statement shall contain the name of the court, the name of the parties, the amount and date of judgment and date of issue and return of execution if any, and also an oath or affirmation of the party, his or their attorney or agent, that

at the time of filing such statement a certain amount, not less than ten dollars, is still due thereon, stating the amount, shall enter, in a docket provided for that purpose a transcript of such judgment in words at length, containing the name of the district court in which the judgment was obtained, the names at length of the parties to said judgment, the style of the action, the date of the judgment, the amount recovered, with costs, the substance of the return of the constable or sergeant-at-arms, and the amount stated to be due in the affidavit; the fee to the clerk of the court of common pleas for filing such statement shall be two dollars, and to the clerk of the district court for certifying the same, fifty cents.

Fees.

171. It shall not be necessary, before obtaining from the clerk of the district court the statement for docketing, that execution shall issue out of and be returned into the district court, but the statement may be made and taken at any time after judgment in the district court, and be of the same force and effect as if execution had been issued and returned as now required by law; but if execution has been issued, said statement for docketing shall not be made and taken before a return shall have been made to said execution.

Statement made any time after judgment in district court.

172. Such judgment shall from the time of such docketing in the court of common pleas operate as a judgment obtained in a suit originally commenced in said court, and satisfaction thereof may be entered in the same manner and upon the same evidence as is now provided by law in case of judgments rendered in the courts of common pleas, and execution may issue thereon out of such court of common pleas, which shall be of the same effect as to the property of the judgment debtor, either personal or real, as if issued on a judgment originally obtained in such court of common pleas, upon a suit commenced therein.

Operation of docketed judgments.

173. After such judgment shall be docketed in the court of common pleas, no execution shall issue thereon out of any district court, nor shall any proceedings be had thereon except the due and proper granting of a new trial, an appeal or certiorari; no judgment shall be allowed to be docketed after the granting of a new trial, an appeal or certiorari, and pending the deter-

Execution not to issue after docketing.

mination thereof; in case a judgment shall have been docketed as aforesaid before the granting of a new trial, appeal or certiorari, no execution shall issue thereon out of the court of common pleas pending the final determination of said proceeding.

Revival of docketed judgments.

174. Every judgment docketed as herein directed may be revived by scire facias in the court of common pleas in the same manner, in the like cases and with the like effect, as if said judgment had been obtained in a suit commenced in that court.

Alphabetical index of docket.

175. The clerk of the court of common pleas shall make a complete alphabetical index to the docket in which said judgments are to be entered, and said docket shall be a public record, to which all persons desiring to examine the same shall have access.

Proceedings in case of appeal or certiorari.

176. If any judgment recovered in any district court shall be removed by appeal or certiorari, and the necessary bond be perfected, and such judgment shall, either before or after such removal, be docketed as herein provided, execution from the court of common pleas in which said judgment is docketed shall be stayed and suspended until the final determination of such appeal or certiorari.

Substance of determination to be entered on margin of docket.

177. If any judgment, docketed as hereinbefore provided, shall be reviewed upon certiorari or appeal, and a duly certified transcript of the judgment of the court wherein such appeal or certiorari may have been determined shall be delivered to the clerk of the court of common pleas of the county where such judgment is docketed, it shall be the duty of the said clerk to file the same in his office, and enter in the margin of the docket opposite the entry of said judgment, in short form, the substance of such determination upon the appeal or certiorari.

EXECUTION.

Execution, when granted.

178. When judgment shall be given against the plaintiff or defendant by virtue of this act, execution shall issue thereupon, under the seal of said court and the hand of the clerk, commanding the constable or sergeant-at-arms to levy and make the debt or damages

and costs of the goods and chattels of the judgment debtor; and in the cases hereinafter specified for want of sufficient goods and chattels whereon to levy and make the same, to take the body of such judgment debtor and convey him to the jail of the county; *provided*, that no execution shall issue against the body of any female; *and provided, also*, that when judgment shall be obtained against executors or administrators, execution shall issue thereon in the same manner as it is issued against them in other courts of law of this state, and on any judgment against any body politic or corporate the clerk shall grant execution thereon against the goods and chattels of such body politic or corporate which may be levied on and sold according to law.

Proviso.

Proviso.

179. An execution against the body shall be granted only in the following cases:

Execution granted against body.

I. Where a warrant has issued upon an order made in accordance with the provisions of the fiftieth section of this act and such order has not been set aside;

By provisions of this act.

II. Where, no warrant having been issued for the same cause of action, due proof is made on oath or affirmation to the satisfaction of the judge of the district court that the judgment debtor at the time when execution is applied for is not a freeholder in the county where such district court is established and judgment has been rendered in an action of tort;

When judgment is rendered in case of tort.

III. When no warrant has issued for the same cause of action, and the action being founded upon contract, express or implied, due proof is made to the satisfaction of the judge, by affidavit or affidavits filed, establishing the particulars specified in the first subdivision of the forty-ninth section of this act or establishing that the judgment debtor has rights or credits, moneys or effects, either in his own possession or in the possession of any other person or persons to his use, of the value of ten dollars or over, which he unlawfully and fraudulently refuses to apply in payment of such judgment.

Where no warrant has issued in an action founded on contract.

180. If the requirements of any of the subdivisions of the next preceding section have been complied with, the judge shall make and subscribe an order that execution issue against the goods and chattels of the judgment debtor, and, for want of sufficient goods and

Order for execution.

chattels against the body, whereupon execution may issue in accordance with such order, as directed in the section next preceding of this act.

How execution may be set aside.

181. Except where previous application has been made and passed upon under the fifty-third section of this act the judgment debtor may, at any time after order made under the one hundred and seventy-ninth section of this act, apply to a justice of the supreme court to set aside said order so far as it authorizes the taking of the body, the judgment debtor having first given reasonable notice to the plaintiff of such application; and if such justice of the supreme court shall deem the proofs made insufficient to warrant the issuing of process against the body, he may make order that the order of the judge so far as it authorizes the taking of the judgment debtor's body, be set aside; and such order of the justice of the supreme court shall be filed with the clerk of such district court, who shall furnish certified copies thereof on request, and such order from the time of filing thereof shall operate to discharge the judgment debtor from arrest or imprisonment, if arrested or imprisoned, or, if not, from liability to arrest or imprisonment, in the suit in which the order was made, and same shall have no other or further operation.

Order filed.

Effect of order.

Liability not incurred by officer.

182. No constable, sergeant-at-arms, jailer, warden, or other officer or person taking or detaining the body of the judgment debtor in pursuance of the warrant mentioned in the forty-ninth section of this act or in pursuance of the writ of execution, shall incur any liability whatsoever for any act done or committed pursuant to the commands of the writ in or about such taking or detention prior to service upon him of a copy of the order of the justice of the supreme court certified by the clerk of the district court with whom such order is filed.

Effect of service of order.

183. Service of said order upon the person in whose custody the judgment debtor may be, shall warrant the immediate discharge of such judgment debtor from arrest or imprisonment under said writ.

Certified copy of order furnished defendant.

184. The clerk shall furnish to the defendant, or his agent, on request, a certified copy of the order and

affidavit or affidavits, upon which the warrant or execution against the body issued or may issue; and such copy may be used before the justice of the supreme court, who may make order thereupon in the same manner as if the original order and affidavit or affidavits were produced before him.

When renewal of application may not be made.

185. Where a judge of any district court has made an order pursuant to the fiftieth section or to the one hundred and seventy-ninth section of this act, and application has been made to a justice of the supreme court to set the order aside, if the justice refuse to do so, the defendant shall not be permitted to renew his application.

Confession of judgment and stay of execution.

186. If any defendant shall appear at the return of the summons or warrant, or by consent without process or on the day the judgment shall be rendered, or before the issuing of execution, whether the suit has been defended or not, and procure a good and sufficient freeholder, resident in the county, to join with such defendant in a confession of judgment to the adverse party, with costs, then if the judgment shall be not more than fifteen dollars nor less than five dollars, no execution shall issue until after one month from the time of rendering such judgment; and when the judgment shall exceed fifteen and not exceed sixty dollars, no execution shall issue until after three months from the time of rendering said judgment; and when the judgment shall exceed sixty dollars, no execution shall issue until after six months from the time of rendering such judgment.

Stay not allowed on suit of judgment.

187. Where a suit shall be brought upon any judgment recovered before a district court and judgment rendered in favor of the plaintiff, no stay of execution shall be allowed thereon; *provided*, the time hereinbefore limited for stay of execution upon such sum shall have expired since the date of the first judgment, and if not, such further stay of execution shall be allowed as, with the time already past since the date of the first judgment will make up the time allowed for stay of execution of such sum, as is directed by the preceding section of this act.

Proviso.

Execution at expiration of stay.

188. At the expiration of the time for which the issuing of execution shall be stayed as aforesaid execu-

tion may issue out of such district court against such judgment debtor and such freeholder for the amount due and such judgment with interests and costs which execution shall issue in the name and be of the same effect as if such judgment had originally been against both the judgment debtor and such freeholder.

Sale under execution.

189. The constable, or sergeant-at-arms, who, by virtue of any execution, levies on any goods and chattels shall give notice by advertisements signed by himself and put up in three of the most public places in the city, township, or ward where they were taken of the time and place they will be exposed to sale, at least five days before the time appointed for selling them, and therein describe the goods and chattels so taken, and

Manner of sale.

shall, at the time and place so appointed, expose them to sale at public vendue and strike them off to the highest bidder and pay the money thence arising to the plaintiff, or his attorney or, in case of his absence, to the clerk and within thirty days from the time he shall re-

Return of officer.

ceive the execution, make return to the clerk who issued the same, of the proceedings had thereon and the said clerk shall make a record thereof.

Proceedings on claim of property.

190. In all cases where any constable or sergeant-at-arms shall by virtue of any writ of execution or attachment issuing out of any district court, levy on, attach or take into his possession any goods or chattels which shall be claimed by notice in writing, delivered to said constable by any other person than the judgment debtor, he shall, immediately upon such claim, delay his sale of the same ten days, that the said claimant may within the said time, apply to the judge of such court for a

Right to property tried.

venire to summon a jury of six lawful men as jurors to try the right of such claimant to such property; and it shall be lawful for such judge to order a venire to issue the same and direct a return thereof to be made and to preceed therein as in other cases of trial by jury, but the claimant shall, in all cases, give two days' notice in writing to the judgment creditor of the time and place of the said trial; but if the claimant shall not within ten days, apply to said court and have his right tried as aforesaid, the said claim shall be considered abandoned and the constable shall proceed as if it had not been

made and shall not be liable in any action therefor thereafter.

Verdict of jury to protect officer.

191. The verdict of such jury shall protect the constable, or sergeant-at-arms, from any action for taking and seizing such property or delivery thereof to the claimant, and if the said property shall be found to belong to said claimant the said constable shall proceed no further with the execution against said property, but if it shall be found to belong to the judgment debtor, he shall proceed to dispose of the same, as is directed in such process; and the costs attending such trial shall be taxed by the clerk of said district court as in other cases and shall be paid by the creditor if the said claimant obtain a verdict in his favor; and by such claimant if the verdict be found against him: *provided*, that if the judgment creditor, upon notice being given to him as aforesaid, shall indemnify the constable or sergeant-at-arms against the demand of the claimant, then he shall suspend any further proceedings therein and proceed to sell.

Costs taxed by clerk.

Proviso.

When body may be committed to jail.

192. For want of goods and chattels whereon to levy the said constable, or sergeant-at-arms, shall, when execution is issued against the body, according to the tenor of the execution, take the body of the person against whom the execution is issued and convey and deliver him to the keeper of the common jail of the county, who is hereby commanded to keep such person in safe custody in the common jail aforesaid, until the debt or damages with costs be fully paid or until he be thence delivered by due course of law; and the said constable or sergeant-at-arms shall at the same time deliver to the said jailer a copy of said execution, and shall take such jailer's receipt upon the execution and return the same to the clerk who issued it, who shall make a good record thereof in his docket; if the said keeper shall suffer such person so committed to his custody to go or to be at large out of said jail, except by virtue of some writ of habeas corpus, or by virtue of the order mentioned in the one hundred and eightieth section of this act, before the said debt or damages, with costs be paid, or he be thence delivered by due course of law, then every such going and being out of the said jail shall be an

Responsibility in case of escape.

escape for which the sheriff shall be responsible to the judgment creditor to the amount of the debt, or damages, and costs for which such person shall be committed, to be recovered by the said judgment creditor with costs in action of contract.

Execution may issue without revival.

193. Execution may issue without a revival of the judgment by scire facias at any time within twenty years from its recovery; *provided* that if more than six years have elapsed since the recovery of the judgment a special order of the judge shall be necessary before the execution issue to be made upon ten days' notice to the judgment debtor of the application therefor, and proof to the satisfaction of the judge of the amount remaining due upon the judgment.

Proviso.

Service of notice.

194. The notice required by the last preceding section may be served upon the judgment debtor personally, either within or without this state, or, in case he resides within this state, may be served by leaving a copy at his residence in the presence of some person of the family of the age of fourteen years who shall be informed of the contents.

Executions in force one year.

195. Every execution issued out of any district court, upon any judgment rendered in pursuance of this act, shall be in full force and operation against the goods and chattels levied on for the term of one year from the time of issuing the same, unless sooner satisfied; and shall thereafter be void; but the judgment creditor may have a subsequent execution or executions, which shall continue in force and operation and become void in like manner.

Alias and pluries executions.

196. Upon the return of the original execution unsatisfied, the clerk of the court which issued the same shall have power and authority to issue an alias execution, and upon the return of the alias unsatisfied, may issue a pluries execution which writs may be levied on the goods and chattels of the defendant and shall be made returnable, and be in all things executed in like manner as the original execution.

Executions returned unsatisfied.

197. When, in any case, an execution shall have been returned unsatisfied, it shall be lawful for the clerk of any district court, upon the demand of the plaintiff, to issue an alias or pluries execution, directed to any constable of any county in this state, so designated in

the writ, which shall be executed and returned by the constable to whom it shall be delivered, in the same manner as if it had been issued out of a court of competent jurisdiction in his county. Writ, how executed.

198. That no writ or execution shall bind the property or the goods of the person against whom such writ is sued for, but from the time such writ shall be delivered to the constable, sergeant-at-arms, or other officer to be executed, and for the better manifestation of such time, such constable, sergeant-at-arms or other officer, his deputy or agent shall, upon the receipt of any such writ, endorse thereon, without fee for so doing, the date of the month and year when he received the same, and if two or more writs of execution shall be delivered against the goods of the same person on the same day, that which was first delivered shall be first executed and satisfied. Time from which writs take effect. Priority of executions.

199. It shall be the duty of the constable or sergeant-at-arms to whom shall be delivered any execution issued under the provisions of this act to take an inventory in writing, of such and so much of the property of the defendant as he means and intends to levy upon; which inventory and levy, with a statement of the actual time of making such levy, shall be annexed to the execution and signed by the said constable, under his oath of office and shall at all times be received as evidence of the levy, and of the time of making the same, as contemplated by this act, and the property so levied upon shall be bound from the time of such levy and not before. Inventory of property.

200. In case of the death or inability to act of an officer by whom a levy has been made by virtue of any execution issued out of said court upon due proof thereof to the satisfaction of the judge of said court and of the amount which remains due upon said execution the said judge may appoint a constable to proceed with and execute said execution, and such constable or sergeant-at-arms so appointed shall have the same power he would have had, and shall, in all things then yet to be done, proceed after such appointment in the same manner he would have proceeded if the execution had been originally delivered to him and he had done what up to the time of his appointment of was done by the In case of death or inability of officer.

officer to whom said execution was originally delivered, but such officer so appointed shall not be liable for any default or error of the officer to whom the execution was originally delivered.

Officer liable for performance of duty imposed.

201. For any negligence or default by any constable or sergeant-at-arms in the performance of any duties imposed upon him by this act respecting any execution delivered to him whereby the execution creditor shall fail to recover his debt, damages and costs, or any part thereof, under such execution, such constable or sergeant-at-arms shall pay to the execution creditor the sum so lost by him, to be recovered in an action of contract with double costs.

DISCOVERY IN AID OF EXECUTION.

Power and jurisdiction of judges upon petition for discovery in aid of execution.

202. Each of the judges of the several district courts of this state, in cases where the amount due on any judgment exclusive of costs shall be twenty-five dollars or more, shall have the same powers, jurisdiction and authority upon petition for discovery in aid of execution, upon the return of any execution unsatisfied in whole or in part into any of said district courts, to order the judgment debtor to appear before the court, or one of the supreme court commissioners of this state or a master in chancery of this state, and make discovery on oath concerning his property or things in action before said judge, commissioner or master; and to make order forbidding the payment of debts or transfer of moneys or property due or belonging to said debtor, to said debtor or any third person, and upon the taking of testimony by said judge, or the certification by the commissioner, or master in chancery, of the testimony taken by him under the order, to appoint a receiver of the property and things in action belonging, or due to, or held in trust for such debtor at the time of issuing the execution, or at any time afterward, as is now vested in or exercised by any of the judges of the inferior courts of common pleas of this state, and such receiver shall thereby receive authority to possess, receive and, if need be in his own name as such receiver, sue for such property or things in action, and shall

have like power, authorities and duties as receivers appointed under similar proceedings by any of said judges of the inferior courts of common pleas, and such judge shall order such judgment debtor to convey and deliver to such receiver all such property and rights in action, and the evidence thereof; *provided, however*, that no receiver appointed by any district court judge shall become vested with the title to or have the right to demand and receive any of the real property of any such judgment debtor.

Proviso.

Witness may be required to testify.

203. In proceedings taken under this act for discovery in aid of execution witnesses may be required to appear and testify concerning said matters by either party, by process of subpœna ad testificandum issued out of said district court wherein the judgment shall be recovered, and the judge, or commissioner, or master in chancery may adjourn the examination from time to time, at the instance of either party, as may be needful, and the refusal to obey any subpœna so issued shall be punished as in case of refusal to obey like subpœna in actions of contract tried in said court; the attorney, court, clerk, commissioner, master and witnesses shall be entitled to the same fees as for like services in the court of common pleas, except as otherwise specified in this act; which costs shall be recoverable as other costs in said district court, and when in favor of the plaintiff shall become a part of the judgment, and when in favor of the defendant execution may issue therefor.

Refusal to obey subpœna

Fees of attorneys, etc., recoverable.

Disobedience of order of court or subpœna.

204. If any party or witness disobey any order of the judge, or any subpœna issued as above authorized and duly served, and the fees of such witness paid, it shall be lawful for the judge of the district court out of which such subpœna or order shall issue, upon affidavit being filed with the clerk of such court proving the facts, to issue an order to show cause why the person subpœnaed or served with such order shall not be adjudged guilty of contempt for his or her refusal or neglect to obey such subpœna or order, which order to show cause shall be made returnable not less than five nor more than fifteen days from the date of service thereof, and if, upon the return of such order, no sufficient cause be shown, the judge, upon proof of the service of said order being filed with the clerk of such court, may

Guilty of contempt.

adjudge such person guilty of contempt, and may order a warrant to issue, directed to any constable of the county wherein such district court is established, commanding him to arrest such person and forthwith convey him before the judge who issued the same, and the said judge shall thereupon have the power to enforce obedience to such order or subpœna, by

Penalty.

imprisonment in the county jail of the county wherein such district court is established, or by imposing a fine not exceeding fifty dollars, to be paid for the use of the city, or by both fine and imprisonment, and such person so adjudged guilty of contempt shall stand committed and remain in close custody until such order or subpœna shall be obeyed and performed, and until the fine so imposed, with the costs of such proceedings, to be taxed by the clerk of such district court, be fully paid, unless otherwise ordered by such judge; the attorney, court clerk and officer shall be entitled to

Fees.

the same fees as for like services in the court of common pleas, except as otherwise specified in this

False testimony.

act; and any person who shall wilfully and corruptly falsely testify to any material matter upon oath or affirmation administered to him upon such proceedings shall, upon conviction thereof, be subject to the penalties of perjury.

APPEAL.

Verdict of jury or decision of judge conclusive as to fact.

205. That if the parties to any action in any district court fail to demand trial by jury in cases where such demand is necessary, and so elect to permit questions of fact to be determined by the judge thereof, then such determination of the judge, or in cases where there is a jury, then the verdict of a jury, and any judgment thereupon shall be final and conclusive between the parties upon questions of fact, except as herein otherwise provided.

Appeal on point of law.

206. That if either party in any such action or proceeding shall be dissatisfied with the determination or direction of said court in point of law, or upon the admission or rejection of evidence, such parties may appeal from the same to the circuit court of the county

Proviso.

wherein said district court is held, provided that such

party shall within five days after such determination or direction, give notice of such appeal to the other party or his attorney, and enter into bond to the other party with at least one sufficient surety, being a freeholder of said county, to be approved by the judge, for the costs of appeal, whatever be the result thereof, and for double the amount, if any, for the judgment rendered against him, conditioned for the payment thereof if the appeal be not prosecuted by the appellant or be dismissed; such security, so far as regards the amount of the judgment, shall not be required in any case where the party appealing shall pay the amount of such judgment in the hands of the clerk of the court, but such appeal shall operate as a stay of proceedings only after such security has been given or money paid.

Stenographer.

207. Either party to any cause in any district court may make application to the court for the appointment of a stenographer to transcribe all proceedings at the trial of said cause, and to prepare a transcript of the same and of the pleadings and judgment therein, for use on appeal; said application shall be made at such times as said court shall by rule direct, or as the judge thereof in his discretion shall permit; it shall thereupon be the duty of said judge to grant said application, and to designate a stenographer to act as aforesaid in said case; in case no appeal is taken in said case and no transcript of the proceedings required, the stenographer shall receive as compensation for services at the trial a fee of five dollars for each day spent in attendance at said trial, to be paid in the first instance by the party making the application, but to be taxed in the costs of the suit and recovered by the prevailing party, if theretofore paid by him, upon execution therefor if necessary; in case an appeal be taken in said cause, the transcript of the record made by said stenographer as aforesaid, subject to correction, shall be certified by the judge as the state of the case for appeal, and such case shall be transmitted by the clerk of said district court to the clerk of the circuit court of the county in which said district court is located, and filed by him in his office; in any such case the fees of said stenographer shall likewise be certified by said judge, and shall be

Compensation.

Transcript in case of appeal.

paid in the first instance by the party making said application, but shall be taxable in the costs of said suit as finally determined and recovered by the prevailing party, if theretofore paid by him, upon execution if necessary; in any such case there shall be no attendance fee paid to said stenographer, but he shall be entitled to receive ten cents a folio for said transcript.

In case there are no stenographic notes, appeal how taken.

208. In case no such application as authorized by the preceding section, be made, and the case shall not have been taken stenographically in accordance therewith, then such appeal shall be in the form of a case agreed on by both parties or their attorneys, and if they cannot agree, the judge on being applied to by them or their attorneys, shall, upon such notice as said judge shall prescribe, settle the case and sign it, and such case shall be transmitted by the appellant to the said clerk of the circuit court and filed by him in his office.

Time in which to agree.

209. That such case shall be agreed upon or settled within fifteen days after such determination or direction, unless the judge shall grant further time for that purpose.

Hearing.

The case shall be heard on appeal in the said circuit court at the next term after such determination or direction unless the said court shall on good cause shown, postpone the hearing thereon to some subsequent term, provided that there shall be fifteen days between such determination or direction and said next term of the said circuit court.

Court's action on hearing appeal.

210. On the hearing of said appeal, said circuit court shall either affirm or reverse said judgment of the district court, or may order judgment to be entered for either party, as the case may be, and may make such order with reference to the dismissal and costs of the said appeal as said court may think proper.

Decision may be removed to supreme court by certiorari.

211. That such order, determination or decision of the circuit court may be removed into the supreme court or court of errors and appeals by a writ of error; said writ shall remove such order or determination and the case agreed upon or settled as hereinbefore mentioned, provided the party applying for the same comply with the provisions of this act.

Judgment upon appeal not to affect lands, etc, unless entered in minutes.

212. Judgment of the circuit court upon appeal from district courts shall not affect or bind any lands, tenements, hereditaments or real estate, unless a rule shall

be entered in the minutes of the circuit court in which such judgment shall be rendered for recording such judgment, which rule shall be a rule of course, and may be entered at any time without notice.

Duty of clerk to record judgment.

213. It shall be the duty of the clerk of the circuit court upon the entry of such rule, to record such judgment in the book of judgments of said court and index the same, as required by law respecting the judgment of such courts in suits originally commenced therein, which record shall be a transcript from the minutes of the said court on said judgment and for this service the clerk shall be paid twenty-five cents; and such judgment shall, from the time of entering such rule, bind all lands, tenements, hereditaments and real estate within the county where such circuit court is held, belonging to the person or persons against whom such judgment may be; and execution against the goods and chattels, lands, tenements, hereditaments and real estate of such person or persons may be issued out of such circuit court thereupon immediately upon the entry of such rule.

Fees.

Execution may be issued thereupon.

FEES AND COSTS.

Fees to clerks.

214. In all actions which may be brought by virtue of this act the following and no other fees shall be paid to the clerks of said court:

Adjournment of any trial or hearing	$0.20
Certifying copy of proceedings, or of any paper filed in any cause	.10
Copy of proceedings entered in any docket, or of any proceeding or any order or other paper, filed in any cause, or transcript of same, per folio	.15
Drawing, signing and sealing return to certiorari	1.00
Entering suit without process	1.50
Execution, or any order in nature of execution on a judgment, or execution against the body	1.35
Execution against body, each additional defendant	.75

Copy of execution or other order in nature of execution	$0.35
Filing each paper requiring to be filed, but no fees shall be charged for filing writs or states of demand or affidavits on which writs are issued	.10
Granting appeal and approving bond	1.00
Hearing every cause and entering judgment	1.00
Issuing commission to take deposition	.50
Marking every exhibit	.10
Mileage of constable in serving any summons, or warrant against body, after the first mile, the distance to be computed by counting the number of miles in and out by the most direct route from the court where process is issued; for every mile	.04
Order for warrant, rule to show cause, for discovery, of reference, or other order	1.00
Recording return of commission	1.50
Recognizance filed or taken	.35
Scire facias, one defendant	2.10
Scire facias, each additional defendant	.40
Summons, one defendant	2.10
Summons, each additional defendant	.40
In replevin, one defendant	3.00
In replevin, each additional defendant	.40
Subpœna for witness	.10
Swearing or affirming any witness	.10
Transcript of judgment	.50
Venire facias, jury of six men	4.00
Venire facias, jury of twelve men	5.75
Warrant to arrest one defendant	2.35
Warrant to arrest each additional defendant	.75
Warrant for possession	1.60
Writ of attachment one defendant	3.35

215. From the foregoing shall be paid by the clerk to the following persons:

Fees to constables.

Constables—

Serving summons on one defendant	.60
Serving summons on every additional defendant	.30
Warrant one defendant	.75

Warrant each additional defendant	$0.75
Summons in replevin against one defendant, taking bond, and any inventory	1.50
Summons in replevin against each additional defendant	.30
Scire facias against one person	.60
Scire facias against each additional defendant	.30
Every execution, or any order in nature of an execution on a judgment, or execution against the body	.75
Each additional defendant, on execution against body	.75
Serving copy of an execution or any order with a jailer	.25
Writ of attachment and making inventory	1.00
Warrant for possession	1.00
Attending jury until agreed on their verdict	.50
Posting all notices of attachment	.35
Summoning every jury of six men	.75
Summoning every jury of twelve men	1.00
For every mile of travel in serving any summons on warrant against the body, from any district court, after the first mile, the distance to be computed by counting the number of miles in and out, by the most direct route from the place where process is issued	.04

Jurors— To jurors.

For all cases tried (per man)	.25
For all cases summoned and attending, but cause not tried (per man)	.15
Balance of .10 per man to be refunded to party paying for jury	

Witnesses— To witnesses.

To the execution of writs of attachment	.50

Fees taxed in costs.

216. In addition to the foregoing there shall be taxed in the costs, and collected on execution, or order in nature of an execution on any final judgment, the following fees:

Appraisers. *Appraisers—*

Making any inventory and appraisement..... $1.00

Attorneys. *Attorneys—*

To the attorney of the prevailing party a fee of five per cent. on the amount of any judgment; to be taxed by the clerk in the costs against the judgment debtor. And in all actions of replevin the court shall allow the attorney of the prevailing party a fee of not less than five dollars, nor more than ten dollars, to be taxed as aforesaid.

Constables. *Constables—*

For serving every subpœna, notice or order, .35
For advertising property under execution or any order..... .35
For selling property under execution or any order..... .50
On every dollar collected on execution or any order..... .03

Justice of supreme court. *Supreme Court Justice—*

Hearing application to set aside order..... 1.00

Witnesses. *Witnesses—*

Witnesses subpœnaed for each day..... .50
Attending from any other county one dollar for every thirty miles to and from the court, besides witness fee.
No witness fees shall be allowed for more than five witnesses for each party, nor shall fees be allowed for any witness not subpœnaed, and the subpœna returned into court.

FEES AND COSTS ON APPEAL.

Attorneys. 217. *Attorneys—*

Fees on appeal. Of prevailing party a fee of five dollars in all causes where the judgment appealed from does not exceed one hundred dollars, and ten dollars where judgment appealed from exceeds the sum of one hundred dollars.

Clerks— Clerks.

Calling and swearing a jury	$8.20
Docketing judgment, and filing transcript and affidavit	.75
Entering action and filing bond and transcript	.50
Entering judgment	.10
Entering and filing execution	.20
Every subpœna	.10
Every witness sworn or affirmed	.10
Every order or rule of court, or of a judge	.10
Every execution	.40
Taking and entering verdict	.10

Constables— Constables.

Attending jury	.50
Serving every subpœna	.25

Court— Court.

Every appeal heard in circuit court	.50

Criers— Criers

Calling and swearing each witness	.05
Calling jury	.10
Every appeal	.10

Jurors— Jurors.

Same fees as allowed in circuit court.

Sheriff— Sheriff.

Making and returning a list of the jury	.20

Fees in first instance paid by appellant.

218. The fees of the circuit court for hearing the appeal, and the fees of the clerk for entering the action and filing the bond, and transcript shall be paid in the first instance by the appellant; if he refuses to pay same before the hearing, the court shall refuse to hear such appellant, and the appellee, if he will pay the same, may move the court to make, and the court may thereupon make, such disposition of the case as if the appellant failed to appear and prosecute his appeal.

Fees paid before service required.

219. No constable, clerk, or other officer shall be required to serve any process, or perform any service under any provision of this act, until his legal fees for so doing shall have been paid.

REPEALER.

Repealer.

220. All acts and parts of acts, general, special or local, inconsistent with the provisions of this act, are hereby repealed; *provided, however*, that said repeal shall not in anywise affect any suit, proceeding, judgment or order of any district court heretofore established, but all suits now pending in any district court of this state shall proceed as nearly as may be, according to the provisions of this act, with the same force and effect as if they had been commenced under its provisions.

Proviso.

Appointments not affected by repeal of this act.

221. The repeal by this act of any statutory provision, which is consolidated and re-enacted in this act, by virtue of which any appointment shall have been made, or any office is or shall be held, shall not be construed to affect such office, or in any way affect such appointment, but the said appointment shall continue, and the said officers shall be held subject to the provisions of law in force, after the repeal of such statutory provision.

Approved June 14, 1898.

CHAPTER 229.

An act to repeal sundry acts relative to district courts.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Repealer.

1. That from and after the passage and adoption of this act, the following acts and parts of acts be repealed:

(1.) "An act to establish district courts in the city of Newark," passed March 4, 1873.

(2.) "A supplement to an act entitled 'An act to establish district courts in the city of Newark,' approved April 4, 1873."

(3.) "A further supplement to an act entitled 'An act to establish district courts in the city of Newark,' passed March fourth, eighteen hundred and seventy-three." Approved April 17, 1876.

4.) "An act constituting district courts in certain cites in this state." Approved March 9, 1877.

(5.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state.' Approved March ninth, one thousand eight hundred and seventy-seven."

(6.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, anno domini one thousand eight hundred and seventy-seven." Approved March 20, 1878.

(7.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved April 5, 1878.

(8.) "An act concerning the district courts of cities in this state, created by special statute." Approved March 20, 1878.

(9.) "An act relative to the jurisdiction and practice of district courts in this state." Approved March 27, 1882.

(10.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved March 31, 1882.

(11.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, Anno Domini one thousand eight hundred and seventy-seven." Approved April 14, 1884.

(12.) "An act to amend an act entitled 'An act relative to the jurisdiction and practice of district courts in this state,' approved March twenty-seventh, one thousand eight hundred and eighty-two." Approved March 11, 1885.

(13.) "An act to amend an act entitled 'An act constituting district courts in certain cities in this state,' (revision), approved March ninth, one thousand eight hundred and seventy-seven." Passed April 4, 1885.

(14.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state.'" Approved March 23, 1885.

(15.) "A supplement to an act relative to the jurisdiction and practice of district courts in this state," approved March twenty-second, one thousand eight hundred and eighty-two. Approved March 25, 1885.

(16.) "An act to amend an act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved February 20, 1886.

(17.) "A supplement to an act entitled 'An act relative to the jurisdiction and practice of district courts in this state,' approved March twenty-seventh, one thousand eight hundred and eighty-two." Passed February 9, 1886.

(18.) "A supplement to an act entitled 'An act relative to the jurisdiction and practice of district courts in this state,' approved March twenty-seventh, one thousand eight hundred and eighty-two." Approved March 6, 1886.

(19.) "An act to amend an act entitled 'An act relative to the jurisdiction and practice of district courts in this state,' approved March twenty-seventh, one thousand eight hundred and eighty-two." Approved April 16, 1888.

(20.) "A supplement to an act constituting district courts in certain cities in this state," approved March ninth, one thousand eight hundred and seventy-seven. Approved March 6, 1888.

(21.) "A further supplement to an act entitled 'An act relative to the jurisdiction and practice of district courts in this state,' approved March twenty-seventh, one thousand eight hundred and eighty-two." Approved February 11, 1888.

(22.) "A supplement to an act entitled 'A supplement to an act entitled "An act constituting district courts in certain cities in this state,"' which supplement was

approved April fourteenth, one thousand eight hundred and eighty-four." Approved April 23, 1888.

(23.) "A further supplement to the act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved January 30, 1888.

(24.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state,' (revision), approved March ninth, one thousand eight hundred and seventy-seven." Approved April 3, 1889.

(25.) "An act to amend an act entitled 'An act relative to the jurisdiction and practice of district courts in this state,' approved March twenty-seventh, one thousand eight hundred and eighty-two, which amendment was approved April sixteenth, one thousand eight hundred and eighty-eight." Approved March 18, 1889.

(26.) "A further supplement to the act entitled 'An act to establish district courts in the city of Newark,' passed March fourth, one thousand eight hundred and seventy-three." Approved May 9, 1889.

(27.) "A further supplement to an act entitled 'An act constituting district courts in certain cities in this state,' (revision), approved March ninth, one thousand eight hundred and seventy-seven." Approved June 19, 1890.

(28.) "A supplement to an act entitled 'An act to regulate the action of replevin,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four." Approved June 13, 1890.

(29.) "An act concerning district courts in this state." Approved March 2, 1891.

(30.) "A further supplement to an act entitled 'An act to regulate the action of replevin,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four." Approved March 23, 1892.

(31.) "An act concerning appeals from district courts in this state." Approved March 24, 1892.

(32.) "A further supplement to an act entitled 'An act constituting district courts in certain cities in this state,' which said act was approved March ninth, one thousand eight hundred and seventy-seven." Approved February 16, 1892.

(33.) "A supplement to an act entitled 'An act constituting district courts in certain cities of this state,' ap-

proved March ninth, one thousand eight hundred and seventy-seven." Passed March 8, 1892.

(34.) "A further supplement to an act entitled 'An act constituting district courts in certain cities of this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved March 28, 1892.

(35.) "A further supplement to an act entitled 'An act constituting district courts in certain cities in this state,' (revision), approved March ninth, one thousand eight hundred and seventy-seven." Approved April 8, 1892.

(36.) "An act to amend an act entitled 'A supplement to an act entitled "An act constituting district courts in certain cities of this state," approved March ninth, one thousand eight hundred and seventy-seven,' which supplement was approved March fifth, one thousand eight hundred and seventy-eight." Approved March 13, 1893.

(37.) "An act amendatory of an act entitled 'An act to amend act entitled "An act relative to the jurisdiction and practice of district courts in this state," approved March twenty-seventh, one thousand eight hundred and eighty-two,' which amendment was approved March eleventh, one thousand eight hundred and eighty-five." Approved March 17, 1893.

(38.) "An act relative to the jurisdiction and powers of district courts in this state." Approved March 17, 1893.

(39.) "A supplement to the act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved May 17, 1894.

(40.) "An act in relation to the organization, powers and jurisdiction of district courts." Passed February 19, 1895.

(41.) "An act relating to district courts of this state." Approved March 3, 1896.

(42.) "An act relating to the district courts of this state." Approved March 26, 1896.

(43.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved March 30, 1896.

(44.) "A supplement to the act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved March 26th, 1896.

(45.) "A supplement to an act entitled 'An act constituting district courts in certain cities in this state,' approved March ninth, one thousand eight hundred and seventy-seven." Approved March 26, 1896.

Rights acquired previously not impaired.

2. The repeal of any statutory provision by this act shall not affect or impair any act done or right vested or accrued, or any proceeding, suit or prosecution had or commenced in any civil cause before such repeal shall take effect, but every such act done or right vested or accrued, or prosecution had or commenced, shall remain in full force and effect to all intents and purposes as if such statutory provision so repealed had remained in force, except that, where the course of practice or procedure for the enforcement of such right or the prosecution of such suit shall be changed, actions then pending or thereafter commenced shall be conducted as near as may be in accordance with such altered practice or procedure.

Repealers to continue in force.

3. All statutes and parts of statutes which were repealed or abrogated by, or were repugnant to, any law hereby repealed, shall continue to be so repealed, and shall be deemed abrogated.

Acts repealed not to be considered revived by this repealer.

4. The repeal by this act of any statute or part of a statute heretofore repealed, shall not be construed as a declaration or implication that such statute or part of a statute has been in force at any time subsequent to such first appeal.

Appointments not affected by this repealer.

5. The repeal by this act of any statutory provision, by virtue of which any appointment shall have been made, or any office is or shall be held, shall not be construed to affect such office, or in any way affect such appointment, but the said appointment shall continue, and the said offices shall be held subject to the provisions of law in force, after the repeal of such statutory provision.

Approved June 14, 1898.

CHAPTER 230.

An Act concerning partition.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Application for partition.

1. Any person being a coparcener, joint tenant or tenant in common in any tracts of land within this state, may apply by petition to any justice of the supreme court or judge of any circuit court or court of common pleas of the county wherein such lands may lie, for a partition of such tract or tracts of land; whereupon the said justice or judge shall ascertain the number of equal shares or parts in which such tract or tracts were, or at the time of such application are, held by the original coparceners, joint tenants or tenants in common, and shall nominate three persons not interested in the said land, as commissioners, to make partition of such tract or tracts into as many parts or shares as the same was originally held; and the said justice or judge shall thereupon order an advertisement to be inserted in one of the public newspapers of this state, and in such other public newspapers or places as the said justice or judge shall direct, for four weeks successively, at least once in each week, to the following or like effect, he or they making such alterations or additions as the nature of the case may require:

Nomination of commissioners.

Notice.

By ———, justice of the supreme court of New Jersey, or judge of the circuit court or the court of common pleas of the county of ———:

Notice is hereby given that, on application to me by ———, of ———, who claims an undivided ——— part of all that tract of land (giving a description of the tract or tracts intended to be divided), I have nominated A. B., C. D. and E. F. commissioners to divide the said tract (or tracts) of land into ——— equal shares or parts; and unless proper objections are stated to me at ———, on the ——— day of ——— next (which is to

be at least thirty days from the date of the notice), the said A. B., C. D. and E. F. will then be appointed commissioners to make partition of the said land, pursuant to an act entitled "An act concerning partition." Given under my hands this ——— day of ———.

Appointment of commissioners.

2. If no objections are made before the said justice or judge, on the day appointed by him for that purpose, to the persons nominated as commissioners, then the said justice or judge shall, in writing, under his hand and seal, appoint the persons so nominated to be commissioners to divide the said land, pursuant to the directions prescribed in this act; and the said justice or judge shall, in the said writing, describe the tract or tracts so to be divided, and direct the number of parts or shares into which the same is to be allotted; but if objections are made to the persons nominated as commissioners, or any of them, the said justice or judge shall then proceed to hear and determine such objections, and in case he finds them well founded, to appoint, under his hand and seal, other fit and disinterested persons in the room of those he may think proper to remove.

Tracts described.

Objections.

Survey and division into lots.

3. The said commissioners having taken the oath or affirmation hereinafter prescribed, shall cause a survey to be made in their presence of the tract or tracts to be divided, and shall then proceed to divide the same into the number of parts or shares directed by the said justice or judge in the writing containing their appointment; each part or share to contain one or more lots, as the commissioners may think proper, they having due regard in the partition to the situation, quantity, quality and advantages of each part or share, so that they may be equal in value as nearly as may be; and if the bounds of any tract or tracts so to be divided shall be controverted, the commissioners are hereby directed, if such controverted part is valuable, to separate the same from the uncontroverted part, and to make partition of the tract or tracts, in such manner that a proportion of the controverted part may be allotted to each share, as well as a proportion of the uncontroverted part; and the said commissioners, previous to the said survey, shall administer an oath or affirmation to the surveyor and chain-bearers, that they will well and truly perform

When part is controverted.

Surveyor and chain-bearers sworn.

their respective duties, honestly and impartially, which oath or affirmation any one of the said commissioners is hereby empowered to administer.

Shares numbered and described.

4. The said commissioners shall number the several parts or shares by them laid off from number one, progressively, and shall, in the same manner, number each lot in the several shares, if the same contain more than one lot, and shall make a true field-book, specifying the bounds and numbers of each lot, and also a map or maps of the tract or tracts on which the several shares or lots shall be laid down and numbered, and shall keep an exact and particular account of their time expended in the execution of the duties of this act, and of the money due for the same, and also of all expenses accrued for surveying or otherwise, agreeably to the directions of this act; and the said commissioners shall thereupon give notice, by advertisement in manner aforesaid, for three weeks successively, that on a certain day by them named, not less than one month from the date of such notification, attendance will be given at a place therein named, and an allotment, by ballot, take place, of the several parts or shares of the tract or tracts therein described, to the original coparceners, joint tenants, or tenants in common, their heirs or assigns.

Notice of allotment advertised.

Allotment, how made.

5. On application made to the said justice or judge by one of the parties to the partition intended to be made, the said justice or judge shall attend at the time and place specified in the advertisement of the commissioners, and shall, with the assistance of the said commissioners, proceed to allot the several parts or shares of the tract or tracts intended to be divided, in the manner hereinafter described; but if no application shall be made to the said justice or judge for his attendance, then the said commissioners shall, on the day appointed for that purpose, proceed, in a public manner, to number as many tickets as there are shares of land marked on the map, which shall be put in a box and the names of the original coparceners, joint tenants or tenants in common shall be put, in separate tickets, into another box, when a person appointed by the said justice, judge or commissioners shall proceed to draw a ticket of the names and then a ticket of the numbers, and so proceed until all the tickets are drawn, and the

share on the map bearing the number of the ticket drawn next after drawing the ticket with the name, shall be the separate and divided share of that original coparcener, joint tenant or tenant in common, his or her heirs or assigns, in the land so divided; of which balloting the said justice or judge or commissioners shall make a full and ample certificate, under his or their hands and seals, specifying particularly the time, place and manner of balloting and the allotment of the shares.

Certificate.

6. The said justice or judge and the said commissioners are hereby authorized, as the case may require, to issue his or their precept or precepts, under his or their hands and seals, commanding such person or persons who are able to give any necessary information, to come before him or them, when and where he or they may direct, to testify, by an oath or affirmation, concerning such acts, matters or things as may be necessary for the said justice or judge or commissioners to investigate in the execution of the trust, duties and service required of them by this act, and to bring with them all such patents, surveys, maps, records, deeds or other writings as may be necessary to be examined by the said justice, judge or commissioners.

Witnesses may be called.

7. The said commissioners shall transmit the writing containing their appointment and their oath or affirmation of office, properly certified by the person administering the same, and the map and field-book, together with the said certificate of allotment, and also their accounts, to the justice or judge from whom they received their appointment, or in case of his death, resignation or removal, then to any other justice or judge of the same court, who, after inspecting the same shall order the said instruments, excepting the account of expenses, to be recorded in the clerk's office of the supreme court, in case the proceeding is in said court, or in the clerk's office of the county in which the lands lie in case the proceeding is in the circuit court or court of common pleas of said county, which shall be good evidence of such partition; and which partition shall be as valid and effectual in law to divide and separate the said lands as if the same had been made on writs of partition, according to the course of the common law.

Proceedings to be recorded.

Expenses apportioned.

8. After the said justice or judge shall have ascertained the whole expense of such partition, he shall divide the same among the several parts or shares, which shall be paid by the persons to whom such shares were allotted, their heirs or assigns, within four weeks after the same shall be ascertained, or in default of payment of such expense, the said justice or judge shall direct a sale to be made by the commissioners of so much of those parts or shares deficient in paying the expense as will be sufficient to pay their respective proportions thereof, together with the expense accruing on such sale, and shall direct the same to be sold by the said commissioners, at public auction, to the highest bidder; and the said commissioners' deed to the purchaser shall pass as good a title for the separate enjoyment of the same as if all the owners and claimants of shares of the entire tract divided had joined therein.

Sale to pay expenses.

Commissioners' deed.

When owners are minors, and land in several counties.

9. When two or more persons shall hold real estate as coparceners, joint tenants or tenants in common, any one or more of whom are minors under the age of twenty-one years, it shall and may be lawful for the orphans' court of the county in which such real estate may be, or for the prerogative court, when such real estate is situated in two or more counties, upon application by petition made by one or more of said coparceners, joint tenants or tenants in common, or by any person duly authorized in their behalf, or claiming under them or any of them, to order and direct a division of such real estate to be made between the said owners, in such shares and proportions as they may be entitled to by law; the metes and bounds of each share to be ascertained by three disinterested commissioners to be appointed by the court, whose report, made in writing under their hands, to any term of the said court after such division shall be made and approved by the said court shall be conclusive to all parties concerned; and a copy of the appointment of said commissioners, together with their report, shall be recorded in a book to be kept for that purpose in the office of the clerk of said court, and copies thereof, duly certified under the seal of said court, shall be evidence in all courts of law or equity.

Record.

Notice, to whom given.

10. Notice of application to the prerogative court or orphans' court for the partition of any real estate shall be served upon all the joint tenants, coparceners or tenants in common interested therein, who shall not have joined in such application, and upon the guardian or guardians (if any there be) of such as are minors, at least four weeks before the time of making such application, or be published for the like space of time in one of the newspapers of this state circulated in the neighborhood of the said real estate; and no order for partition shall be made upon such application until satisfactory proof be made to the court of the service or publication of such notice as aforesaid.

Map and report of commissioners recorded.

11. Where partition shall be made by commissioners, to be appointed by the prerogative court, the court of chancery, or the orphans' court of any county, it shall be lawful for the court making such appointment to order a certified copy of the report of such commissioners, with map annexed if any there be, to be recorded by the clerk or clerks, or when there is or may be a register or registers of deeds provided by law, then with the register or registers of the county or counties in which said land or lands so ordered or directed to be petitioned shall lie, whereupon it shall be the duty of such commissioners to cause the same to be recorded accordingly at the cost and expense of the parties interested in said lands.

Duty of clerk or register.

12. Upon filing such copy of the report and maps, if any there be, and of said order, with such clerk or clerks, register or registers, it shall be his or their duty to record the same in the proper book as a deed; and the papers required by the seventh section, and preceding section of this act to be recorded, shall be recorded by such clerk or clerks, register or registers in the proper book, as a deed, and not elsewhere.

Costs assessed and paid.

13. The necessary costs and expenses which shall arise under an order of the prerogative court or orphans' court in any of the cases aforesaid, shall be assessed by the said court upon each share, in proportion to the value divided to him or her, and may be recovered by a warrant from the said court, directing distress and sale to be made of so much timber, wood or herbage as may be found on the part divided to him or her, or of

Distrained.

other property belonging to such owner as will be sufficient to pay the costs and expenses aforesaid, and costs of such distress and sale.

Provision in case of waste.

14. On a partition made by virtue of an order of the prerogative court or orphans' court in any of the cases aforesaid, if any owner or any person claiming under him or her hath, after the death of the testator or intestate, and before the division, cut off or made use of any timber or committed any waste or destruction on the premises, the commissioners appointed to make the division shall estimate the damage done by such owner or person claiming under him or her, and divide the premises so that the owner shall be charged with said damage and have a share proportionably less in value than the other owners who have done no waste or damage.

Defects in form not to invalidate partitions or sales.

15. No partition of lands in this state heretofore made between coparceners, joint tenants or tenants in common, by order of any orphans' court in said state, nor any sale thereof by commissioners appointed to make such partition, shall be held or esteemed to be invalid by reason of any defect in the form of the application, or of any supposed want of power in said court to order or decree said partition or sale, where the said application for partition is in fact between coparceners, joint tenants or tenants in common, and the heir or heirs of any deceased coparcener, joint tenant or tenant in common, or any claiming under them, but the said partition and sale, if in other respects legal, shall and the same is hereby declared to be valid and effectual in law.

When land to be sold.

16. If the commissioners appointed by virtue of this act shall in any case be of opinion that the tract or tracts of land or real estate in question are so circumstanced that a partition thereof cannot be made without great prejudice to the owners of the same, they shall so report; and if it shall appear by satisfactory proof that the said tract or tracts of land or real estate cannot be partitioned among the owners and proprietors without great prejudice to their interest, then and in such case the court or justice or judge to whom the application for the partition of such tract or tracts of land or real estate shall have been made, or in case of the death, resignation or removal of the said justice or judge, any

other justice or judge of the same court may order the said commissioners, or persons appointed to make partition as aforesaid, to sell such tract or tracts of land or real estate at public auction to the highest bidder.

Report of sale.

17. The said commissioners shall, after making such sale or sales, report the same by writing, under their hands, to any stated or special term of the court by which, or by a justice or judge whereof, such sale was ordered to be made.

If approved, deed made.

18. If the court to which the report of the sale of such land or real estate shall be made as aforesaid, shall approve of such sale, it shall confirm the same as valid and effectual in law, and shall, by order of said court, direct the said report to be recorded, and the said commissioners to execute good and sufficient conveyances in the law to the purchaser or purchasers for the tract or tracts of land or real estate so sold; which said conveyances, duly executed as aforesaid, shall operate as an effectual bar, both in law and equity, against the said owners and proprietors, and against all and every person or persons claiming by, from or under them, or any of them; and a copy of such report, so recorded as aforesaid, duly certified under the seal of said court, shall be evidence in any court of this state.

Oath of commissioner.

19. Every commissioner appointed by virtue of this act shall, before he enters upon the duties of his appointment, take an oath or affirmation before some person duly authorized to administer oaths and affirmations in this state, that he will honestly, faithfully and impartially execute the trust and perform the duties and services required of him by this act, to the best of his skill, knowledge and judgment.

When vacancies occur.

20. In case of death, resignation, neglect or refusal to serve of any of the commissioners to be appointed by virtue of this act, before the trust, duties and services hereby required of them shall be completed, then the court, justice or judge to whom the application for partition shall have been made, or in case of the death, resignation or removal of such justice or judge, any other justice or judge of the same court shall, by writing under his hand and seal, appoint another commissioner or commissioners, who, after taking the oath or affirma-

tion prescribed by this act, shall be vested with the like powers and authority as if he or they had been originally appointed.

Survivors may make deeds.

21. In all cases where a sale shall be made by commissioners by virtue of this act, if any of the said commissioners shall die after making such sale, and either before or after the confirmation thereof, it shall be lawful for the surviving commissioner or commissioners to make report of such sale, and if the sale be confirmed, to execute a deed or deeds of conveyance to the purchasers of the said real estate, pursuant to such sale; which deed or deeds shall have the same force, effect and validity as if made and executed by all the said commissioners.

Proceeds of sale, disposition.

22. The moneys arising from every sale as aforesaid shall be ordered by the court to be paid by the commissioners to the parties interested in the real estate so sold, their guardians or legal representatives, in proportion to their respective rights in the same, deducting from their respective shares the costs and charges which may be allowed and ordered to be retained out of the same; and if any of the said parties shall be absent from this state, without such legal representative, the proportion of the money due to every such party shall be put out at interest on sufficient security of real property, or invested in public stock, by order and under the direction and control of said court for the benefit of such party.

Guardian to give bond.

23. It shall be the duty of the said courts respectively, to require of the guardian of any person under the age of twenty-one years, entitled to a proportion of the moneys arising from any sale as aforesaid, such security by bond to the ordinary of this state, as the said courts shall judge to be sufficient, for the benefit of such minor, conditioned for the faithful discharge of the trust committed to such guardian.

Commissioners' receipts and discharges may be recorded by surrogate.

24. In all cases where commissioners appointed by virtue of this act to make partition of real estate, shall make sale thereof as aforesaid, and shall pay the net proceeds of such sale or sales to the persons entitled by law to receive the same, it shall be lawful for the said commissioners to produce the receipts and discharges therefor to the surrogate of the county in which the said

real estate, or the more valuable part thereof, is situate; and the said surrogate shall immediately record the same in the book of receipts and discharges in his office, provided the same be first proved or acknowledged in the manner that deeds of conveyance of land are required to be proved or acknowledged, which proof or acknowledgment shall be recorded with such receipts and discharges; and the said surrogate shall indorse on such receipts and discharges the book and page on which the same are recorded, with the time of recording the same, and sign his name thereto; and the said record, or a certified copy thereof under the hand and seal of office of the surrogate, shall be received in evidence in any court of record in this state, if it shall be made to appear to the satisfaction of said court that the original receipt and discharge hath been lost, or that it is not in the power of the party offering the copy in evidence to produce the same.

Partitions and sales heretofore confirmed valid.

25. All partitions and sales of real estate heretofore confirmed by the prerogative court, or by any orphans' court of any county in this state, at any term of said court, shall be valid and effectual in law, though the same were confirmed at the same term during which such partition or sale was made; *provided*, said partition or sale was otherwise legal.

Proviso.

Partition made through lands limited over.

26. Partition of lands held by coparceners, joint tenants or tenants in common, may be made by any court or jurisdiction having authority to make partition of lands on any proceeding authorized for that purpose, notwithstanding the share held by any coparcener, joint tenant or tenant in common may be for a less estate than a fee, or may be limited over after an estate for life, or any estate therein; and such partition shall bind all tenants of such share, in remainder, reversion or expectancy, who shall be entitled only to that part of the lands partitioned which may be set off in severalty to the share upon which such remaider or expectancy is limited; *provided*, that in all cases where such remainder, reversion or expectancy is limited over to any person in being, such person shall be served with like notice or process as may be by law required to be served on the owner or tenant of such share in such

Proviso.

proceeding or partition, if notice be required therein; and in all such cases where partition is made of lands, of which any share is limited over, and which are held in equal undivided shares, the commissioners, or other persons making partition, shall divide said lands and allot the shares, and certify such division and allotment in the manner directed by this act.

Partition or sale by consent of particular tenant.

27. Where there is an estate for life or lives, or other less estate, in any lands or tenements situate in this state, and the reversion or remainder in fee is owned by several persons as joint tenants, coparceners or tenants in common, and the particular tenant or tenants shall consent thereto, partition of the said lands or tenements may be made among said joint tenants, coparceners or tenants in common, by any court or jurisdiction having authority to make partition of lands; and the said particular tenant or tenants shall have the same estate or estates in the respective parts which may be set off in severalty, as he, she or they may have had in the whole lands or tenements before such partition shall have been made; and in case partition cannot be made of such lands or tenements, or any part thereof, without great prejudice to the said joint tenants, coparceners or tenants in common, so that a sale thereof shall be ordered, the whole estate, in possession as well as in expectancy, in the said lands or tenements, or in the said part thereof which cannot be divided, shall be sold, and such portion of the proceeds of said sale shall be paid to the particular tenant or tenants as shall be just and reasonable, according to the quantity of his, her or their estate and interest in said lands or tenements, and as shall be ascertained by the court ordering such partition or sale.

If residence unknown or party living.

28. Where the residence of any person interested in the proceeds of land or real estate which have been heretofore, or may be hereafter, sold, by virtue of any proceedings in partition in this state, is unknown, or where it is not known whether a person who, if living, would be interested in such proceeds of the sale of lands or real estate, is living or not, it shall be lawful for the court having the power, by order or decree, of distributing such proceeds, to order the share or interest of any such person to be invested in bonds of this

state, or of any city or county of this state, authorized by law to issue bonds, or on bonds secured by mortgage on real estate, or in such public or other securities as the court may approve, and to direct and control the custody of the securities which may be taken, from time to time, for any investment ordered; and also, either before or after an investment is ordered, at such time as the court may determine to order or decree a distribution of the share or interest, which any such person, if living, would be entitled to, among and to the person or persons interested in such proceeds, as are known to be living, in proportion to there interest therein, respectively, or to and among the person or persons who are, if it shall appear such person has died, entitled by law to receive the same as an heir or heirs; and the court may fix the time when it shall be supposed or deemed such person died; and may order refunding bonds to be given by or on behalf of any of the persons to whom any part of such share shall be distributed, to the clerk of the court and his successors in office, in such sum and with such condition, with or without security, as the court may direct.

Custody and control of bonds.

29. It shall be lawful for the said court to control the custody of said refunding bonds; and on petition of any person or persons who shall make it appear to the satisfaction of said court that the petitioner or petitioners is or are entitled to the money secured by one or more of said refunding bonds, or any part thereof, to order that the money secured thereby be collected for the benefit of such person or persons, by and in the name of the clerk of the court who is hereby authorized to sue thereon, and in case of his death pending a suit thereon, the same may be continued in the name of his successor, and said court may dispose of the money collected thereon by order or decree, as to the said court may seem just and right; and the said court may order and decree the payment of such costs and expenses out of said share or interest at any time, as the court may deem necessary and expedient.

Judgment, etc., lien only on share allotted debtor.

30. If there be, at the time of making and partition by virtue of this act, a lien upon the undivided estate of any owner, by judgment, decree, mortgage or otherwise, such lien shall thereafter be a lien only on the share

assigned or allotted to such owner; and such share shall be first charged with its just proportion of the costs of the partition in preference to any such lien.

Court to issue order directing payment of judgments out of proceeds of sale.

31. In all suits in partition heretofore or hereafter begun, in any of the courts of this state, wherein a sale of the lands sought to be partitioned is or shall be made, and any judgment or judgments are or shall be obtained against any of the distributees, their executors, administrators or legal representatives, at any time prior to the distribution of the proceeds of any such sale, such judgment creditor or creditors may, upon petition filed in such cause, have an order, and such court is hereby authorized to make the same, directing the payment of such judgment or judgments out of the proceeds of the sale of such share or shares against which the same would be a lien had such share or shares been owned by such debtor or debtors in severalty.

Land divided and residue sold.

32. In all proceedings for partition under this act, it shall and may be lawful to divide a part of the lands included in the application, and to sell the remainder thereof, whenever it shall appear by the report of the commissioners which shall designate the lands to be divided and those to be sold and by other satisfactory proof, that the whole of the lands cannot be divided among owners and proprietors without great prejudice to their interest.

Reports of sales may be made at special term.

33. All the courts in this state, exercising power under this act, are hereby authorized to receive reports of all sales made by their order or by the order of a justice or judge thereof, at any special term of said court, and to confirm such sales and order title to be made to the purchaser, and which shall be valid and effectual in law, as if made at any stated term of said court.

If judge die or go out of office.

34. In case the term of office of the justice or judge who shall have made, or who shall hereafter make an appointment of commissioners for the division of real estate shall have expired, or shall hereafter expire, or in case of his death during the progress of the proceedings, then any justice or judge of the same court, or the court to which such justice or judge belonged, may order the said commissioners to sell such

real estate, in the same manner as such justice could have done in case he had survived and his term of office had not expired.

Limitation on writ of error and certiorari.

35. Any partition of lands heretofore made or hereafter to be made upon application by any coparcener, joint tenant or tenant in common therein, to any court, judge, judges or other officers having jurisdiction in matters of partition, in which process has been served or notice given in the manner required by law, and any sale of lands by virtue of an order therefor made in any such proceeding for partition, shall be binding and conclusive upon all coparceners, joint tenants or tenants in common, and all persons claiming or to claim any interest in any share in said lands, in reversion or remainder, notwithstanding any error or illegality in such proceeding for partition or sale, unless such proceeding shall have been reversed or set aside on certiorari, writ of error or other proceeding to review the same, brought within three years after such partition or sale.

Rights of other parties preserved.

36. Nothing in this act contained shall be so construed as to injure, prejudice, defeat or destroy the estate, right or title of any person or persons claiming such tract or tracts of land, or any part thereof, or anything therein, by title under any other person or persons, or by title paramount or superior to the title of such coparcener, joint tenant or tenant in common, among whom partition is to be made; and nothing in this act contained shall extend to the partitioning of the lands held in common by the general proprietors of the eastern or western divisions of this state.

Fees.

37. There shall be allowed in proceedings under this act the following fees:

TO THE CLERK.

To clerk.

For entering and filing report of sale, fifty cents;
For recording the same, for each sheet, eight cents;
For entering order of confirmation and for conveyance, fifty cents.

TO THE SURROGATE.

To surrogate.

For drawing petition, reading, filing and recording decree appointing commissioners, and a certified copy of such decree, three dollars and forty cents;

For recording report of commissioners, for each sheet, eight cents.

COMMISSIONERS.

To commissioners.

For each commissioner, one dollar and fifty cents a day for each day employed in the service, together with all actual expenses for surveying, chain-bearing, assistants and other necessary expenses, and such further reasonable allowance as the court may judge proper, to be taxed by the court.

Commisions on sales.

38. Whenever any commissioners appointed under this act shall make sale of lands, and the court or judge shall allow them commissions on the amount of sales, such commissions shall not exceed the following rates, to wit: on all sums not exceeding one thousand dollars, two per centum; if over one thousand dollars, and not exceeding three thousand dollars, one per centum on such excess; and if over three thousand dollars, one-half of one per centum on such excess.

Inchoate rights of dower in lands may be ordered sold and one-third of proceeds invested.

39. In any proceeding for the partition of lands in the court of chancery of this state, or the orphans' court of any county therein, or upon any application made or hereafter made to any justice of the supreme court or judge of any circuit court or court of common pleas of the county wherein such lands may lie, all inchoate rights of dower in lands ordered in said proceedings to be sold, may be sold by the order of said court, justice or judge, and in such case said rights in dower shall be forever barred, and the court by which said sale shall be confirmed shall direct one-third of the net proceeds of the sale of the share or shares in such lands as are subject to such inchoate dower to be invested and the income thereof during the lifetime of the tenant in fee of such share or shares to be paid to such tenant or to the lienors upon such share or shares, and upon the death of such tenant said income shall be paid

Income to whom paid.

to the person entitled to said right in dower during her lifetime, and upon her death the court shall order the principal of said fund to be paid to the heirs-at-law of the tenant in fee or to the parties holding liens upon the said share or shares at the time of the sale thereof and remaining unsatisfied at the death of the person entitled to said right in dower, as equity may require; *provided, however*, if such person entitled to said right in dower shall signify her consent thereto in writing, acknowledged as deeds are required to be acknowledged by married women, the proceeds of the sale of such share or shares as are subject to such inchoate dower shall be paid over as though no such right existed.

Principal, to whom paid.

Proviso.

40. Any executor or administrator with the will annexed, whose testator has or shall have died seized of an undivided share of any lands, tenements or hereditaments situated in this state, and who has or shall have, under the provisions of such testator's will, power to sell such undivided share, shall hereafter have the same power to bring an action to effect a partition of such lands, tenements or hereditaments in any court in this state of competent jurisdiction, that such testator might have brought, if living.

Executor has power to bring action in partition.

41. If any master in chancery, clerk, or other person, shall willfully embezzle or convert to his own use any money that shall come to his hands under or by virtue of the provisions of this act, he shall be guilty of a misdemeanor, and, on conviction thereof shall be punished by imprisonment at hard labor, or otherwise, not exceeding two years, or by fine not exceeding one thousand dollars, or both.

Penalty for embezzlement.

42. Proceedings in partition which may be pending when this act goes into effect shall not be invalidated thereby, but any proceeding to be had upon any suit already commenced or hereafter to be brought after this act shall take effect, shall be conducted according to the provisions of this act.

Proceedings pending not invalidated by this act.

43. In all suits and proceedings for the partition of lands, tenements, hereditaments, and real estate, in which the said lands, or any part thereof, shall be ordered to be sold, if it shall appear to the court so ordering that the personal estate of the ancestor from whom said lands descended is insufficient to pay his

When personal estate is insufficient to pay debts.

just debts, it shall be lawful for the said court to direct such lands to be sold free from the lien or claim of such debts, and to make such order touching the disposition of the proceeds of sale as may be necessary for the ascertainment and payment thereout of such debts or the deficiency thereof, before the distribution of such proceeds.

Chancery may decree sale, jurisdiction.

44. The court of chancery shall have power upon bill filed in that court for the partition of real estate, to decree the sale thereof, and the jurisdiction of said court shall continue as heretofore, anything in this act to the contrary notwithstanding.

Sale of tract when undivided shares are limited.

45. In all proceedings for the partition of lands, where all or any of the undivided shares thereof is or are limited over in the manner specified in the twenty-sixth section of this act, a sale thereof may be made upon an order or decree of the court of chancery, where such proceedings shall have been commenced in that court, whenever it shall be made to appear to the court that the tract or tracts of land in question are so circumstanced that a partition thereof cannot be made without great prejudice to the owners or persons interested in the same.

Sale of share.

46. In all proceedings for partition whenever it shall appear by satisfactory proof that the interest of the owner of any share is such that the said share, if it were actually set apart, might be sold under proceedings for the sale of lands limited over, then such sale of said share, after actually setting upart the same, may be made in the proceedings for partition, and by virtue of the decree therein, instead of in proceedings for the sale of lands limited over.

Proceeds of sale, how invested.

47. When a sale shall be made under the provisions of the forty-fifth or forty-sixth section of this act, such sale and deed to the purchaser shall convey the title to said lands of all the tenants either in possession, remainder, reversion or expectancy; but the net proceeds of the sale of any share not held in fee-simple or limited over, shall be invested and kept invested in the name of the state of New Jersey, under the order and direction of the court of chancery, for the use of the person or persons owning such share, upon bond secured by mortgage to said state, either upon the property

so sold, or any part thereof, or the fee-simple of other unincumbered real estate in this state, worth at least double the principal sum so secured thereon, two-thirds of which value shall be in the land itself, independently of any building thereon; and such bond and mortgage, after being duly recorded, shall be filed in the office of the clerk in chancery, and there remain as of record until duly satisfied and discharged; and said clerk shall be authorized to certify copies thereof under the seal of said court, and such copies, so certified, shall be evidence as other records and files of said court are, when so certified; and the interest accruing on such bond shall be paid yearly or half-yearly, according to the condition thereof, to the person or persons who would have been tenant or tenants of the particular estate of such share if there had been no such sale thereof, his heirs, executors, administrators or assigns, and shall be so secured by the condition of such bond and mortgage; and the principal and the interest also, when not paid as aforesaid, shall be collected under the order and direction of the court of chancery.

Final disposition of fund.

48. Whenever all or any portion of the principal sum of money so as aforesaid secured shall be collected, it shall be paid only to the said clerk in chancery, and when so paid it shall be considered as in that court, and shall there remain until paid out or re-invested under the order and direction of that court, and said clerk and his sureties shall be responsible therefor, and no other payment shall discharge such bond and mortgage, or authorize any county clerk or register to discharge the registry or record thereof; and whenever the particular estate or estates in such share of said lands would have been determined and the same become vested in fee-simple absolute, if no such sale thereof had been made, then the said principal shall be paid or such bond and mortgage assigned, under the order and direction of said court of chancery, to the person or persons in whom such share would then have become vested in fee-simple absolute, had no such sale been made, his, her or their heirs or assigns.

When executor may sell lands.

49. In all partition proceedings wherein the sale of lands limited over shall hereafter be decreed by the court of chancery, and there shall be an executor, trustee or

administrator cum testamento annexo appointed by any last will and testament or by virtue of the order or decree of any court and by the terms of such will, such executor, trustee or administrator cum testamento annexo has authority to collect and receive the rents and issues of all or any part of such lands during the lives of any person or persons named in such will, but has no power to make sale of said lands or any interest therein upon such executor, trustee or administrator cum testamento annexo giving bonds to the ordinary (in the same manner as now required upon the granting of letters of administration) in the offices of the clerk of the court wherein said will was proved, or from which he received his appointment as such trustee or administrator, then it shall be lawful for the chancellor to decree that the proceeds of sale of any lands or interest in any lands of which said executor, trustee or administrator cum testamento annexo was entitled to the rents and profits shall be paid over to said executor, trustee or administrator cum testamento annexo, to be by him held and invested according to the law concerning other trust funds and the income thereof and paid and applied by him to the persons entitled to the rents and profits of said lands which said moneys represent; and upon the death of the person so entitled to such income that said principal sum be paid to the persons entitled to the same under the provisions of said will.

Investment of funds.

Chancellor to direct payment to devisees.

50. Whenever it shall be made to appear to the court of chancery that any land in this state, or any estate therein, hereafter sold in any partition proceeding by the order or decree of any court of this state, has been devised by any last will or testament of any person or persons, a citizen or resident of any other state at the time of the making of such last will and testament, upon any trust, or subject to any limitation over by way of expectancy or otherwise, it shall be the duty of the chancellor to direct the payment of the proceeds of such sale to such devisee or devisees, being trustees as aforesaid, as are, by the provisions of such last will and testament, under said trust, entitled to have and hold the land sold as aforesaid, notwithstanding the estate of such devisee or devisees, trustees as aforesaid, created or passed by said last will and testament, be

subject to a limitation over or be less than an estate in fee-simple; which proceeds of sale shall be held, accounted for and disposed of by such devisee or devisees, trustees as aforesaid, in all respects as directed by the provisions of such last will and testament, and not otherwise; *provided*, that nothing herein contained shall relieve such devisee or devisees, trustees as aforesaid, from the duty to give security, in the state of which such testator was a citizen or resident at the time of his death, for the faithful execution of such trust in respect to such proceeds of said sale, when required so to do either by the provisions of such last will and testament or by the order of any court of competent jurisdiction in said state.

Proceeds held and accounted for.

Proviso.

51. In all causes now pending, or which may hereafter be commenced in the court of chancery, for partition of lands devised by a parent to his or her children, of which lands any share is limited over, the proceedings may be in conformity with the authority and practice of said court, as the same were before the passage of this act, unless the said court shall otherwise order and direct.

Proceedings in conformity with practice of court.

52. All estates by courtesy and dower in real estate which is the subject of a suit for partition may be sold by the decree of the court of chancery and a certain sum be ordered to be paid in satisfaction thereof; or a certain share of the proceeds of the sale of said real estate be invested for the benefit of the person or persons entitled to such estate, in the same manner as is provided for by the rules and practice of said court on the sale of such estates.

Sale of estates by courtesy and dower.

53. The chancellor shall make such order for the payment of the costs and expenses of the proceedings aforesaid as the practice and authority of said court, in partition and sale thereon, will permit, and as he shall deem equitable and just.

Provision for expenses.

54. It shall not be necessary, in the first instance, to make any creditor having a lien on any real estate whereof a partition is sought in the court of chancery, or any part thereof, by judgment, decree, mortgage or otherwise, a party to the proceedings, nor shall the partition of the premises alter, affect or impair the lien of

Creditor not party to proceedings.

such creditors, except in the cases provided for in the next section.

Lien a charge only on assigned share.

55. Where the lien is on the undivided interest or estate of any of the parties, such lien, if partition be made of the premises, shall thereafter be a charge only on the share assigned to such party, and such share shall be first charged with its just proportion of the costs of the proceedings in partition in preference to any such lien.

Creditor having lien on undivided interest may be party to proceedings.

56. The complainant in any such suit in partition may, at his or her election, make every creditor having a lien on the undivided interest or estate of any of the parties, by mortgage, judgment, decree, devise or otherwise, a party to the proceeding, and in such case the bill shall set forth the nature of such lien or incumbrance.

Court to direct creditor having lien be made party to proceedings.

57. Before the making of any order for the sale of the premises where the creditors having liens shall not have been made parties, the court, on the motion of either party, may admit any creditor having a lien on the undivided interest, share or estate of any of the parties, by mortgage, judgment, decree, devise or otherwise, a party to the proceeding, and may thereupon, by an order of reference for that purpose, direct a master of the court to ascertain and report whether the shares or interests in the premises of the parties in such suit, or any of them, are subject to any lien or incumbrance by mortgage, devise, judgment or decree, or otherwise, and if so, to what liens or incumbrances, and by whom they are held.

Order of court regarding sale where liens exist.

58. If it shall appear, by the proceedings in the suit or by such report, that there are any existing liens or incumbrances upon the estate, share or interest in the premises of any party named in the proceedings in said suit, the court shall, if it order sale, in the decree for sale direct the master or commissioners, as the case may be, to bring into the court of chancery and pay to the clerk thereof the portion of the moneys arising from the sale of the estate, share and interest of said party after deducting the portion of the costs, charges and expenses to which it shall be liable.

59. Any party in interest, either owner or incumbrancer, may apply to the court to order such moneys

or such part thereof as he shall claim to be paid to him, which application shall be accompanied by his affidavit, stating, to the best of his knowledge, information and belief, the true amount actually due on each incumbrance, the owner of such incumbrance and his residence, so far as known to such party; and it shall be also accompanied by proof, by affidavit, of the due service of a notice on each owner of any incumbrance, and on the owner of the share if the notice be given by an incumbrancer of the intention to make such application; if such owner reside in this state, the notice shall be a fourteen days' notice, at least, and shall be served personally, or, if he be absent from his residence, by leaving a copy there with some person of over the age of fourteen years; if the person to be notified reside out of this state, such notice shall be served on him or her personally, twenty days previous to the time named therein for making the application or by publishing the same in a newspaper (to be designated by the court) published in this state for four weeks successively, at least once in every week, and mailing a copy thereof to his address (if it can be ascertained) at least twenty days before the time named for the application.

Application for moneys claimed, affidavits, etc.

60. Upon such application and proof of notice being made, the court shall proceed to hear the proofs and allegations of the parties, and make such order thereupon as the circumstances of the case may require.

Hearing and order.

61. When the amount of existing incumbrances shall have been ascertained, the court shall proceed to order a distribution of the moneys so brought into and remaining in court among the several creditors having such incumbrances, according to the priority thereof, respectively, and the other persons, if any, entitled thereto.

Distribution of moneys.

62. The clerk or other officer of the court by whom any such incumbrance shall be paid off, shall procure satisfaction thereof to be acknowledged in the form required by law, and shall cause such incumbrance to be duly satisfied or canceled of record, and shall defray the expenses thereof out of the portion of the moneys in court belonging to the party by whom such incumbrance was payable, if there be enough for the

Clerk to pay incumbrance and cancel same.

purpose, but if not, then out of the money due the incumbrancer.

No other party affected.

63. The proceedings to ascertain and settle the amount of incumbrances as herein provided shall not affect any other party in such suit for partition nor delay the paying over or investing of moneys to or for the benefit of any party except the one upon whose share in the premises the incumbrances are.

Conveyance executed to be recorded, and a bar.

64. Any conveyance executed in pursuance of sale in partition, under proceedings in partition in the court of chancery, under and in pursuance of the provisions of this act, shall be recorded in the county where the premises are situate, and shall be a bar, both in law and equity, against all persons interested in such premises in any way, who shall have been parties in the said proceedings, and against all other persons claiming by, from or under such parties or any of them.

Parties who desire to enjoy their shares in common.

65. Where two or more parties to a suit now pending, or which may hereafter be commenced, in the court of chancery for the partition of lands, make it appear to the court that they desire to enjoy their respective shares of the whole or any part of said lands in common with each other, it shall be lawful for the court, in its discretion, to direct partition to be so made as to set off to them their shares of the lands partitioned, without partition as between themselves, to be held by them in common; and where any party to any such suit for partition is a minor, under the age of twenty-one years, it shall be lawful for the court, in its discretion, and if it shall appear to be for the benefit of such minor, to direct partition to be so made as to set off to such minor, and to any other party or parties to such suit who may consent thereto, their respective shares in the lands partitioned, without partition as between themselves, to be held by them in common.

One-third of net proceeds may be paid instead of invested.

66. In all partition cases in the court of chancery, where inchoate rights of dower in any lands are ordered to be sold therewith, instead of investing one-third of the net proceeds of the sale of the share or shares in such lands subject to such inchoate dower, as now directed by the thirty-ninth section of this act, it shall be lawful for the master or other officer making such sale, on executing to him a full release and discharge, duly acknowledged

according to law, from the tenant in fee and his wife entitled to such inchoate right of dower, to pay to them the one-third of the net proceeds aforesaid; *provided, however*, that where the share or interest of the tenant in fee has been sold by judgment or otherwise, or become subject to any valid lien, then such payment shall not be made unless all such parties in interest shall join in such release and discharge. Proviso.

Provision for partition of real estate held by coparceners, etc., any of whom shall be presumed dead.

67. Where real estate is held by coparceners, joint tenants or tenants in common, any of whom shall be presumed to be dead, pursuant to the provisions of the act entitled "An act declaring when the death of persons absenting themselves shall be presumed," passed the seventh day of March, one thousand seven hundred and ninety-seven, and it shall not be known whether such owner is living or not, or whether, if dead, he or she has devised his or her interest in such real estate, or who are his or her heirs-at-law, the other coparceners, joint tenants, or tenants in common, or any one of them, may commence a suit by bill for partition in the court of chancery, in the same manner as if all the owners of such real estate were known, making parties thereto as well such owner so presumed to be dead, by his right name, as his heirs-at-law and devisees, by the right name of such of them (if any there be) as shall be known to be his or her heirs-at-law if such owner were actually dead, and by the name of the unknown heirs-at-law and devisees of such owner, by the service of a subpœna to answer, as in other suits in the said court, or by a publication according to the law and practice of said court in case of absent defendants, and by such further publication as the chancellor may prescribe; and the chancellor shall have the power to make such decree against the said owner so presumed to be dead, and against his heirs-at-law, known or unknown, and his unknown devisees, as if they were known to the court and their respective interests in such real estate determined; and any deed or deeds for such real estate, made pursuant to the decree and order of the chancellor in any such cases, shall convey all the right, title and estate of all the owners of such real estate, ascertained and unascertained, as completely and effectually as if

all the owners were by name made parties to said bill, and as such brought before the court.

Repealer. 68. All acts and parts of acts inconsistent with this act are hereby repealed, but this repealer shall not revive any act heretofore repealed.

Approved June 14, 1898.

CHAPTER 231.

An Act to repeal sundry acts relative to partition.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Repealer. 1. The several acts hereinafter stated and entitled as follows, to wit:

(1.) "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four;

(2.) A supplement to an act entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common," approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April ninth, one thousand eight hundred and seventy-five;

(3.) A supplement to an act entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common," approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April seventeenth, one thousand eight hundred and eighty-four;

(4.) A supplement to an act entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common," approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April twentieth, one thousand eight hundred and eighty-five;

(5.) A further supplement to an an act entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April sixteenth, one thousand eight hundred and eighty-six;

(6.) A supplement to an act entitled "A further supplement to an act entitled 'An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common'" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April sixteenth, one thousand eight hundred and eighty-six, which supplement hereby repealed was approved April eighth, one thousand eight hundred and eighty-seven.

(7.) A further supplement to an act entitled "An act for the more easy partition of lands held by corparceners, joint tenants and tenants in common" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April ninth, one thousand eight hundred and eighty-seven;

(8.) A supplement to an act entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved February twenty-first, one thousand eight hundred and eighty-eight;

(9.) A supplement to an act entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved March twenty-eighth, one thousand eight hundred and eighty-eight;

(10.) A supplement to an act entitled "An act for the more easy partition of lands held by coparceners, joint tenants and tenants in common" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved April fourteenth, one thousand eight hundred and ninety-one;

(11.) A supplement to an act entitled "An act to authorize the partition of lands, in cases where particular undivided shares therein are limited over," approved March sixth, eighteen hundred and fifty-two, which supplement was approved March thirteenth, one thousand eight hundred and ninety-three;

(12.) A supplement to an act entitled "An act for the partition and sale of real estate where some of the owners are unknown," approved March twenty-fifth, one thousand eight hundred and sixty-three, which supplement was approved January thirty-first, one thousand eight hundred and seventy-one;

(13.) A further supplement to the act entitled "An act making lands liable to be sold for the payment of debts," which supplement was approved April second, one thousand eight hundred and sixty-nine;

be and the same are hereby repealed.

Repeal not to revive acts formerly repealed.

2. The repeal of the above stated acts shall not revive any act which may have been repealed by any of the acts hereby repealed.

Approved June 14, 1898.

CHAPTER 232.

An Act respecting conveyances (Revision of 1898).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Grants of land, etc., good without attornment of tenant.

1. Every grant or conveyance of messuages, lands, tenements and hereditaments, or of rent, of the reversion or remainder of messuages, lands, tenements and hereditaments, shall be good and effectual without attornment of the tenant; but no tenant who, before notice of such grant or conveyance, shall have paid the rent to the grantor, shall be prejudiced or suffer any damage by such payment.

Warranty for life of lands void.

2. A warranty made by a tenant for life of lands, tenements or hereditaments, which shall descend or come to any person in reversion or remainder, shall be inoperative and void.

When collateral warranty void.

3. A collateral warranty, which shall be made of lands, tenements or hereditaments, by an ancestor, who, at the time of making it, hath no estate of inheritance in possession therein, shall be inoperative and void against his heirs.

Mortgage given by purchaser at time of sale preferred to previous judgments.

4. Whenever lands, tenements or hereditaments, lying and being in this state, are or shall be sold and conveyed, and a mortgage is given by the purchaser or purchasers at the same time, on the land, sold to secure the payment of the purchase-money or any part thereof, such mortgage shall be preferred to any previous judgment which may have been obtained against such purchaser or purchasers.

Deeds made by letters of attorney good.

5. All deeds, grants, sales, leases, assurances, or other conveyances whatsoever, heretofore made by virtue of letters of agency, powers of attorney, or other powers or authorities whatsoever, that were entered on the public books of records of the province of New Jersey or the public books of records of the eastern or western divisions thereof, prior to July fourth, seventeen hundred and seventy-six, whereby any lands, tenements or hereditaments whatsoever within this state or province were granted, sold, conveyed, assured, released, or transferred to any person or persons pursuant to such powers and authorities whatsoever, shall be, and are hereby declared, as good, valid, and sufficient title in the law, to all intents, constructions and purposes whatsoever, unto the said grantees, and to their heirs and assigns, as if the constituent or constituents had then and there sold and conveyed the land or lands, and had executed deeds (according to the true intent and meaning of such grants, deeds, or conveyances), which said grants, deeds or conveyances, shall be of force against, conclude and bind all and every the constitutents, employers, grantors of such powers and authorities, and their and all and every of their heirs, and all and every other person or persons claiming or to claim estate from or under them, or any of them, severally and respectively; and all lands, tenements or other hereditaments that heretofore have been or for the time to come shall be sold, conveyed, or disposed of by virtue of such powers or authorities as aforesaid, such powers shall have been or shall be first acknowledged or proved and

Sales of lands, etc., sold by letters of attorney good.

certified and entered upon the public records in the books appropriate therefor in the several record offices of this state, after which all grants and conveyances, deeds and instruments made pursuant to the powers thereby granted, shall be deemed, taken and esteemed as good, valid and sufficient titles against all and every the constituents, employers and grantors of such powers and authorities, against all claiming or to claim estate under them severally and respectively aforesaid, as if the constituent or constituents had then and there sold and conveyed the same land or lands.

Exemplification of deeds from Great Britain, etc., and books of record of this province good evidence.

6. The exemplification of any deeds or writings relating to estates, real or personal, within the state of New Jersey, proved and certified under the city seal of London or Edinburgh, in the kingdom of Great Britain, or under the seal of the city of Dublin, in the kingdom of Ireland, or under the great seal of any British colony in America, prior to July fourth, seventeen hundred and seventy-six, and any of the public books of records or registers of the province of New Jersey, or of either of the divisions thereof, prior to that date, shall be received in evidence in any court of record within this state and shall be esteemed as sufficient as if the originals were then and there produced and proved.

Conveyance of use of lands transfers possession.

7. All and every person or persons, to whom the use or uses of any tract or tracts of land within this state have been sold, given, limited, granted, released or conveyed by deed, grant, or any other legal conveyance whatsoever, or that shall hereafter be granted by any deed or conveyance whatsoever, such grantees, their heirs and assigns, shall be deemed, taken and esteemed to be in as full and ample possession of such lands, tenements and hereditaments, to all intents, constructions and purposes, as if such grantees, their heirs and assigns, were possessed thereof by solemn livery of seizin and possession, any usage or custom to the contrary notwithstanding.

Fraud or forgery not validated by this act.

8. Nothing in this act shall be construed to extend to or make good, valid and effectual, any fraud or forgery, made or used in or about any powers of agency, or letters of attorney, or other deeds, writings or records, last wills and testaments, or any bargain and sale, or

other conveyance of any estate of inheritance, grounded upon such fraudulent or forged powers of agency, or letters of attorney, or other deeds, writings or records, and last wills and testaments.

Freeholders may alien their lands.

9. It shall have been, from and after the eighteenth day of March, one thousand seven hundred and ninety-five, and shall forever hereafter be, lawful for every freeholder to give, sell or alien the lands or tenements whereof he or she is, or at any time hereafter shall be, seized in fee-simple, or any part thereof, at his or her pleasure, so always that the purchaser shall hold the lands or tenements, so given, sold or aliened, of the chief lord, if there be any, of the same fee, by the same services and customs, by which the person or persons making such gift, sale or alienation, before held the same lands or tenements; and if such freeholder give, sell, or alien a part only of such lands or tenements to any, the feoffee or alienee shall immediately hold such part of the chief lord, and shall be forthwith charged with the services for so much as pertains, or ought to pertain, to the said chief lord, for the same parcel, according to the quantity of the land or tenement so given, sold or aliened; and so, in this case, the same part of the service shall remain to the lord to be taken by the hands of the feoffee or alienee, for which he or she ought to be attended and answerable to the same chief lord, according to the quantity of the land or tenement given, sold or aliened, for the parcel of the service so due.

If freeholder alien part of land, the alienee shall hold such part of the chief lord of the fee.

Wardships, liveries, etc., taken away and discharged.

10. All wardships, liveries, primer seizins and ousterlemains, values and forfeitures of marriage, by reason of any tenure by knight's service, and all mean rates, and all other gifts, grants and charges incident or arising for or by reason of wardships, liveries, primer seizins or ousterlemains, shall be, and hereby are declared to be, taken away and discharged, from the twelfth day of March, in the year of our Lord one thousand six hundred and sixty-four; and that all fines for alienations, seizures and pardons for alienations, tenure by homage, and all charges incident or arising for or by reason of wardship, livery, primer seizin, ousterlemain or tenure by knight's service, escuage and also relief, and aid pur file marrier, and pur fair fitz chivalier, and

Fines for alienation, etc., taken away.

all other charges incident thereunto, shall be, and hereby are likewise declared to be, taken away and discharged, from the said twelfth day of March, in the year of our Lord one thousand six hundred and sixty-four; and from and after that date all tenures by knight's service and by knight's service in capite, and by socage in capite, and the fruits and consequents thereof happened, or which shall or may hereafter happen, or arise thereupon or thereby, shall be and hereby are declared to be taken away, discharged and forever abolished.

Tenures by knights service abolished.

Tenures of any estate of inheritance, before July 4, 1776, turned into free and common socage.

11. All tenures of any honors, manors, lands, tenements, or hereditaments, or of any estate of inheritance at the common law, held either of the king of England or of any other person or persons, bodies politic or corporate, at any time before the fourth day of July, in the year of our Lord one thousand seven hundred and seventy-six, are hereby declared to be turned into free and common socage, to all intents and purposes, and shall be construed, adjudged and deemed to be free and common socage from the time of the creation thereof, and forever thereafter; and that the same honors, manors, lands, tenements and hereditaments, shall forever thereafter stand and be discharged of all tenure by homage escuage, voyages royal, and charges for the same, wardship incident to tenure by knight's service, and values and forfeitures of marriage, and all other charges incident to tenure by knight's service, and of and from relief, aid pur file marrier and aid pur fair fitz chivalier.

Antecedent conveyances to operate in free and common socage.

12. All conveyances and devises of any manors, lands, tenements or hereditaments, at any time heretofore made, shall be expounded to be of such effect as if the same manors, lands, tenements or hereditaments had been then held and continued to be holden, in free and common socage only.

This act not to take away rents certain or incident to common socage.

13. *Provided*, this act, or anything herein contained, shall not take away, nor be construed to take away or discharge, any rents certain, or other services incident or belonging to tenure in common socage, due or to grow due to this state, or any mean lord, or other private person, or the fealty or distresses incident thereunto.

Tenures of lands which have been or shall be granted by this state to be allodial and not feudal.

14. The tenure upon all gifts, grants, or conveyances, heretofore made or hereafter to be made, of any manors, lands, tenements, or hereditaments of any estate of inheritance, by any letters patent under the great seal of this state, or in any other manner by this state, or the legislature thereof, or by the commissioners or agents of forfeited estates, or other lawful and competent authority under this state, or the legislature thereof, shall be and remain allodial, and not feudal; and shall forever hereafter be taken and adjudged to be and continue in free and pure allodium only, and shall be forever discharged of all wardship, value and forfeiture of marriage, livery, primer seizin, ousterlemain, relief, aid pur file marrier, aid pur fair fitz chivalier, rents, renders, fealty, and all other services whatsoever.

How joint tenancy created after February 4th, 1812.

15. No estate after the fourth day of February, one thousand eight hundred and twelve, shall be considered and adjudged to be an estate in joint tenancy, except it be expressly set forth in the grant or devise creating such estate that it was or is the intention of the parties to create an estate in joint tenancy and not an estate of tenancy in common, any law, usage, or decision heretofore made to the contrary notwithstanding.

After November 10, 1797, grantees of lands or of reversions to enjoy same benefits as original lessors.

16. From and after the tenth day of November, one thousand seven hundred and ninety-seven, all persons, and bodies politic and corporate, being grantees or assignees of any lands, tenements, or hereditaments, let to lease, or of the reversions thereof from any person or persons, and the heirs, executors, administrators, successors and assigns, of such grantees or assignees, shall have and enjoy the like advantages against the lessees, their executors, administrators, and assigns, by entry for non-payment of rent, or for waste, or other forfeitures; and also shall have and enjoy all the covenants, conditions, and agreements contained in the indentures of their said leases, demises, or grants, against the said lessees, their executors, administrators, and assigns, as the said lessors themselves, or their heirs, ought or might have had or enjoyed at any time or times.

After November 10, 1797, lessees of lands to have same advantages against grantees of reversion as against original lessors.

17. From and after the tenth day of November, one thousand seven hundred and ninety-seven, all lessees of any lands, tenements, or hereditaments, for a term of years, life or lives, their executors, administrators, and

assgins, shall have the like action and advantage against all persons, and bodies politic and corporate, their heirs, successors, and assigns, who have or shall have any gift or grant of the reversion of the said lands, tenements, or hereditaments so let, or any part thereof, for any condition, covenant, or agreement, contained in the indentures of their lease or leases, as the same lessees, or any of them, ought or might have had against the said lessors and their heirs, all benefit and advantage of recoveries in value, by reason of any warranty in deed or in law, only excepted.

After June 12, 1797, fines and common recoveries abolished.

18. From and after June twelfth, one thousand seven hundred and ninety-nine, no fine or common recovery that has been or shall be entered, made, had, or suffered in any court of record of this state, shall operate or be construed to be a conveyance or assurance of lands, tenements, or hereditaments, or in any way to bar the issue in tail, or the reversioner or remainderman of their lawful claims and entries, any usage or custom to the contrary in any wise notwithstanding.

After March 14, 1851, transfers of estates in expectancy authorized.

19. From and after March fourteenth, one thousand eight hundred and fifty-one, any person may devise or may convey, assign or charge, by any deed, any such contingent or executory interest, right of entry for condition broken or other future estate or interest in expectancy, as he may have been or shall hereafter be entitled to, or presumptively entitled to, in any lands, tenements or hereditaments, or any part of such right, estate or interest, respectively, although the contingency on which such right, estate or interest are to vest may not have happened; and every person to whom any such interest, right or estate shall have been or be devised, conveyed or assigned, his heirs and assigns shall, on the happening of such contingency, be entitled to stand in the place of the person by whom the same shall have been or be devised, conveyed or assigned, his heirs or assigns, and to have the same interest, right or estate, or such part thereof, as shall have been or be devised, conveyed or assigned to him, and the same actions, suits and remedies therefor as the person originally entitled thereto or his heirs would then have been entitled to if no conveyance, devise, assignment or other disposition thereof had

been made; *provided*, that no person shall have been or be empowered by this act to dispose of any expectancy which he may have had or have as heir of a living person, or any contingent estate or expectancy where the contingency is as to the person in whom, or in whose heirs, the same may vest, nor any estate, right or interest to which he may or may have become entitled under any deed to be thereafter executed, or under the will of any living person; *and provided, also*, that no chose in action shall by this act be made assignable at law, and that nothing in this act contained shall render any contingent estate or other estate or expectancy therein mentioned liable to be levied upon and sold by virtue of an execution. Proviso. Proviso.

20. Every deed or instrument of the nature or description hereinafter set forth in the twenty-first section of this act, and every instrument wherein a seal has been or shall be deemed necessary, heretofore or hereafter made, to or on which shall have been affixed or marked a scroll, or ink, or other device by way of a seal, shall be taken and adjudged to be of the same force and effect as if it had been actually sealed with wax, and shall be held to be as good and valid, to all intents and purposes, in all courts and places; and no such instrument shall be impeached or questioned for lack of a wax seal. Certain instruments executed with scroll of same force as sealed with wax.

21. All deeds or instruments of the nature or description following, of or affecting the title to any lands, tenements or hereditaments, lying and being in this state, or any interest therein, may be acknowledged or proved and then recorded in the office of the clerk of the court of common pleas of the county where the said lands, tenements or hereditaments are situated, that is to say: conveyances, releases, declarations of trust, mortgages, defeasible deeds or other conveyances in nature of a mortgage, releases or deeds in which the intention to operate as releases from the lien and effect of any mortgage or judgment is plainly manifested, assignments and discharges or satisfaction pieces of mortgages, assignments of judgments, letters of attorney for any sale, conveyance, assurance, acquittance or release, leases for life or any term not less than two years, or All instruments, etc., may be proven and recorded. Enumeration.

any assignments thereof absolute, or by way of mortgage, or security, agreements for sale, or written consents of any person to the execution by an executor, administrator with the will annexed, or trustee, of a power for sale, conveyance, acquittance, or release, or writings to declare or direct any use or trust of real estate, or which though made for some other purpose, are yet by the terms of any recordable deed or will which refers to such writings, made to operate as such declarations or directions, and all other instruments that may have been heretofore or may be hereafter directed by any statute to be acknowledged or proved and recorded; and also in the office of the clerk of the court of common pleas of the county in which the goods, chattels and personal property lie, unless otherwise directed in this or any other act, the following deeds and instruments not of or affecting the title to land, but of or affecting goods, chattels and personal property in this state, that is to say: chattel mortgages, assignments, releases and discharges thereof, contracts for the conditional sale of goods and chattels, deeds of personal property to literary, benevolent, religious or charitable institutions upon particular trusts therein specified or otherwise.

Also certain instruments not affecting title to land but personal property.

Enumeration.

Acknowledgment taken in this state.

22. If any deed or instrument of the nature or description set forth in the twenty-first section of this act, heretofore made and executed, or hereafter to be made and executed, shall have been, or shall be acknowledged by the party who shall have executed or who shall execute it, such party then having happened or happening to be in this state, whether residing here or elsewhere, before the chancellor, one of the justices of the supreme court, one of the masters in chancery of this state, one of the judges of any court of common pleas of any county in this state, one of the commissioners of deeds appointed for any county in this state, a clerk of the court of common pleas of any county, a deputy county clerk, a surrogate or deputy surrogate of any county, or a register of deeds of any county of this state, whether such officer was or is appointed for, or whether he was or is in the said county where such lands, tenements or hereditaments are situated or where such acknowledg-

ment was or is taken or not, such officer having first made known the contents thereof to such party making such acknowledgment, and being also satisfied that such party is the grantor in such deed or instrument, of all which the said officer shall make his certificate on, under, or annexed to said deed or instrument, or if it shall have been or shall be proved, by one or more of the subscribing witnesses to it, such witness or witnesses then having happened or happening to be anywhere in this state, whether residing here or elsewhere, that such party signed, sealed and delivered it as his voluntary act and deed, before any one of the above-named officers then having been or being anywhere in this state, and if a certificate of such proof signed by such officer shall be written upon, or under, or be annexed to such deed or instrument, then every such deed or instrument shall be received in evidence in any court of this state, as if the same were then and there produced and proved.

Certificate of officer taking acknowledgment annexed.

Such instrument admitted in evidence.

23. If the party who shall have executed or who shall execute any such deed or instrument of the description or nature above set forth in the twenty-first section of this act, or the witnesses thereto shall have happened or shall happen to be in some other state in the union or territory thereof, or in the District of Columbia, whether such party or witnesses resided or reside in this state or in such state, territory, or district, or elsewhere, then such acknowledgment or proof as is above prescribed, made before and certified by the chief justice of the United States, or any associate justice of the supreme court of the United States or any master in chancery of this state, or any circuit or district judge of the United States, or any judge or justice of the supreme or the superior courts, or the chancellor, of any state in the Union, or territory thereof, or District of Columbia, or any foreign commissioner of deeds for New Jersey, duly certified, under the official seal of such commissioner, or before and by any mayor or other chief magistrate of any city, borough, or corporation in such state, territory, or district, duly certified under the seal of such city, borough, or corporation, of which he was or is mayor or chief magistrate, such circuit or district judge, judge or justice of such supreme or superior court, or chancellor of such state, foreign commissioner of deeds, mayor or

Deeds may be acknowledged or proved in other states where the grantor or witnesses reside.

Before what officers.

New Jersey State Library

other chief magistrate then having been or being anywhere within the circuit, district, state, territory, district, city, borough, or corporation, for which he was or is appointed, or before and by any judge of any court of common pleas of such state, territory, or district, such judge then having been or being within the county or district in and for which he was or is such judge, duly certified that he was or is such judge under the great seal of such state or under the seal of the county court of the county or district in which it is made and in and for which he was or is such judge, or before and by any officer in any such state of the Union, territory thereof, or District of Columbia, then residing and being anywhere in such state, territory, or district, authorized at the time of such proof or acknowledgment by the laws of such state, territory, or district, to take the proofs and acknowledgments of deeds or conveyances of lands, tenements, or hereditaments, lying and being in such state, territory, or district; *provided*, in such case, the certificate of acknowledgment or proof shall be accompanied by a certificate under the great seal of such state, territory, or district, or under the seal of some court of record of the county in which it was or shall be made, that the officer before whom such acknowledgment or proof was or shall be made was, at the time of the taking of said proof or acknowledgment, authorized by the laws of such state, territory, or district, to take the acknowledgments and proofs of deeds or conveyances for lands, tenements, or hereditaments in such state, territory, or district, shall be as good and effectual as if such acknowledgment or proof had been made within this state before the chancellor thereof and had been certified by him.

Proviso.

Deeds may be acknowledged or proved out of the United States.

24. If the party who shall have executed or who shall execute any such deed or instrument of the description or nature above set forth in the twenty-first section of this act, or the witnesses thereto, shall have happened or shall happen to be in any foreign kingdom, state, nation, or colony, whether such party or witnesses resided or reside in this state, or in such foreign kingdom, state, nation, or colony, or elsewhere, then such acknowledgment or proof as is above prescribed, made before and certified by any master in chancery of New

Jersey, or any public ambassador, minister, consul, vice-consul, consular agent, charge d' affaires or other representative of the United States for the time being, to or at any such foreign kingdom, state, nation, or colony, or before and by any court of law of such foreign kingdom, state, nation, or colony, or before and by any notary public, or mayor or other chief magistrate of and then having been, or being within, any city, borough, or corporation of such foreign kingdom, state, nation, or colony, in which city, borough, or corporation such party or witnesses may have happened or may happen to be, certified in such cases by such court of law, notary public, mayor or chief magistrate in the manner in which such acts are usually authenticated by them, shall be as good and effectual as if such acknowledgment or proof had been made within this state before the chancellor thereof and had been certified by him.

Before what officers.

Authenticated.

25. There shall and may be appointed by the senate and general assembly, in joint meeting, proper and fit persons (who may be either male or female) for each of the counties of this state, to be styled and denominated "commissioners of deeds."

Commissioners of deeds appointed by legislature.

26. The commissioners appointed as aforesaid shall be commissioned by the governor, and hold their offices for five years; but in case any commissioner shall remove out of the town, township, borough, ward or city in which he shall reside at the time of his appointment, his commission shall thereupon become void; and further, all commissioners appointed as aforesaid, may be removed from office by the governor for malconduct during the time for which they were appointed to said office; and that it shall be lawful to appoint for any county in this state commissioners of deeds as follows: fifteen for each of the wards in the several cities of the first class in this state; five for each of the wards in the several cities of the second class in this state; three for each of the wards in the cities, towns and boroughs not included above, whenever said cities, towns and boroughs are divided into wards; and in all other cities, towns, boroughs and townships, one for every five hundred or fraction thereof of the population of such cities, towns, boroughs and townships; *provided*, every city, town, borough and township not divided into wards or

Hold office for five years.

May be removed for malconduct.

Number of commissioners.

polling districts shall be entitled to at least three commissioners of deeds.

Date of commission.

27. All commissions hereafter issued to commissioners of deeds shall bear date on the day of their appointment by joint meeting, and the term of their office shall begin on the first day of April of the current year; and every such commissioner shall, within two months next after the beginning of his term, and before he shall proceed to perform any duty required of him by law, take and subscribe an oath or affirmation before the clerk of the court of common pleas of the county for which he shall be appointed well and faithfully to perform the duties required of him by law as such commissioner.

Vacancies filled by governor.

28. Whenever any vacancy shall occur in the office of commissioners of deeds, whether by expiration of time or failure of a joint meeting of the senate and general assembly to appoint, or by death, resignation, change of residence or otherwise, the governor of the state is hereby authorized to fill such vacancy and the commissioner so appointed shall hold office until his successor shall be appointed by a joint meeting of the senate and general assembly.

Removal of commissioner from ward not to invalidate proof.

29. Any acknowledgment or proof taken before any person during the term for which such person was appointed a commissioner of deeds, after his removal from the ward for which he was appointed into some other ward in the same city, shall be held to be valid and effectual, notwithstanding such removal and the consequent invalidity of his commission.

Appointment of foreign commissioners.

30. The governor of this state is hereby authorized to appoint and commission such number of commissioners (who may be either male or female) resident in each of the states and territories of the United States and in the District of Columbia, as he may deem expedient, and where such appointment shall not be incompatible with the laws of such state, territory or district where such commissioner shall reside; which commissioners shall be called and be denominated "foreign commissioners of deeds for New Jersey," and may be described in their appointments and commissions and may describe themselves in their certificates as "foreign commissioners of deeds for New Jersey" or "commissioners for taking the acknowledgment or proof of

deeds for New Jersey in" (such state, territory or district).

Term of office.

31. Every foreign commissioner appointed by virtue of this act shall hold his office for the term of three years, but shall be removable from office at the pleasure of the governor, and in case he shall remove out of the state, territory or district in which he shall reside at the time of his appointment, his commission shall thereupon become void; and in case it shall be made to appear to the governor that any such commissioner shall charge more or greater fees than are allowed by law, it shall be his duty to remove such commissioner from office.

Certain commissioners may reside in this state.

32. It shall and may be lawful for any commissioner for the state of New Jersey, in and for the state of Pennsylvania or New York, heretofore appointed, or who may hereafter be appointed, to reside in the state of New Jersey; but nothing in this act shall be so construed as to empower such commissioner to exercise the duties of his office outside the states of Pennsylvania or New York, as the case may be, and the acts of any such commissioner who may reside or who may have resided in the state of New Jersey during his term of office, or any part thereof, shall be as valid and effectual in law as if he had during such time resided in the state of Pennsylvania or New York, as the case may be.

Fee for commission.

33. Every person applying for the appointment of commissioner, shall inclose with his application the sum of five dollars, which sum, if a commission shall be granted, shall be paid over by the governor to the treasurer, and if such commission shall not be granted, then the same shall be returned to the person making such application.

List of commissioners sent county clerk.

34. It shall be the duty of the secretary of state, annually, within ten days after the adjournment of the legislature, to make out a list of all the commissioners for other states, duly appointed and sworn, together with appointments made during the recess of the legislature, with the dates of appointment and expiration of the terms, which list he shall cause to be printed and a copy thereof sent to the clerk of the court of common pleas of each county in this state; and it shall be the duty of every such county clerk, whenever any instru-

ment of writing is presented for record, purporting to be acknowledged or proved before a commissioner residing in another state, to examine said list, and if the name of said person signing his name as a commissioner for New Jersey does not appear thereon, he shall immediately inform the person presenting such paper thereof.

Foreign commissioners to have official seal, impression sent secretary of state.

35. The foreign commissioners of deeds for New Jersey shall attest each of their official acts, by an official seal; impressions of such seals, in wax or other appropriate substance, shall be filed, with their official oaths hereinafter prescribed, in the office of the secretary of state of New Jersey, and the official certificates of such commissioners thus attested may be indorsed upon or annexed to any instrument of writing for use or record in this state, and shall be entitled to full faith and credit; and the forms of such official certificates, to be made by such officers, shall be in conformity with the laws of this state.

Fees of foreign commissioners.

36. The fee for each certificate of acknowledgment or of proof before such foreign commissioner, shall be one dollar, and for each oath administered, twenty-five cents, and no more.

Parts of this act sent foreign commissioners.

37. The secretary of state shall cause such parts of this act as relate to the duties of foreign commissioners and also the forms of acknowledgment and proof of deeds, mortgages, and conveyances, used in this state, to be printed, and shall inclose the same to every person who is now acting, or shall hereafter be appointed a foreign commissioner, together with his commission; and the secretary of state shall be entitled to one dollar, in each case, on the filing of the seals hereinabove provided for.

Fee of secretary of state.

Oath of commissioner.

38. Every foreign commissioner appointed under this act, before he shall proceed to perform any duty under and by virtue of this law, shall take and subscribe an oath or affirmation, before the mayor or other chief magistrate of the city, or before a judge of the supreme or superior court of the state where the said commissioner shall be resident, well and faithfully to execute and perform all the duties of such commissioner under and by virtue of the laws of the state of New Jersey, which said oath or affirmation shall be filed in the office of the secretary of this state.

Acknowledgment by feme covert.

39. No estate or interest of a feme covert in any lands, tenements, or hereditaments, lying and being in this state, shall hereafter pass by her deed or conveyance, without a previous acknowledgment made by her on a private examination, apart from her husband, before one of the officers mentioned in the twenty-second, twenty-third and twenty-fourth sections of this act, as the case may be, that she signed, sealed and delivered the same as her voluntary act and deed, freely, without any fear, threats, or compulsion of her husband, and a certificate thereof written on, or under, or annexed to the said deed or conveyance, and signed by the officer before whom it was made; and further, every deed or conveyance, heretofore or hereafter so executed and acknowledged, by a feme covert, and certified as aforesaid, shall release and bar her right of dower, and every deed or instrument of the nature or description set forth in the twenty-first section of this act, heretofore or hereafter executed by her and so acknowledged and certified as aforesaid, shall be good and effectual to convey or affect the lands, tenements, or hereditaments, or other property, or her interest therein, thereby intended to be conveyed or affected; *provided*, that this clause shall not be construed to enable any feme covert under the age of twenty-one years to convey or affect her lands, tenements, or hereditaments, or other property, or any right of dower, interest, or estate therein. Proviso.

Feme covert may convey by letter of attorney.

40. Any conveyance heretofore or hereafter made by virtue and in pursuance of any letter of attorney for the sale, conveyance, assurance, acquittance or release of any lands, tenements or hereditaments or other property, or interest therein, executed by any married woman who joins with her husband in executing such letter of attorney, shall be as effectual to pass any inchoate right of dower or estate in dower or other estate or right of the said married woman as if she were a feme sole and unmarried; *provided*, such letter of attorney shall have been or be acknowledged and such acknowledgment certified in the manner in this act prescribed for the acknowledgment of deeds of conveyance by a married woman. Proviso.

Clerk to provide books called "deeds," and record instruments therein.

41. The clerk of the court of common pleas of each of the several counties of this state shall record, when delivered to him for that purpose, and duly acknowledged or proved and certified as aforesaid, in large, well-bound books of good paper, to be provided for that purpose and carefully preserved and to be called and backed "deeds," the various instruments set forth in the twenty-first section of this act and therein described as conveyances, declarations of trust, releases, letters of attorney for sale, conveyance, assurance, acquittance or release, leases for life or any term not less than two years, assignments thereof absolute, agreements for sale, consents to the execution of powers, writings to declare or direct uses or trusts, and also all other instruments heretofore or hereafter directed by law to be acknowledged or proved and recorded and not by such law expressly directed to be recorded in some other class of books; and also in like books to be called and backed "ancient deeds," all ancient deeds of the description set forth in the fifty-eighth section of this act; and in like books to be called and backed "releases," all releases of deeds in which the intention to operate as releases from the lien and effect of any mortgage or judgment is plainly manifested; and in like books, to be called and backed "mortgages," all mortgages, defeasible deeds or other conveyances in nature of a mortgage and assignments of such leases by way of mortgage or security; and in like books to be called and backed "assignments of mortgages," all assignments of mortgages, whether absolute or by way of mortgage or security; and in like books to be called and backed "discharges of mortgages," all discharges or satisfaction pieces of mortgages; and in like books to be called and backed "assignments of judgments," all assignments of judgments; and in like books to be called and backed "chattel mortgages," all chattel mortgages, assignments, releases and discharges thereof, and contracts for the conditional sale of goods and chattels; and in like books to be called and backed "deeds of trust of personalty," all deeds of personal property to literary, benevolent, religious and charitable institutions; and to the said various books every person shall have access at

Book of "ancient deeds."

Book of "releases."

Book of "mortgages."

Book of "assignments of mortgages."

Book of "discharges of mortgages."

Book of "assignments of judgments."

Book of "chattel mortgages."

Book of "deeds of trust of personalty."

proper seasons, and be entitled to transcripts from the same, on paying the fees allowed by law.

Record deeds.

42. It shall be the duty of the said clerk to record in the said appropriate books, without delay, every such deed or conveyance, or other instrument, with the acknowledgments, proofs and certificates written on, or under, or annexed to the same, and the plats, surveys, schedules and other papers therein referred to and thereto annexed, by entering them, word for word, in a fair hand, noting at the foot of each record all the interlineations and words visibly written on erasures; omitting, however, to enter in the record the erasures and obliterations, and mentioning in the margin, or at the foot of such record, the day of the month and the year when the said deed or conveyance was delivered to him or brought to this office to be recorded.

Clerk to give receipt and certify on deed when received and recorded.

43. The said clerk shall give a receipt to the person who shall bring any such deed, or other instrument, mentioning therein the time when it was delivered to him or brought to his office to be recorded, its date, the names of the parties to it, and the place where the lands, tenements, or hereditaments, or property, therein specified, are situate; the said clerk shall certify on or under such deed, or conveyance, or other instrument, the day of the month and year when he received it, and the name or number of the book and page or pages in which it is recorded, and shall, when recorded, deliver it to the party entitled to it, or his order.

Penalty for neglect.

44. If any clerk shall neglect or refuse to perform any service or duty required of him by this act, he shall, for every neglect or refusal, forfeit and pay two hundred dollars, to be recovered, with costs, by action of debt by the county collector, and paid to the treasurer of this state for the use of the state; and shall also be liable for all damages which the party aggrieved may have sustained by reason of the non-performance of such service or duty.

Record not to be removed from county.

45. No record shall be removed, by writ of subpœna or otherwise, before any court, out of the county in which such record is kept, where a transcript thereof may be given in evidence.

Deeds, &c., recorded in the order received.

46. It shall be the duty of every clerk of the court of common pleas to register or record, and to index all

deeds and other instruments of the nature or description set forth in the twenty-first section of this act, in the order he shall receive them; but if two or more such deeds or instruments of or affecting the same lands, or the same property, shall be offered to or come to his hands, at one and the same time, to be recorded, then it shall be his duty to register or record and index the same according to the priority of their dates; in all cases he shall index such deeds and instruments in the names of the several parties thereto, by and to whom the same are made, executed and delivered, and also in the names of the cestuis que trust thereof, so far as they are expressly and individually named therein.

If received together.

Index all deeds.

General index.

47. In case it is not already done, the clerks of the courts of common pleas of the several counties in this state are hereby authorized and directed to provide, at the expense of their respective counties, a book, or books, and to make and therein to enter indexes in alphabetical order, to all the various books of record, called and backed "deeds," and called and backed "mortgages," heretofore or hereafter recorded in their respective offices, distinguishing the book in which each deed or mortgage is recorded, which indexes shall contain the names of the several grantors and grantees of "deeds," and the names of the several mortgagors of "mortgages," and in case a deed be made by a sheriff, the name of such sheriff and the name of the defendants mentioned in the execution, by virtue of which the sale was made; and if by executors or administrators, the name of each executor or administrator and the testator or intestate; and if by attorney, the name of such attorney and his constituents; and if by a commissioner under a law of this state, or by any officer or person, appointed or directed to sell and convey by any court of this state, the name of such commissioner, officer or person, and the person whose estate has been conveyed.

Clerks and surrogates authorized to have maps restored.

48. The clerks and surrogates of the several counties in this state are hereby authorized, whenever any of the maps on file in their respective offices shall by public use become worn, torn or otherwise impaired, so as to be wholly or partly illegible, to employ a competent person, whose duty it shall be to copy, retrace, redraft, or otherwise restore, or make legible such impaired

maps, and to re-index the same, and that the compensation of such person shall be fixed and paid by the boards of chosen freeholders of the several counties, according to law.

In case records are worn out, etc, provision for recording.

49. Whenever any of the records of any deeds, mortgages, or other instruments of record in any office of any clerk, or surrogate of any county of this state shall become worn out, mutilated, or in such condition that by use the same would be likely to become entirely void, lost, or unintelligible, and the title to lands or other property endangered, it shall be the duty of such clerk or surrogate, upon the order of the circuit judge of said county, to re-record such records in new books, numbered and paged similar to the old book or books, and certify the same under his hand and official seal to be true copies of such records, at such fees to be paid by said county as are now allowed for original records; and that any such certified record or copy thereof, certified by said clerk, or surrogate, to be a true copy, shall be received in evidence in any court of this state, and be as good, effectual and available in law as if the original instrument was then and there produced and proved.

Alphabetical index.

50. It shall be the duty of the clerks to keep, in addition to the daily entry of the same, an alphabetical index of all the names of the grantors in deeds, and parties to instruments, and mortgagors in mortgages, that may be presented for record, and said alphabetical index shall be made of all such deeds and instruments by said clerk on the same day, or the day following they are received for record.

Combination index to be kept.

51. In the recording of deeds, mortgages, wills, or other instruments, required or authorized by law to be recorded, the clerk, surrogate, or other officer, whose duty it is to make the record, shall, in addition to the indexes thereof now made and kept by him, make and keep such classified, analytical, or combination index, as the board of chosen freeholders of the respective counties shall determine, in index-books to be provided for that purpose by the said board of chosen freeholders, and shall enter therein, according to the classification thereof, an index of all the names now required to be

indexed in the alphabetical indexes of their respective offices.

Instrument must be acknowledged or proven, to be recorded.

52. No deed or instrument of the nature or description set forth in the twenty-first section of this act, heretofore or hereafter to be made and executed, shall be recorded in the office of any clerk of the court of common pleas, unless the execution of the same shall have been first acknowledged or proved and certified in the manner hereinbefore directed, except as herein stated.

When recorded record to be notice to all of the execution of the instrument.

53. Whenever any such deed or instrument of the nature or description set forth in the twenty-first section of this act, which shall have been or shall be duly executed, acknowledged or proved, and certified as aforesaid shall have been or shall be duly recorded, or lodged for that purpose, with the clerk of the court of common pleas of the county in which such lands, tenements, hereditaments, or property are situated, such record shall have been or shall be thereafter notice to all subsequent judgment creditors, purchasers, and mortgagees, of the execution of the said deed or instrument and of the contents thereof.

Instrument void until recorded.

54. Every deed or instrument of the nature or description set forth in the twenty-first section of this act, shall, until duly recorded or lodged for record in the said clerk's office, be void and of no effect against subsequent judgment creditors without notice, and against all subsequent bona fide purchasers and mortgagees for valuable consideration, not having notice thereof, whose deed, or mortgage shall have been first duly recorded; *provided*, that such deeds or instruments shall be valid and operative, although not recorded, except as against such subsequent judgment creditors, purchasers, and mortgagees.

Proviso.

Transcript of record certified shall be received in evidence.

55. The record aforesaid of any such deed or instrument of the nature or description set forth in the twenty-first section of this act, and the transcript of such record certified to be a true transcript by the said clerk in whose office the record is kept, shall be received in evidence in any court of this state and be as good, effectual, and available in law as if the original deed or instrument were then and there produced and proved; and the record and transcript of the record of such

deeds and conveyances as have heretofore been or shall hereafter be recorded in the office of the secretary of state, made by him, shall in like manner be received in evidence and be as effectual and available as if the original were produced and proved.

Production of original instrument as evidence.

56. It shall be lawful for either party in any cause pending in any court of law or equity in this state to give the opposite party, his attorney or solicitor, notice in writing at least ten days before the time appointed for the trial or hearing of said cause, that he will be required at such trial or hearing to produce the original, instead of the record of any deed or instrument by this act authorized to be recorded, which he may think proper to offer or introduce in evidence; and in case of such notice, no record of such deed or instrument shall be received in evidence, until satisfactory proof, by the oath or affirmation of the party offering said record in evidence, or of other person, shall be made to the court or officer before whom such record may be offered, that the original hath been lost, or unintentionally destroyed, or that, after having made diligent search and inquiry, such party hath been unable to find said original; and the court shall determine, according to the circumstances and situation of the parties, whether such diligent search and inquiry has been made.

Instrument not recorded in ten years shall not be evidence.

57. When any deed or instrument of the nature or description stated in the twenty-first section of this act, hereafter recorded in any office in this state, shall not be recorded within ten years after the date of the acknowledgment or proof thereof, such record or any copy thereof shall not be evidence in any court or proceeding, but shall have the effect of giving notice, as aforesaid, of the execution and contents thereof; and the clerk recording such deed or instrument, left for that purpose, more than ten years after the date of the acknowledgment or proof thereof, shall file the original thereof in his office and there carefully keep the same, and not suffer the same to go out of his office or possession on any pretext whatever, except as hereinafter provided, and except when the same may be required to be produced by process out of some competent court, in which case it shall be taken only by such clerk or his deputy, and by him returned

Deed to be filed.

Proviso.

to said office; *provided, however*, if the grantee in said deed or instrument, or other person interested therein, shall request the same to be sent into any other county in which any of the lands or property lie, it shall be the duty of said clerk to transmit said original deed or instrument to the clerk of the court of common pleas of said other county where the lands or other property or some part thereof are situated; and said deed or instrument after being duly recorded, shall be filed and kept in the manner aforesaid, in the office of the clerk to whom it is last sent; and said several records shall be available for notice only in manner aforesaid; *provided further*, such records or any copies thereof duly certified shall be evidence in any court or proceeding, and shall have the same force and effect as if the original deed or instrument were produced and proved, in case such original deed or instrument has been destroyed, or lost, or taken out of the office of the clerk, where by law the same was required to be kept, and such destruction, loss, or removal shall be proved to the satisfaction of the said court.

Proviso.

Record in book of "ancient deeds."

58. The clerk of the court of common pleas of each county shall record in books to be called and backed "ancient deeds," all deeds or instruments of the nature and description set forth in the twenty-first section of this act, which shall be delivered to him for that purpose, and which any person deriving title from or under them may desire for his security to have recorded, although such deeds or instruments have not been and owing to the death or other disability of the grantors and subscribing witnesses can not be acknowledged or proved, provided such deeds or instruments shall be accompanied by affidavits made by some person deriving or claiming to derive title therefrom or thereunder, that the lands, tenements and hereditaments or other property, estate or interest therein, conveyed or affected by such deeds or instruments, are wholly or partly situated in said county, that affiant claims title thereto or to some part thereof, and verily believes that quiet, continuous, adverse and undisturbed possession of said lands or other property, has been enjoyed by virtue thereof, for forty years and upwards; and the clerk or officer recording such deeds or instruments shall file the

Affidavit of claimant to be made.

originals with the affidavits in his office (numbering them according to their dates of filing from one up, to correspond with the similar numbers in the record of the same), and there carefully keep the same in the same manner as he is directed in the fifty-seventh section of this act to keep such deeds which shall not have been recorded within ten years after the date of acknowledgment or proof thereof; and such records shall thereafter be deemed to be notice as aforesaid, and such deeds and instruments or records may be transmitted to and re-recorded in other offices, in the same manner and with the like effect as is set forth in the fifty-seventh section of this act and its first proviso in respect to deeds not recorded within ten years from the date of acknowledgment or proof.

Originals to be numbered and filed.

59. If the grantor or any of the grantors of any deed or instrument of the nature or description set forth in the twenty-first section of this act, heretofore or hereafter made and executed, and not acknowledged or proved according to law, and the subscribing witnesses thereto be dead or of unsound mind, or resident without the United States of America, it shall be lawful to prove such deed or instrument before the circuit court of the county in which such lands, tenements, or hereditaments or property affected thereby, or some part of the same are situate, by proving the handwriting of such witnesses, or if there be no witness to said deed or instrument, by proving the handwriting of such grantor or grantors, to the full satisfaction of said court, which proof may be made by affidavits in writing taken before any officer in this state authorized by law to take the acknowledgment and proof of deeds, and annexed to the said deed or instrument, and which proofs shall be certified on or under such deed or instrument in open court by the judge holding the same, and such deed or instrument so proved and certified shall be recorded by the clerk of the court of common pleas of the county in which such proof shall be made; and the said deed or instrument shall have the same force and effect as to notice, and the said deed or instrument, the record and certified copies thereof, shall be received in evidence as other deeds or instruments, and the record and copies thereof, when

Proof if witness be dead, insane, or resident without United States.

acknowledged or proved, certified and recorded; *provided*, that before any deed or instrument shall be proved as aforesaid, notice of the application to the said circuit court for that purpose, describing the same, and describing the lands, tenements, hereditaments, or property contained therein or affected hereby, and the time and place of such application, shall be given by advertisements signed by the person making such application, and set up in five, at least, of the most public places in said county, one of which shall be set up in the city or township in which such lands, tenements, hereditaments, or property are situated at least four weeks before making such application, and also by a publication for at least four weeks successively in some newspaper printed in said county, if any be printed therein, and if not, then in some newspaper circulating therein, and printed in an adjacent county, and due proof, by affidavit annexed to said deed or instrument, of such notice, shall be made to the said court, and certified by said judge in the aforesaid certificate of proof; *and provided, also*, that all deeds and instruments proved according to this section shall, when recorded, be filed and kept as deeds which are recorded ten years after the date of the acknowledgment or proof thereof are in the fifty-seventh section of this act directed to be kept; and a copy of any such deed or instrument so filed, duly certified, with copies of the certificates of proof or acknowledgment by the clerk in whose office it is filed, under his hand and seal, may be recorded in any other proper office in this state, in the same manner as the original deed might have been, but the record of such copy shall be available and sufficient for notice only as aforesaid.

Proviso.

Proviso.

Application to supreme court where conveyances have been lost.

60. Every person who has lost or who may hereafter lose his deeds or other instruments containing or affecting the title of his lands, or other property, by the devastation of the enemy or other unavoidable accident, and shall be desirous of having the said land or other property assured to him, in manner hereinafter directed in this act, shall make out or cause to be made out, an exact survey of the lands or premises the title deeds or conveyances for which may have been lost as aforesaid, containing the courses, distances and

boundaries thereof, or an attested copy of the original survey and boundaries extracted out of the public records, or such precise description of such other property as can be obtained, and produce the same to the supreme court or any circuit court of this state, having previously advertised the purport of his application for at least four weeks, in one of the public newspapers of this state, and also for the same time, in at least three of the most public places in the county where the lands or premises, or other property, the title or conveyance of or affecting which may have been lost as aforesaid, are situated, and shall, by evidence, prove to the satisfaction of the court, or in case of the death of the witnesses or their having joined the enemy, and that no other evidence can be procured, on oath or affirmation before the said court, declare that he or his ancestors or grantors were possessed of a legal conveyance therefor, duly executed, and that the same was lost, or destroyed by the enemy, or by other unavoidable accident, together with the time and manner of the loss or destruction of the same, and that the witnesses to the said deeds or the instruments are dead, or have joined the enemy, or can not be procured, to the best of his knowledge and belief, and shall also prove by the testimony of one or more creditable witnesses that he, the said applicant or his ancestors or grantors, had peaceable possession of the said lands and premises or other property previous to the time when the deeds or instruments for or affecting the same are alleged to have been lost or destroyed; *provided always*, that if, through the obstinancy of any person, claiming or possessing lands adjoining the premises of the persons claiming the benefit of this act, it shall be found impracticable to obtain an exact survey containing the courses, boundaries and distances of lands to be presented to the court as aforesaid, it shall be sufficient to produce the exact boundaries only, attested by proper evidence or authenticated on the oath or affirmation of the applicant. Proviso

61. The said court shall thereupon cause proclamation to be made, in open court, of the purport of the application so made as aforesaid, that if any person or persons have any objection or can show any cause why the said survey, description and testimony, produced as afore- Proclamation of application to be made for two terms.

said, should not be recorded, or why the request of the said applicant should not be granted, such person or persons may appear and support the same.

Survey and testimony filed and entered to have effect of deed.

62. The said court shall, and they are hereby authorized and required, if no sufficient objection appear, and if the survey and description so produced, and the evidence and testimony so given, shall, in the judgment of the said court, be sufficient to entitle the applicant to the relief intended to be given by this act to give judgment accordingly, and thereupon to order the said survey, description and testimony to be filed and entered in the minutes of the said court, a copy of which minutes, signed by the clerk of the said court and under the seal of the same, shall be good and available in law to assure the lands and premises so surveyed and entered, or said property so described to, and to vest the same in the said applicant, as fully, amply and effectually to all intents and purposes whatsoever as he was, or would have been vested, with the same, in virtue of any deed or instrument lost or destroyed in manner aforesaid; and said minutes may, at any time after the same are obtained by the applicant, be recorded in the office of the clerk of the court of common pleas of the county where such land or property is situated, and such record shall from and after the date thereof be notice as aforesaid, and it and certified copies thereof shall be received in evidence as fully as such original deed would be if produced or proved.

Judges may issue subpœnas for witnesses.

63. The chief justice, or any of the justices of the supreme court or of such circuit court shall be and hereby are authorized and required on application made for that purpose to issue a writ of subpœna, to compel the attendance of witnesses to prove the facts set forth by any person applying for the relief intended by this act, in like manner as in other cases in the usual course of law.

Record of deed that has stood for six years valid in evidence.

64. When any deed or instrument of the nature or description set forth in the twenty-first section of this act shall for a period of six years or more have stood on record in any of the lawful books of record in this state appropriate for such deed or instrument, the record of such deed or instrument, after the lapse of the said period, shall be and become valid for every

purpose of notice as aforesaid; and such deed or instrument, the said record and certified copies thereof, shall be received in evidence in any court and be as effectual as if the original deed had been produced and proved, notwithstanding the absence of, or any informality, defect, imperfection, or uncertainty in, the acknowledgment or proof, or the certificates thereof, provided the same shall be corroborated, by evidence of corresponding enjoyment or other equivalent or explanatory proof.

Certain informal writings may be recorded, notwithstanding they are not proven.

65. When any writing, however informal, heretofore or hereafter made, to declare or to direct any use or trust of real estate is referred to in any deed or will, or, though made or to be made for some other purpose, is yet by the terms of such deed or will, referring thereto, made to operate as such a declaration or direction, and such deed has been or shall be duly acknowledged or proved, certified, and recorded, or such will proved and recorded, and such writing is not susceptible of being proved or acknowledged according to law, then such writing, so operating as such declaration or direction, may be recorded, notwithstanding the same may not have been or may not be proved or acknowledged; *provided*, that in such case satisfactory proof shall be made before the circuit court of the county in which the real estate is situate, to be evidenced by the certificate of the presiding judge of said court endorsed upon the said writing, over his signature, that the writing so offered to be recorded is the identical writing so referred to in such recorded deed or will; and ten days' notice of the application to said court shall be given by publication in a newspaper published in the county where the land is situated, or when no newspaper is published in such county, in a newspaper circulating in such county, and such record so certified and certified copies thereof shall be evidence in the same manner and in like cases as the records of deeds.

Proviso.

How sold under judgment.

66. The estate of the lessee of any lands, tenements, hereditaments, or real estate, or of any estate, or interest therein, for life or for a term not less than two years, the lease whereof shall have been recorded in manner aforesaid, shall be liable to sale under a judgment

or decree, in like manner only, as estates of freehold are now liable to be sold thereunder.

Property lying in more than one county, deeds where recorded.

67. Whenever lands or property lie partly in one county and partly in one or more other counties, and a deed or instrument of the nature or description set forth in the twenty-first section of this act, shall have been recorded in one of such counties, it shall and may be lawful to record, in any or all of the other said counties in which such lands or property lie as aforesaid, a certified copy of the record of such deed or instrument over the hand and official seal of the clerk of the court of common pleas of the county where the same is recorded, and the record of such certified copy shall be made in the same manner and shall be as valid and effectual in law for all purposes of notice as aforesaid, and such record and certified copies thereof shall be as valid and effectual as evidence as if the original deed was then and there recorded in the stead of such certified copy; *provided*, that the certificate of the officer making such certified copy shall be recorded with the same; *and provided further*, this section shall be subject to the fifty-seventh section of this act and its last proviso, and to the fifty-eighth section.

Proviso.

Proviso.

How deeds recorded elsewhere may be recorded in this state.

68. When any deed or instrument of the nature or description set forth in the twenty-first section of this act shall have been recorded for more than twenty years in the public records of any state of the United States, territory thereof or District of Columbia, or of any county thereof, in accordance with the law of said state, territory or district, and any person shall desire to have the same recorded in this state, for the purpose of making title to any land or real estate or other property in this state, or of manifesting such title, it shall be lawful for the clerk of the court of common pleas in any county of this state in which such land, real estate or other property may be situated, upon an exemplified copy of the record of such deed or instrument and of the certificates of acknowledgment or proof thereof, being filed in the office of such clerk, exemplified and attested as a true copy in the manner required by the laws of the state in which the same shall have been theretofore recorded, thereupon to record the said copy, together with the exemplification thereof, in the

proper books of record in his office, and whether the acknowledgment or proof or certificate of the same contains any errors or imperfections or not, or does or does not conform in all respects with the requirements of the laws of this state, such record thereof shall thereafter have the same effect as to notice; and said record or certified copies thereof shall be received in evidence in the same manner as if the original deed or instrument had been duly acknowledged or proved, certified and recorded instead of such exemplified copy.

Record good in evidence.

69. Whenever any deed or conveyance for lands or real estate in this state shall purport to have been executed by virtue of any letter of attorney, and said deed shall have been properly acknowledged and recorded, the recital of the letter of attorney in said deed shall be prima facie proof of the existence thereof, notwithstanding the same may not be recorded; *provided, however*, such deed or deeds shall have been recorded at least ten years, and the person claiming under said deed shall take and subscribe an oath or affirmation that he has seen such letter of attorney so recited, which shall be recorded in the county clerk's office in the county where such lands are situate, in the book therein provided for the recording of the powers of attorney to convey lands.

Deed executed by letter of attorney.

Proviso.

70. If the execution of any lease or deed of conveyance of any railroad or canal located and constructed in more than one county, made or to be made, shall have been or shall be duly acknowledged or proved and certified as aforesaid, such lease or deed of conveyance shall and may be recorded in the office of the secretary of state in a book by him to be provided for that purpose; and the record of any such lease or deed heretofore or hereafter made, acknowledged or proved, certified and recorded as aforesaid, or a transcript thereof duly certified by the secretary of state, under the seal of his office, shall be received in evidence in any court of this state, and have the same effect as if the original lease or deed were then and there produced and proved.

Conveyance of railroad or canal in more than one county, if acknowledged, may be recorded in secretary of state's office.

71. In every contract for the conditional sale of goods and chattels hereafter made, which shall be accompanied by an actual delivery and be followed by an actual and continued change of possession of the things contracted to be sold, all conditions and reservations

Conditional sale of goods and chattels void against creditors having no notice.

which provide that the ownership of such goods and chattels is to remain in the person so contracting to sell the same, or other person than the one so contracting to buy them, until said goods and chattels are paid for, or until the occurring of any future event or contingency, shall be absolutely void as against the judgment creditors not having notice thereof, of, and subsequent purchasers and mortgagees in good faith not having notice thereof, whose deeds or mortgages shall have been first duly recorded, from the person so contracting to buy the same, and as to them the sale shall be deemed absolute, unless such contract for sale with such conditions and reservations therein be recorded as directed in the seventy-second section of this act.

Instruments, where recorded.

72. The instruments mentioned in the seventy-first section of this act shall be recorded in the office of the clerk of the court of common pleas of the county wherein the party contracting to buy, if a resident of this state, shall reside at the time of the execution thereof, and if not a resident of this state, then in the said clerk's office of the county where the property so conditionally bought shall be at the time of the execution of such instrument.

Contract of sale valid against creditor of person contracting to buy.

73. Every contract of sale hereafter recorded pursuant to the provisions of the seventy-first and seventy-second sections of this act shall be valid against the creditors of the person contracting to buy and against his subsequent purchasers and mortgagees, from the time of the recording thereof until the same be cancelled of record in the manner now provided by law for canceling of mortgages of real estate.

Commissioners of land records.

74. In every county of this state of over two hundred thousand inhabitants, one hundred or more persons being residents and freeholders of such county, may make application to the circuit court of such county, whereupon said court may, in its discretion, proceed thereon and appoint from the members of the board of chosen freeholders of such county for the time being, two commissioners, who and their successors, together with the counsel of the board of chosen freeholders of such county, for the time being, shall constitute a board to be known as the board of commissioners of land records, whose powers and duties shall be as prescribed

by this act; such board of commissioners shall continue in office for two years from the time of their appointment, and for such additional time as the said circuit court may by order direct and appoint; vacancies in the said board of commissioners, caused by death or otherwise, shall be filled in the same manner as original appointments are herein required to be made, and said commissioners shall receive for their service such compensation as the said court shall determine. Term. Vacancies. Compensation.

75. The said commissioners so appointed under the seventy-fourth section of this act in the performance of their duties, shall have free access to all public records and papers in this state, and be permitted to examine and copy the same free of charge. Have access to records.

76. The said commissioners so appointed under the seventy-fourth section of this act shall, immediately upon entering upon their duties, cause to be prepared, under their direction by competent surveyors and draughtsmen, a map or plan of said county, on which map shall be shown and delineated all the streets, avenues and roads of said county, and all blocks or parcels of land bounded by said streets, avenues and roads, and such present or former lines of large tracts of land or farms, or other general property lines and boundaries as they, in their judgment, may see fit; and the said commissioners shall cause said blocks or parcels of land shown on said map of said county to be numbered thereon from number one consecutively upward for as many blocks or parcels of land bounded by streets, avenues, roads, streams, water-ways, railroads or other boundaries as shall appear on said map; *provided, however*, that in cases of small blocks or parcels, more than one such block or parcel of land may be included in a single block number whenever in the judgment of said commissioners the same is advisable, and they may cause the larger parcel of land to be divided and numbered, or designated on said map in such way as they may think best, in order to carry out the general intent of this act. Duty of commissioners. Proviso.

77. The said commissioners, so appointed under the seventy-fourth section of this act, shall also cause said map of such county to be subdivided into convenient land sections, and shall cause said sections to be named Further duties.

(or numbered from number one consecutively upward), and cause the division lines of said several sections to be exhibited on said map; the numbers of said blocks shall commence at the southerly part of said county, and shall thence be continued northerly as nearly as may be; and said map when completed shall be marked as the official land map of said county and certified as such by the said commissioners, and filed in the office of such county in which transfers of land or deeds are recorded, as a public record; and said commissioners shall cause said map to be copied in such manner and in such numbers as the public demand for the same shall warrant, and deliver such copies to the collector of such county, to be sold by him for the benefit of such county at such price per copy as the commissioners shall fix.

Copies of maps sold.

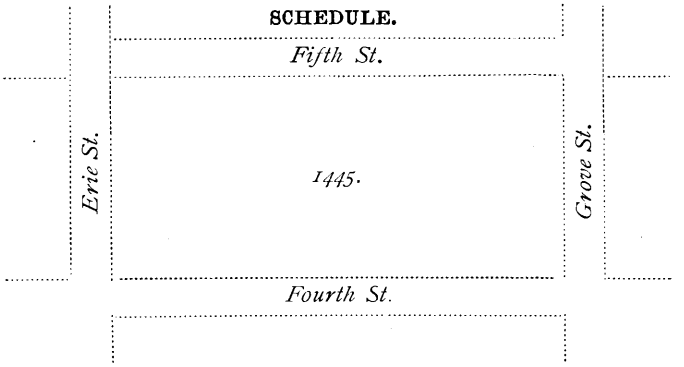
Regarding indexes.

78. If commissioners shall be so appointed under section seventy-four of this act in any county, all nominal indexes in use in the record offices of such county, shall be continued as before, and every combination or analytical nominal index theretofore in use in such office shall be continued under the direction of said commissioners, to the time of the commencement of the local indexes mentioned in the seventy-ninth section of this act, and thereafter the same last-named nominal indexes shall be continued in lieu of all other nominal indexes of such instruments by the recording officer of any such county, and the fees for such indexing now authorized by law shall be paid to such recording officer.

Method of indexing.

79. The said commissioners so appointed under the seventy-fourth section of this act, shall cause to be prepared, in book form, indexes for indexing instruments affecting land in said counties, recorded or registered in such record offices, on and after the date hereinafter fixed for the completion of the said maps and indexes, which indexes shall be prepared for use in accordance with the plan or system known as that of local indexing by blocks, and under the blocks and block numbers shown on said map, and the areas, numbers and descriptions of the blocks shown on said map; said indexes so to be prepared shall be both nominal and local, and in form substantially the same as the form of the schedule hereto annexed, which schedule is to be deemed and taken to be a part of this act; there shall be appro-

priated in each index to each block or parcel of land shown thereon not less than eight blank pages, including the heading of such index, which pages shall be properly ruled and prepared for future entries therein according to the plans of said schedule; the abbreviated description of the land affected by the instrument to be entered in the space alloted therefor in such index shall be as full as can be entered in such space, and serve to show the correctness of such entry under such block or area; but no liability is attached to any recording officer for any error in making up such brief description; the said commissioners may cause separate and distinct local indexes to be made for entering together mortgages, notices of lis pendens and other liens, and all instruments relating thereto; and the clerk of the court of common pleas of any such county may, whenever the local indexes to be prepared by such commissioners become filled with entries, continue the same separated as above; and such officer is hereby required in order to fully utilize such local indexes, whenever the entries under a block shall have consumed the space appropriated thereto, and other block areas shall have comparatively few entries credited thereto, to carry forward such entries from the first named block, by proper foot-marks and references, to the nearest of the sparsely filled spaces, until such process shall be no longer feasible, upon which such officer shall make requisition to the board of chosen freeholders for (and the said board of such county shall thereupon provide) such additional indexes of like character for the continuation of the same as may be necessary; and whenever said hereinbefore mentioned combination or analytical nominal index shall be required the same shall be provided in like manner.



Grantor.	Grantee.	Liber.	Instrument.	Date.	Record of Date	Brief Description of Premises.
John Doe.....	Richard Doe.....	445	Deed.....	760	July 1, 1889	S. s. of 5th St. 300 W. of Grove 25 x 100 ft.
John Smith.....	Joseph Brown....	450	Power of Atty.....	320	Aug. 2, 1889	N. s. of 4th St. 225 W. of Erie 20 x 80 ft.
Richard Roe and wife	William Jones...	205	Mortgage.....	150	Aug. 10, 1889	S. s. of 5th St. 312 6-12 W. of Grove, 12 6-12 x 100 ft.
James Johnson.....	George Franklin	260	Lease.....	220	Sept. 5, 1889	E. s. of Erie St. 20 S. of 5th 30 x 100 ft.
Richard Roe, Sarah Roe, Frank Robinson, Defts. by Robert Davis, Sheriff.....	William Jones...	475	Deed.....	540	March 1, 1890	S. s. of 5th St. 312 6-12 W. of Grove, 12 6-12 x 100 ft.
Patrick Flynn.....	Penna. R. R. Co.	480	Award of Commissioners.....	390	March 10, 1890	W. s. of Grove St. 75 N. of 4th, 25 x 100 ft.
William Jones.....	Robert Moore.....	225	Mortgage.....	216	April 5, 1890	S. s. of 5th St. 312 6-12 W. of Grove, 12 6-12 x 100 canceled.
George Sharp.....	Henry Brown.....	483	Deed.....	113	May 6, 1890	Lot 8 on Block (246) map of Jersey City, 1861, by R. C. Bacot.
James Jenkins.....	Thomas Scott.....	484	Deed.....	214	May 10, 1890	Lot 12, on Block (152) map of Aharsimus, 1804.

Extent and number of blocks.

80. For the purpose of notice under this act, each block or parcel of land so to be separately numbered with a block number as aforesaid, in accordance with the seventy-ninth section of this act, and also each lot of land in a block, shall be deemed to extend to the middle line of the streets, avenues and roads, then or thereafter laid out on said land map, fronting and adjoining such blocks and lots respectively.

Size, etc., of index.

81. Said books of indexes, referred to in the seventy-ninth section of this act, shall be made of such convenient form and size as said commissioners shall determine, and each book of indexes shall be endorsed with its appropriate title and volume, with the date of its commencement, and with the numbers of the blocks on the land map and the section to which the entries therein relate.

Where adopted instruments to be entered in said indexes.

82. All instruments in writing affecting land, in any such county where such local or block indexes shall be adopted, as set forth in the seventy-ninth section of this act, or any interest in such land, recorded, registered or entered by virtue and in accordance with any law of this state in any public land office, on and after the date hereinafter fixed for the completion of said maps and indexes, shall be entered in plain, legible handwriting in said indexes, as provided by this act, in addition to such nominal indexes as are now used and by this act directed to be kept in said offices; and all maps, books and indexes, and the entries therein and the contents thereof at any time to be made or prepared under this act shall be public records, and all of said maps, books and indexes shall be completed, certified and deposited for use as aforesaid in the said offices at the time hereinafter provided.

Maps, etc., a public record.

Liability of clerk for correctness of index.

83. The clerk of the court of common pleas of any such county in which local or block indexes shall be so adopted, shall be liable for any loss or damage to any person interested, by reason of his failure to index an instrument as required by this act, or by reason of any erroneous entry made by him or by his direction, or by any deputy or clerk appointed by him, in any books of index to be kept in his office as required by this act; and every such officer shall enter every such instrument on the local index in his office, in the order of its receipt

by him, under the block within which the land affected lies, in the manner provided by this act, or under which said instrument is directed to be indexed, within three days after such receipt.

Indorsement of instruments presented for recording.

84. All instruments presented to such recording officer in such county, so adopting local or block indexes, for recording or registering, shall be legibly indorsed by him with the number of the block or blocks in which the land affected by the instrument is situated; all assignments of mortgages and all releases, satisfactions and agreements respecting mortgages, to entitle the same to be recorded, shall state in the body thereof the book and page of the record of the original instruments, if recorded, to which such assignments, releases, satisfactions, and agreements respectively relate, and said recording officer need not receive such instruments for record or registry unless they contain such statements.

Statement required in assignment of mortgage.

Further requirements.

85. Every instrument entered in such local index, in counties so adopting local indexes, shall be endorsed by the recording officer with the number of the land block under which such instrument is indexed, in addition to the other matters required by law, and said local indexes by this act directed to be made and kept and the entries made therein, shall for the purpose of notice as aforesaid be deemed and taken to be a part of the record of the instruments to which such entries respectively refer or relate, and such indexes shall be deemed and held to be constructive notice, as aforesaid, of the record of entering thereof and of the execution and contents of such instruments, in the same manner, to the same extent and with like effect as the recording or registering of such instruments now is or may be notice.

Local indexes to mention block number, etc.

86. For the purpose of ready reference to the local indexes, in counties adopting local indexes, and the discovery of errors of entry therein, every deed, mortgage, or other instrument so entered shall have the block number or numbers under which the same is indexed noted on the margin at the commencement of the record or registry thereof; and the book and page of the record of every assignment of mortgage, and all releases, satisfactions, and agreements respecting mortgages shall be noted on the margin of the record of the mortgage to which the same shall refer, and such release, assign-

ment, or other instrument shall thereupon be considered as fully entered in the local indexes; every satisfaction or cancellation of a mortgage, however, shall, in addition to the entry now required by law on the record thereof, be also noted in red ink on the local index entry of such mortgage.

When mortgage is canceled.

87. Whenever, after the making of said land map, in accordance with the seventy-sixth section of this act, any large area or block division, or part thereof on said map, shall be laid out by the owners thereof on a map filed in such record office into blocks and lots with the streets or avenues shown thereon, dedicated to public use, and conveyances of lots shown thereon shall be made and recorded according to such map, it shall be the duty of the then recording officer and counsel of the board of chosen freeholders of such county to cause such new blocks to be numbered consecutively upward from the last number then upon said land map (or to be designated in some other convenient way), and to cause a map, showing such new blocks and their designations, to be filed in the same manner as the previous land maps, and the block number heading of such subdivided block shall be marked as "subdivided," and reference made at such heading to the new blocks created therefrom; the land blocks and sections, and the numbers and designations thereof, shall not be changed after they have been once designated and entered on said maps (except as herein provided).

In case a section is laid out into building lots.

Marked "subdivided."

88. In counties so adopting local indexes under the seventy-fourth section of this act, the said commissioners, or the said recording officers, after the term of office of said commissioners, shall establish such sub-indexes as circumstances may warrant, in which shall be indexed every duly recorded or registered instrument, which in its language is general or vague as to the lands affected thereby, or that for other reasons cannot be safely and conveniently entered on the local index; and such sub-index, and the methods so substituted and put into operation in such recording office, shall be of the same force and affect as any other method authorized by this act.

Sub-index.

89. In counties so adopting local indexes under the seventy-fourth section of this act, where there shall

In case of erroneous indexing.

have been an erroneous indexing of any instrument in any such land-record office, under the wrong block or otherwise, the recording officer shall, on being satisfied thereof, re-index such instrument in the proper index, and he shall at the same time make a note of such re-indexing upon the index in which the instrument was so erroneously indexed, opposite the entry thereof, and also upon the instrument recorded, if the same be in his possession, or produced to him for the purpose; *provided, however*, that no entry in any book or index in said recording offices shall be erased, so as to be illegible, but, in case of any correction, the same shall be made without destroying the original entry by drawing a line through such original entry.

Proviso.

Provisions for carrying this system into effect.

90. If commissioners shall be so appointed under the seventy-fourth section of this act for any county such commissioners may in the name of the board of chosen freeholders of the county for which they shall be appointed, for the purpose of procuring and preparing the maps and indexes directed by this act to be procured and prepared, and putting the same in use, and otherwise carrying out the directions and intent of this act, hire rooms, purchase stationery and material, and employ such surveyors, draughtsmen, or other persons as they may require for such purpose; and the compensation for such labor and the cost of room, materials, and work shall from time to time be certified by them to the circuit court of such county, and the judge of such court, if satisfied of the correctness of such expenditures, shall order the payment thereof by the board of chosen freeholders of such county, who shall order the county collector to pay the same out of such funds appropriated or to be appropriated for the maintenance of the courts and records of such county, or of any unexpended balance; and such board of commissioners shall, as soon as they conveniently can after their appointment, submit to said board of chosen freeholders a statement of the probable cost and expense of procuring and preparing such maps and indexes, and putting the same in use.

When system goes into effect.

91. The said maps and indexes shall be completed and placed in the proper offices for public use on the first day of January next, after the appointment of such commissioners under the seventy-fourth section of this act,

unless further time shall be required for the completion thereof; and if it shall be so represented to such circuit court by such commissioners, the said court shall by order extend the time for the completion thereof, and such notice of such order shall be given as the said circuit court shall direct.

Index of maps.

92. The commissioners of land records appointed heretofore under the provisions of the act entitled "An act to establish the use of local indexes for public records relating to land in certain counties in this state," approved March twenty-ninth, one thousand eight hundred and eighty-eight, or hereafter to be appointed under the provisions of the seventy-fourth section of this act, may establish such index of maps now filed and hereafter to be filed, in the land record offices of any county for which such commissioners shall have been or be appointed, as they shall deem proper; and the number or designation in such index given to every such filed map by such commissioners shall not thereafter be changed or altered, and such system of map indexing so established by such commissioners shall thereafter be continued by the clerk of the court of common pleas of any such county, as the case may be, and all maps thereafter filed shall be numbered consecutively in the order of their receipt, commencing with the number next after the last number adopted or given by such commissioners in the index so established.

System continued by clerk.

What maps may be filed.

93. After the completion and placing in the proper offices for public use the maps and indexes required by the seventy-sixth, seventy-seventh sections of this act, in any such county, no map shall be received for filing by the said clerks of such counties unless such map shall have delineated and shown thereon the block boundary or boundaries and designations established by such commissioners respecting the territory intended to be shown on such map.

Deeds not to be recorded, unless changes are noted on city atlas

94. No clerk of the court of common pleas shall record any deed which conveys any property situate in any city of this state that now has or hereafter shall have atlas or block maps upon which shall be plotted the lots and subdivisions of lots of land and real estate situate in said city, unless it shall be duly certified there-

on that the same has been presented at the office of the officer, officers or other department of such city having charge of such atlas or block maps, for the purpose of recording or noting such changes as may have been made thereby in the property lines and ownership of the property therein described; *provided, however*, that such deeds shall be recorded even without such certificate being indorsed thereon in case the fee for plotting such deeds upon the city atlas or block map, together with a fee of twenty cents for the use of the said clerk, shall be paid to him, whereupon it shall be the duty of such clerk within five days thereafter to present such deed or abstract thereof to the officer, officers or department in such city having charge of such plotting, together with the plotting fees aforesaid, for the purpose of having such changes in property lines or ownership duly plotted on such city atlas or block maps; *and provided further*, that this act shall not apply to the recording of any deed conveying land situate in any city where a contract exists between the municipal authorities of such city and the clerk for the making of abstracts of such deeds for the purpose of having the land therein conveyed plotted upon the block or atlas maps of such city; but that such deeds shall be recorded as heretofore, anything to the contrary in this act notwithstanding.

Proviso.

Proviso.

Construction of this act.

95. The sections of this act from the seventy-fourth to the ninety-fourth section shall be construed by all courts according to the true intent and purpose thereof, which is declared to be to establish the use of local indexes for public records to land in the larger counties in population in this state, and thereby give to all future instruments required by law to be recorded or registered actual publicity upon the records, and give to the public facility of access thereto; and the courts are hereby directed to give such construction to this act as shall carry out such general purpose.

Fees of clerks.

96. The fees of the clerks of the courts of common pleas and of other officers for entering, filing, recording, indexing, copying, and certifying copies of all deeds and instruments of the nature or description set forth in section twenty-one, and for the searching of records in their respective offices, and for all other services to be

performed by them under this act, shall be in future the same and payable in the same manner as were allowed and prescribed by law before this act, notwithstanding any repealer in this act of any statutes in which such fees are allowed or prescribed.

Certain words explained.

97. Every section of this act referring expressly or impliedly to the "clerks of the courts of common pleas" shall be understood, read, and construed to refer as well to "registers of deeds and mortgages," in counties in which there are or shall be such officers, as fully to all intents and purposes as if "registers of deeds and mortgages" had been expressly named therein, instead of "clerks of the courts of common pleas," "clerks" or "county clerks."

Repealer.

98. All acts and parts of acts, general, special or local, inconsistent with the provisions of this act, are hereby repealed; *provided, however,* said repeal shall not revive any act heretofore repealed and shall not in any way affect, impair, limit, disturb, annul or take away any vested right, privilege, power or office, or any procedure actually taken or begun under the said acts hereby repealed, or any of them, but every such procedure taken or begun shall remain in full force and effect to all intents and purposes, except that such procedure begun shall be conducted as nearly as may be in accordance with the practice and procedure as changed or prescribed by this act and every office held by any appointee under any act hereby repealed, but which is substantially re-enacted hereby, shall be held by him under the provisions of this act.

Proviso.

Approved June 14, 1898.

CHAPTER 233.

An Act to repeal sundry acts respecting conveyances.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Acts repealed.

1. The following acts are hereby repealed, that is to say:

"An act respecting conveyances" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four; and the acts amendatory thereof and supplemental thereto, approved March ninth, one thousand eight hundred and seventy-five; April ninth, one thousand eight hundred and seventy-five (P. L. 84); April ninth, one thousand eight hundred and seventy-five (P. L. 92); April fourth, one thousand eight hundred and seventy-six; February twenty-fifth, one thousand eight hundred and eighty; March tenth, one thousand eight hundred and eighty; March twelfth, one thousand eight hundred and eighty; March twenty-fifth one thousand eight hundred and eighty-one; March ninth, one thousand eight hundred and eighty-two; March twenty-third, one thousand eight hundred and eighty-three; March twenty-seventh, one thousand eight hundred and eighty-four; April sixteenth, one thousand eight hundred and eighty-four; February seventeenth, one thousand eight hundred and eighty-five; March twenty-fifth, one thousand eight hundred and eighty-five; April first, one thousand eight hundred and eighty-five; April tenth, one thousand eight hundred eighty-five; April twentieth, one thousand eight hundred and eighty-five; April twenty-eighth, one thousand eight hundred and eighty-six; April second, one thousand eight hundred and eighty-eight; April fourth, one thousand eight hundred and eighty-nine; June ninth, one thousand eight hundred and ninety; June thirteenth, one thousand eight hundred and ninety; June twentieth, one thousand eight hundred and ninety; February sixteenth, one thousand eight hundred and ninety-one; April second, one thousand eight hundred and ninety-one; April seventeenth, one thousand eight hundred and ninety-one; March seventeenth, one thousand eight hundred and ninety-two; February twentieth, one thousand eight hundred and ninety-three; March fourteenth, one thousand eight hundred and ninety-three; March seventeenth, one thousand eight hundred and ninety-three (P. L. 426); April fourth, one thousand eight hundred and ninety-four; April twenty-fourth, one thousand eight hundred and ninety-four; February eighteenth, one thousand eight hundred and ninety-five; February nineteenth, one thousand eight hundred

and ninety-five; March fourteenth, one thousand eight hundred and ninety-five;

"An act respecting conveyances" (Revision), approved April fifteenth, one thousand eight hundred and forty-six;

"An act for confirming of conveyances of lands, made and to be made by wills and powers of attorney, and declaring what exemplifications of records and other things shall be holden and received for good evidence of estates of inheritance, and for transferring of uses into possession," passed March seventeenth, one thousand seven hundred and thirteen–fourteen;

"An act for the relief of persons who have lost their deeds and other instruments of writing containing the title of their lands," passed October third, one thousand seven hundred and eighty-two;

"An act amendatory thereof," approved March thirty-first, one thousand eight hundred and ninety;

"An act concerning tenures," passed February eighteenth, one thousand seven and ninety-five;

"An act respecting joint tenants and tenants in common," passed February fourth, one thousand eight hundred and twelve;

"An act enabling grantees of reversions and lessees mutually to avail themselves of covenants and conditions," passed November tenth, one thousand seven hundred and ninety-seven;

"An act to abolish fines and common recoveries," passed June twelfth, one thousand seven hundred and ninety-nine;

"An act to authorize the transfer of estates in expectancy," approved March fourteenth, one thousand eight hundred and fifty-one;

"An act to authorize the registry of deeds of trust of personal property," approved February fifteenth, one thousand eight hundred and seventy;

"An act respecting the record of transfers of real property," approved March twenty-third, one thousand eight hundred and eighty-three;

"An act to provide for the indexing of deeds, mortgages, wills and other instruments required or authorized by law to be recorded," approved April twenty-first, one thousand eight hundred and eighty-seven;

"An act validating certain instruments and authorizing scroll or other device by way of seal in sealed instruments," approved March twenty-sixth, one thousand eight hundred and eighty-eight;

"An act to establish the use of local indexes for public records relating to land in certain counties in this state," approved March twenty-ninth, one thousand eight hundred and eighty-eight; and the acts amendatory thereof and supplemental thereto, approved March twenty-seventh, one thousand eight hundred and eighty-nine, March nineteenth, one thousand eight hundred and ninety;

"An act for the preservation of filed maps," approved March twelfth, one thousand eight hundred and eighty-nine;

"An act for the preservation of public records," approved March nineteenth, one thousand eight hundred and eighty-nine;

"An act to provide for the keeping of an alphabetical index to the daily entry of deeds and mortgages required or authorized to be recorded," approved April second, one thousand eight hundred and eighty-nine;

"An act requiring contracts for the conditional sale of personal property to be recorded," approved May ninth, one thousand eight hundred and eighty-nine;

"An act amendatory thereof," approved March fourteenth, one thousand eight hundred and ninety-five;

"An act for confirming of conveyances of land made by virtue of letters of agency, powers of attorney, or other powers or authorities," approved April eighth, one thousand eight hundred and ninety;

"An act respecting conveyances," approved May fourteenth, one thousand eight hundred and ninety-four;

"An act concerning the number of commissioners of deeds in and for the cities of the second class of this state," approved May sixteenth, one thousand eight hundred and ninety-four;

"An act concerning the recording and plotting of conveyances of land and real estate situate in certain cities of this state," approved February twentieth, one thousand eight hundred and ninety-five;

"An act concerning the number of commissioners of deeds in and for the cities of the first class in this state," approved March eleventh, one thousand eight hundred and ninety-six.

2. This repealer shall not revive any act heretofore repealed, and shall not affect, impair, limit, disturb, annul or take away any vested right, privilege, power or office, or any procedure actually taken or begun under the said acts hereby repealed, or any of them. Acts previously repealed not revived nor privileges impaired.

Approved June 14, 1898.

CHAPTER 234.

An Act respecting the orphans' court, and relating to the powers and duties of the ordinary, and the orphans' court and surrogates. (Revision one thousand eight hundred and ninety-eight.)

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

I. COURT, HOW CONSTITUTED; JURISDICTION.

1. There shall be in each county of this state a court of record, to be called the orphans' court, which court shall be composed of the justice of the supreme court, authorized to hold the circuit court in the county, and the judge of the inferior court of common pleas in the county, or either one of them. How constituted.

2. The orphans' court shall have full power and authority to hear and determine all controversies respecting the existence of wills, the fairness of inventories, the right of administration and guardianship, and the allowance of the accounts of executors, administrators, guardians or trustees, as hereinafter directed, and also all other matters and things hereinafter submitted to their determination; and may issue process to compel all executors, administrators, guardians and Jurisdiction over disputes concerning wills, right of administration and guardianship, and allowance of accounts. Compel executors, etc., to account.

trustees under wills to account for the estates in their hands and to cause to come before them all persons as witnesses to give evidence in any cause before the said court; and all causes in said court may be heard in a summary way and determined by the court.

For recovery of legacies and distributive shares.

3. The orphans' court shall have jurisdiction over suits for the recovery of legacies and distributive shares, in cases where the will has been proved in the same court or before the surrogate, or a decree of distribution has been made in the same court.

Transcript of will proved and letters granted, shall be filed in surrogate's office.

4. Where any will shall hereafter be admitted to probate, or letters of administration or of guardianship shall hereafter be granted, by the ordinary, the executor administrator or guardian shall file in the office of the surrogate of the county in which the testator or intestate resided at the time of his death, or in which the ward may reside, a transcript of such will, the proofs thereof, the order for probate and the letters testamentary, a transcript of such letters of administration, or guardianship, duly certified by the register under the seal of the prerogative court, which transcript shall be recorded in such surrogate's office, for which the surrogate shall be entitled to receive the same fees now allowed by law for recording wills and the proofs thereof.

Fee for filing.

Transcripts, etc., certified to may be recorded and received in evidence.

5. Any person interested may cause a transcript of any will, proofs, order for probate, letters testamentary, letters of administration, letters of guardianship, certified by the register under the seal of the prerogative court to be recorded in the office of the surrogate before whom such probate might lawfully have been made or by whom such letters might have been granted; transcripts from such record, when duly certified by the surrogate, shall be received in evidence in any of the courts of this state, and shall have the same force and effect as if certified by the register of the prerogative court.

After will is admitted to probate subsequent proceedings had before surrogate and orphans' court.

6. When any will shall be admitted to probate, or letters of administration or of guardianship shall be granted by the ordinary, all subsequent proceedings relating to the administration and settlement of the estate of such testator, intestate or minor shall be had before the surrogate and orphans' court of the county in which by law such probate might have been granted or letters issued; *provided, nevertheless,* that the inventory of any

Proviso.

administrator pendente lite appointed by the prerogative court shall be exhibited to the register, and his account settled before the ordinary in that court.

II. OFFICERS OF COURT.

Clerk.

7. The surrogate of the county shall be clerk of the orphans' court.

Surrogate not to act as proctor or judge.

8. Neither the surrogate of any county nor any person employed by him in connection with the duties of his office shall be allowed to act as an attorney, proctor or counsel in the orphans' court of that county or to sit as a judge of that court.

Masters and examiners in chancery.

9. The masters and examiners of the court of chancery shall be ex-officio masters and examiners of the orphans' court in this state, and the orphans' court may refer it to a master and examiner to take or restate an account, or refer to him any other matter or question upon which it may be necessary or proper to have the report of a master, and in all proceedings before masters and examiners under such order of reference, they shall have the same powers, perform the same duties and be governed by the same rules as in suits and proceedings in the court of chancery.

Accounts referred.

Rules of chancery to govern.

III. TERMS OF COURT.

Terms.

10. The orphans' court shall hold annually in each county three stated terms, at the times and places prescribed by law for holding the circuit court in such county, and also such special terms as the court may from time to time appoint, or as may be convened pursuant to law; all special terms, except where otherwise specially authorized by law, shall be appointed by the court at a regular term, and shall be held at the place in the county where the court holds its regular terms.

When open for process.

11. The courts shall be open at all times, except on Sunday, for the issuing of citations and the return of process.

If term not held, business continued.

12. If it shall happen that an orphans' court shall not be held at the regular term of said court, by reason of

non-attendance of a judge, the business and proceedings pending in said court and process returnable thereto shall be continued from time to time until a regular court shall be held.

IV. PROBATE OF WILLS.

Surrogates to grant letters testamentary unless in case of doubt or caveat.

13. The surrogates of the several counties of this state shall take depositions to wills and admit the same to probate, and grant letters testamentary thereon; but in case doubts arise on the face of the will, or a caveat is put in against proving a will, or a dispute arises respecting the existence of a will, the surrogate shall not act in the premises, but shall issue citations to all persons concerned to appear in the orphans' court of the same county, which court shall hear and determine the matters in controversy.

Probate of will in county where testator resided.

14. The application for the probate of the will of any person who was resident in this state at his decease, and for letters testamentary thereon, under the preceding section, shall be made to the surrogate of the county in which the testator resided at the time of his death.

Will not probated for ten days.

15. No will shall be proved before the ordinary or surrogate until after ten days from the death of the testator; nor shall probate of any will be granted by the ordinary, until proof be made that no caveat against proving such will hath been filed in the office of the surrogate of the county where the testator resided at the time of his death, or that notice hath been given to all persons concerned, of the application to the ordinary for such probate.

How deposition of non-resident may be taken.

16. If any subscribing witness to a will shall reside out of this state, whose testimony is material, the surrogate, orphans' court, or ordinary, before whom such will shall be produced for probate, may issue a commission annexed to such will, and directed to the judge of any court of law, mayor, recorder, or other chief magistrate of any city or town, where such witness may be found, authorizing the taking of the deposition of such witness to the said will; and the deposition of such witness taken under oath or affirmation, and duly certified by the person to whom such commission shall be directed,

shall have the same operation as if the same had been taken before the surrogate, court or ordinary, who issued such commission.

Form of letters testamentary.

17. Letters testamentary issued by the surrogate on the probate of a will, shall be in the following form:

I, ———, surrogate of the county of ———, do certify the annexed to be a true copy of the last will and testament of ———, late of the county of ———, deceased, and that ———, the executors therein named, proved the same before me, and are duly authorized to take upon themselves the administration of the estate of the testator, agreeably to the said will; witness my hand and seal of office, etc., etc.

When caveat filed cause may be certified to circuit court.

18. When any caveat shall be filed against the probate of a will, or any appeal shall be taken from proceedings of any surrogate respecting the probate of a will, the orphans' court may, on application of the caveator, appellant, or proponent, certify the questions involved in such controversy into the circuit court of the same county, for trial before a jury; and upon filing of such certificate with the clerk of the circuit court, the said court shall have jurisdistion to try the said cause upon an issue to be framed by the judge holding said court; the notice of trial and proceedings for summoning and impaneling a jury and for the trial of the cause shall be the same as in causes commenced in the circuit court; the same costs shall be taxable as in other causes in said court; the verdict of the jury shall be subject to be set aside and a new trial granted in the circuit court as in other cases in said court, and the judge may, on application for a new trial, certify the same to the supreme court for its advisory opinion.

Proceedings in circuit court.

Testimony in writing if desired.

19. Upon the trial before the circuit court of the issue provided for in the preceding section, the testimony of the witnesses shall be taken down stenographically, and if required by either of the parties, shall be reduced to writing, and exceptions may be taken to the admission and rejection of testimony which shall be entered upon the record; and it shall be the duty of the judge, before whom such issue is tried, forthwith, after the trial is finally concluded in said court, to certify and return to the orphans' court, the proceedings thereon had, and the verdict of the jury; together with the testimony,

Judge to return proceedings to orphans' court.

if the same shall have been reduced to writing; a copy of the charge to the jury; all exceptions which shall have been taken at the trial to the admission or rejection of evidence, or to the charge to the jury; a certified copy of the costs which shall have been taxed, and a statement of the expenses of the said trial; which certificate and return shall be filed by the surrogate, and thereupon the orphans' court shall proceed to make a decree touching the probate of the said will in accordance with the finding of the said issue, and may make such order concerning the costs and expenses and allowance of counsel fees as may be made in cases where the hearing upon a caveat against proving a will is had before the orphans' court.

Orphans' court to make decree.

Transcript duly proved, competent evidence.

20. The transcript of any will regularly proved and recorded in the prerogative office or in the office of the surrogate of any county in this state, and duly certified by the register or surrogate under his official seal, shall be competent evidence in any court of this state in any suit or controversy in relation to the title to any estate, real or personal, devised or bequeathed thereby, the same as if the original will had been produced and proved by the attesting witness.

Will probated may be recorded in any county.

21. When any will devising lands shall have been duly admitted to probate before the ordinary or any surrogate of this state, it shall be lawful for the surrogate of any county in this state, on the application of any person interested therein, upon filing a certified copy of such will and the application for probate thereof, proofs, order for probate and letters testamentary thereon to record the same; and such record, or a certified copy thereof, shall be received in evidence in any trial or controversy respecting the title to lands in such county, in the same manner as if the said will had been originally admitted to probate before such surrogate.

Certified copy evidence.

In case of contest allowance may be made to widow and children pending suit.

22. In all cases where any contest has arisen or shall arise, in any court of this state, touching the probate of any paper purporting to be the last will and testament of any person, it shall and may be lawful for the ordinary, upon petition made for that purpose by the widow of such deceased person or by any child or children of the deceased (and, if any such child or children be within the age of twenty-one years, then by the

next friend of such child or children), to make an order upon the person or persons having custody of such estate, for the payment of such allowance for the support and maintenance of such widow or of such child or children, out of the income of the estate of such deceased person, as the ordinary may deem just, pending such contest, and such further allowance out of the income, or, if need be, out of the corpus of such estate as may be necessary to meet the expenses incurred or to be incurred in conducting such contest concerning the probate of such will; *provided*, that the person hereinabove described as a widow shall have been ceremonially married to the deceased person, and shall have been living with him as his wife at the time of his death; and the ordinary shall prescribe such rules to secure a summary hearing and relief upon such petition as he may deem necessary.

Proviso.

FOREIGN WILLS.

Probate of foreign wills.

23. When any will of a decedent, not resident in this state at the time of his death, shall have been admitted to probate in any state or territory of the United States or the District of Columbia or in any foreign state or kingdom, and any person shall desire to have the said will admitted to probate in this state for any purpose, application therefor may be made by petition duly verified to the ordinary or to the surrogate of any county in this state; and it shall be the duty of the ordinary or such surrogate, upon a copy of such will, or of the record of such will, and the certificate of probate thereof being filed in his office, certified and attested as a true copy thereof by the person or persons, officer or court admitting the same to probate, to admit the same to probate and to issue letters testamentary or of administration with said will annexed and to record the same in his office without the production of the original will, if it shall appear by the record of probate accompanying the same that said will was executed in accordance with the laws of this state; and if it shall not by said probate proceedings so appear, then upon proof taken under a commission, if necessary, or in any other manner provided by

Duty of surrogate to admit to probate and issue letters testamentary.

law, of the due execution of said will, in accordance with the laws of this state, which proof may be taken in the same manner as if the original will had been produced before him; but the person to whom such letters may be issued shall not be obliged to file an inventory or account unless the ordinary or the orphans' court of the county in which probate may be granted shall so order, and any such will being proved and recorded shall have the same force and effect as if the original will had been produced and admitted to probate and letters testamentary or of administration, with the will annexed, had been thereon issued in this state; the record of such will and the probate proceedings had thereon, or a certified copy of said record, shall be received in evidence in all courts of this state; *provided*, that where said will has been admitted to probate in any state or territory in the United States or the District of Columbia, the copy herein required to be filed shall be exemplified and authenticated according to the act of congress, and where said will has been admitted to probate in any foreign state or kingdom without the United States, such copy shall be certified in the manner required by the laws of such foreign state or kingdom to make it legal evidence there, and a recital in the certificate that the same is so certified, shall be prima facie evidence of that fact.

Will duly proven to have same force as original will, and valid in evidence.

Proviso.

Foreign will may be recorded to make title without letters testamentary.

24. A copy of any will or of the record of any will of a decedent not resident in this state at the time of his death, admitted to probate in any state or territory of the United States or the District of Columbia, or in any foreign state or kingdom, and of the certificate of probate thereof, and of the letters granted, exemplified and authenticated according to the act of congress, if it be the record of any state or territory of the United States or the District of Columbia, or certified in the manner required by the laws of the foreign state or kingdom in which such will shall have been proved and recorded to make it legal evidence in such foreign state or kingdom, if it be the record of a foreign state or kingdom, heretofore or hereafter filed and recorded in the office of the surrogate of any county in this state, shall, if it thereby appears that said will was executed in accordance with the laws of this state, have the same force

and effect in respect to all lands and real estate whereof the testator died seized, as if said will had been admitted to probate and letters testamentary or of administration with the will annexed thereon had been issued in this state; and all conveyances of such real estate heretofore or hereafter made by any executor or executors, or administrator or administrators with the will annexed, trustee or trustees, or the survivor or survivors of them, or by any devisee or devisees, or persons claiming under such devisees, shall be as valid as if said will had been admitted to probate and letters testamentary or of administration with the will annexed had been issued in this state; and such record or certified copies of said will, proofs, order for probate and letters, or of the record thereof, shall be received in evidence in all courts of this state.

Certified copy evidence.

25. Where an exemplified copy of any will, or of the record of any will admitted to probate in any state or territory of the United States or the District of Columbia, or foreign state, has been or shall be filed, pursuant to law, in the office of the surrogate of any county of this state, and it shall not appear by the record of probate accompanying such will whether or not such will was executed in the manner required by the laws of this state to transfer or affect the title to real estate situate in this state, it shall be lawful for the orphans' court or the surrogate of the county in which such exemplified copy of the will is filed, to receive proofs as to the due execution of said will without the production of the original will; and, when necessary, said court or surrogate may order that a commission issue to take the testimony of non-resident witnesses, and the proofs so taken shall be filed with said exemplified copy of the will or of the record thereof, and recorded in such surrogate's office, and shall have the same force and effect as if the same were a part of the proofs on which the original will was admitted to probate in such state, territory, District of Columbia, or foreign state; and all conveyances of real estate heretofore or hereafter made by any executor or executors, administrator or administrators with the will annexed, trustee or trustees, or the survivor or survivors of them, by virtue of the power and authority conferred in any will so duly

When record of execution of will is doubtful commission may issue for testimony of non-resident witnesses.

proven to have been executed in accordance with the laws of this state, or by any devisee or devisees named in said will, or persons claiming under such devisees, shall be as valid as if said will had been admitted to probate and letters testamentary, or of administration with the will annexed, had been issued in this state; and such records or copies thereof, duly certified, shall be received in evidence in all courts of this state.

V. LETTERS OF ADMINISTRATION.

Surrogate to grant letters.

26. The surrogate of the county in which the deceased shall be resident at the time of his death, shall have the power and authority to grant letters of administration on the estate of such deceased, in all cases where administration may legally be granted thereon, unless a dispute arises as to the right of administration, in which case he shall issue citations to all persons concerned to appear in the orphans' court of the same county, which court shall hear and determine the matter in controversy.

Who to be appointed administrator.

27. If any person die intestate, or if the executor named in any testament renounce the executorship, or neglect, for the space of forty days after the death of the testator, to prove such testament, then administration of the goods, chattels and credits of such intestate or of such testator with the testament annexed, shall be committed or granted to the widow or the next of kin of such intestate or testator, or to some of them, if they or any of them will accept the same; and if none of them will accept thereof, then to such other proper person or persons as will accept the same.

When no relation is justly entitled to the administration.

28. Whenever any person has died, or shall die, intestate, within this state, and has left, or shall leave, no relations justly entitled to the administration of his personal estate, or if the next of kin of any such intestate has not claimed, or shall not claim, the administration within forty days after the death of such intestate, it shall be lawful for the ordinary or the surrogate to grant letters of administration on such decedent's estate to any fit person or persons applying therefor.

In case intestate resides in another state.

29. If any person, not a resident within this state, shall die or shall have heretofore died possessed of personal property or choses in action within this state or the evidence of which shall be in the hands of any resident of this state, or has died or shall die seized of any real estate or any interest therein within this state, the surrogate of the county in which such real estate or interest therein, choses in action or evidences thereof, or personal estate, are situate, upon application and proof to his satisfaction that such decedent died intestate, shall issue letters of administration upon the estate of such decedent to the administrator of such decedent, or to any person who would be entitled to administration, in case the decedent had resided in this state at the time of his death; if any executor or administrator of a non-resident decedent shall neglect for the space of sixty days after the death of such decedent to make application in this state for letters testamentary or of administration upon or in respect to such decedent's estate, then upon the application of any person alleging himself or herself to have any debt or legal claim against such decedent, which, by the laws of this state, survives against the personal representatives of parties deceased, the surrogate may issue letters of administration to such person as he may select, either cum testamento annexo or otherwise, as the circumstances of the case may require; in case application is made under this section by any one except the executor or administrator, letters shall only be granted upon such notice to the executor or administrator as the surrogate may prescribe.

Surrogate to issue letters of administration upon estate of decedent.

Action in case application for letters testamentary not made in sixty days.

In case resident absents or conceals himself, action of surrogate.

30. Whenever any person, being a resident of this state, shall remain beyond the sea or absent himself or herself from this state, or conceal himself or herself in this state for seven years successively, the ordinary, or surrogate of the county in which said person resided at the time when he or she went beyond the sea or absented or concealed himself or herself as aforesaid, shall, upon application in writing, made to either, for the purpose, by any of the next of kin of such person, make an order that cause be shown, before the ordinary or the surrogate of said county, at a certain time and place therein to be expressed, not less than thirty days

nor more than three months from the time of making such order, why letters of administration should not be granted to the next of kin making such application, which order shall be published in such manner as the ordinary or surrogate making the same shall direct; and if the next of kin making such application shall, at the time and place designated as aforesaid, prove, to the satisfaction of the ordinary or the surrogate, that such person has remained beyond the sea or absented himself or herself from this state, or has concealed himself or herself in this state, for seven years then last past successively, and has not been heard of or from during said period, and no sufficient cause shall be shown to the contrary, then the said ordinary or the surrogate may grant letters of administration of the goods, chattels and credits of said person to the next of kin making such application, or to such fit and proper person as the said ordinary or surrogate may deem advisable, upon his or her giving bond to the ordinary, in the same manner as is required in granting letters of administration in other cases.

In case of non-resident having goods, etc., in this state who absents himself.

31. Whenever a person, not a resident of this state, but having goods, chattels, moneys or effects in this state, shall absent himself or herself from the place of his or her domicile for seven years successively, the ordinary or surrogate of any county in which any of such property may be, shall, upon application in writing, made to either for the purpose, by any of the next of kin of such non-resident absentee, make an order that cause be shown, before him, at a certain time and place therein to be expressed, not less than thirty days nor more than three months from the time of making such order, why letters of administration should not be granted to the next of kin making such application, or some other fit person, which order shall be published in such manner as the ordinary or surrogate making the same shall direct; and if the next of kin making such application shall, at the time and place designated as aforesaid, prove, to the satisfaction of the ordinary or surrogate, that such non-resident has absented himself or herself from the place of his or her domicile for seven years then last past successively, and has not been heard of or from during said period, then the said non-

resident shall be presumed to be dead, and if no sufficient cause shall appear to the contrary, the said ordinary or surrogate may thereupon grant letters of administration of the goods, chattels and credits of said non-resident absentee to the next of kin making such application, or to such fit and proper person as the said ordinary or surrogate may deem advisable, upon his or her giving bond to the ordinary, in the same manner as is required in granting letters of administration in other cases. Presumed to be dead.

32. Any administrator appointed under sections thirty and thirty-one shall proceed with the administration and settlement of the estate of such person in the same manner as if such person had died in this state intestate, and shall make a just and equal distribution thereof, after the payment of debts and just expenses among those who would be entitled by law to receive the same if such person had died intestate, upon his, her or their giving to the said administrator a bond or bonds, with good and sufficient sureties, with condition that he, she or they shall respectively refund and pay back to said administrator the share or portion of the said estate so received by them respectively, with the accumulations thereof, in case the person so remaining beyond the sea or absenting himself or herself from, or concealing himself or herself within, this state, or absenting himself or herself from the place of his or her domicile, shall, at any time afterward, re-appear and claim the same, which said bond or bonds shall be a full and complete protection to such administrator in case such person shall re-appear and claim his or her estate after the same has been distributed in accordance with the provisions hereof; but such administrator shall assign the said bond or bonds to such person so re-appearing and claiming his or her estate, and shall not thereafter be liable for any act done by him under and by virtue of his office of administrator. Action of administrator so appointed. Bond given to protect administrator in case of return of person.

33. Letters of administration issued by the surrogate shall be in the following form or modified to meet the requirements of the case: Form of letters.

I, ———, surrogate of the county of ———, do certify, that on the ——— day of ———, administration of the goods and chattels, rights and credits, which were of ———, late of the county of ———, who died intestate,

was granted by me to———, of ———, who is duly authorized to administer the same agreeably to law. Witness my hand and seal of office, etc.

Will of deceased to be observed.

34. Where an administration shall be granted, with a will or testament annexed, the will of the deceased in such testament expressed shall be observed and performed.

Form with will annexed.

35. Letters of administration with the will annexed hereafter issued by any surrogate in this state, shall be in form or of the purport following, to wit:

To all to whom these presents shall come, greeting:

Whereas, ———, late of the county of ———, in the state of ———, departed this life, having made and executed a last will and testament, which has been duly proved, according to law, before the surrogate of the county of ———; and whereas (the said testator failed to appoint any executor thereof), (or the executor named therein has renounced the trust imposed upon him by said will, or as the case may be); therefore,

I, ———, surrogate of the county of ———, do hereby appoint ———, administrator of all and singular the goods, chattels and credits of said deceased, who is duly authorized to administer the same agreeably to said will.

In witness whereof, I have hereunto set my hand and seal of office, etc.

VI. LETTERS OF GUARDIANSHIP.

Powers of ordinary may be exercised by orphans' court or surrogate.

36. The powers and duties formerly exercised and performed by the ordinary, relative to the admission of guardians, for persons under the age of twenty-one years, may be exercised and performed by the orphans' court or the surrogate of the county in which the minor may reside, or have real or personal estate; *provided*, that if there be any dispute with respect to the right to letters of guardianship, the application shall be made to the orphans' court; and any appointment of a guardian heretofore made by the surrogate of any county shall be as valid and effectual and have the same force and effect as though the same had been made by the orphans' court of said county.

Proviso.

Letters of guardianship, how obtained, over fourteen years.

37. When an orphan is of the age of fourteen years or upwards, letters of guardianship shall be granted, on petition to the orphans' court or surrogate, signed by such orphan in the presence of the surrogate, deputy surrogate, or a special master of the court of chancery of this state; but where an orphan is under the age of fourteen years, the mother, or next of kin of full age, and where there are several relations in equal degree of kindred, any one, giving due notice to the rest, may apply to the orphans' court or surrogate for the guardianship of such orphan, who upon inquiry into the circumstances of the case, may admit one or more of them, or a stranger willing to accept the trust, at its or his discretion, to be guardian or guardians of such orphan, until he or she attains the age of fourteen years or other guardian or guardians be appointed in his stead; and the person or persons so appointed such guardian or guardians shall remain the lawful guardian or guardians of such orphan, under the said letters of guardianship, until the said orphan, after arriving at the age of fourteen, shall choose another guardian or guardians, and the bond given thereon shall continue in full force; but where the orphan, after arriving at the age of fourteen years, shall choose any other person or persons to be guardian or guardians, letters of guardianship shall be applied for, as before directed, and all proceedings thereon be had accordingly.

Under fourteen years.

Power of guardian to continue until another is appointed.

Where custody of minor children is disposed by will.

38. Where, by any last will and testament, the testator shall dispose of the custody and tuition of his minor child or children, and such last will and testament shall be offered for probate, it shall be lawful for the ordinary or orphans' court, upon petition alleging cause, and after notice to the testamentary guardian named in the proffered last will and testament, to inquire into the present custody of such infants, and after hearing make such order touching testamentary guardianship as may be for the best interests and welfare of the infants.

Guardian for child of absconding or absent parent.

39. If any citizen of this state has absconded, or shall hereafter abscond or absent himself from this state for the term of two years, leaving in this state any child or children under the age of twenty-one years, without competent and suitable provision for their maintenance

and education, the orphans' court or surrogate of the county where such child or children reside, on application of the said child or children, or of his, her or their next of kin, may appoint a guardian for such child or children, and said court may revoke such appointment as the said court shall see occasion; which guardian shall have the same authority over the said child or children as guardians have in other cases, until the revocation of his authority as aforesaid, notwithstanding any right or claim of authority of the said parent, and may lawfully do all acts for the maintenance and education of the said child or children, and the disposition of his or her time and services which the said parent could lawfully do.

When minor becomes entitled to any estate.

40. If any minor shall become seized or possessed of or be entitled to any real or personal estate in the lifetime of the father or mother of such minor, the ordinary, or the orphans' court or surrogate of the county where such minor resides or such real or personal estate may be, may appoint the father or other suitable person, guardian of the estate of such minor.

When minor of age of fourteen resides out of state.

41. When an orphan is of the age of fourteen years, or upwards, and is out of this state, letters of guardianship shall be granted in this state, on petition to the orphans' court or surrogate, signed by such orphan, in the presence of a judge of a court of record in the state, territory or country in which such orphan may be, which signature shall be acknowledged before said judge, in the same manner and form as deeds are required to be acknowledged by the laws of this state; or when said orphan is out of the United States, on a petition signed and acknowledged as aforesaid by such orphan before any public ambassador, minister, consul, vice-consul, consular agent, or charge d'affaires or other representative of the United States for the time being in the empire, kingdom, state or country where said orphan was at the time of signing and acknowledging such petition.

When next of kin of minor under fourteen resides out of state.

42. Where it shall be made to appear upon oath, to the satisfaction of the orphans' court or surrogate, that the next of kin of any orphan minor under the age of fourteen years residing in this state, do not reside within this state, the orphans' court or surrogate may

take such action in respect to the appointment of a guardian or guardians of said minor as shall seem to be for his best interest and advantage.

Appointment of special guardians.

43. The ordinary shall have full authority to appoint a special guardian for the property, real or personal, within this state of any non-resident minor, and the orphans' court or surrogate of any county shall have concurrent authority to appoint a special guardian for any property, real or personal, within said county of any minor residing without the state; and said courts shall have authority to control, remove or substitute such guardian, and in any case not already provided for by statute or the rules of the court, the court shall take such action in the matter as it shall deem most for the advantage of the infant.

Form of letters of guardianship when appointed by orphans' court.

44. Letters of guardianship, when a guardian is appointed by the orphans' court, shall be in the following form, or modified to meet the requirements of the case:

I, ———, surrogate of the county of ———, do certify that on the ——— day of ———, the orphans' court of the county of ———, admitted ———, of ———, as guardian of the person and property of ———, being a minor ——— the age of fourteen years. Witness my hand and seal of office, &c.

When made by surrogate.

And when the guardian is appointed by the surrogate in the form following, or modified to meet the requirements of the case:

I, ———, surrogate of the county of ———, do certify that on the ——— day of ——— I admitted ———, of ———, as guardian of the person and property of ———, being a minor ——— the age of fourteen years. Witness my hand and seal, &c.

Form of letter to testamentary guardian.

45. Letters of guardianship issued in this state to testamentary guardians shall be in form and of the purport following, to wit:

To all to whom these presents shall come, greeting:

Whereas, ———, late of the county of ———, in the state of ———, in and by his last will and testament, duly proved before the surrogate of the county of ———, did appoint ——— to be guardian of the person and property of ———, an infant, under the age of twenty-one years; and whereas, the said ——— has

accepted the said appointment and entered into bond according to law; therefore

I, ———, surrogate of the county of ———, do hereby certify that the said ——— is duly authorized to execute the said trust according to law and the terms of the said last will and testament.

In witness whereof, I have hereunto set my hand and seal of office, &c.

——— ——— Surrogate.

VII. SECURITY ON GRANT OF LETTERS.

Security required of administrators.

46. Upon granting administration of the goods and effects of any person dying intestate, the ordinary, court or surrogate by whom the same shall be granted, shall take of the person to whom such administration shall be committed a sufficient bond, with two or more able sureties to the ordinary of the state, in such penalty as may be reasonable, regard being had to the value of the estate, with condition in form following, to wit:

Condition of bond.

The condition of this obligation is such that if the above-bounden A. B., administrator of all and singular the goods, chattels and credits of C. D., deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased, which have or shall come to the hands, possession or knowledge of the said A. B., or into the hands or possession of any other person or persons for the said A. B., and the same so made do exhibit or cause to be exhibited into the registry of the prerogative court, in the secretary's office of this state, or into the surrogate's office of the county of ———, at or before the expiration of three calendar months from the date of the above written obligation, and the same goods, chattels and credits, and all other goods, chattels and credits of the said deceased at the time of ——— death, which at any time after shall come into the hands or possession of said A. B., or into the hands or possession of any other person or persons for the said A. B., do well and truly administer according to law; and further do make, or cause to be made, a just and true account of ——— administration within twelve calendar months from the

To present inventory within three months.

Account within twelve months.

date of the above-written obligation; and all the rest and residue of the said goods, chattels and credits which shall be found remaining upon the account of the said administration, the same being first examined and allowed by the judges of the orphans' court of the county or other competent authority, shall deliver and pay unto such person or persons, respectively, as is, are or shall, by law, be entitled to receive the same; and if it shall hereafter appear that any last will and testament was made by the said deceased, and the executor or executors therein named, or any other person or persons do exhibit the same into the said prerogative court or the surrogate's office of the county of ———, making request to have it allowed and approved; if the said A. B., being thereunto required, do render and deliver the said letters of administration (approbation of such testament being first had and made) to the said court, then the above obligation to be void and of none effect, or else to remain in full force and virtue.

Make distribution.

47. In case of the grant of letters of administration, durante minore ætate, durante absentia, pendente lite, cum testamento annexo, and in all other cases of grant of administration, security shall be required as aforesaid, by bond to the ordinary, in penalty as aforesaid, with the same condition as is set out in the last preceding section, but adapted to the nature of the respective grants of administration.

Security on granting letters of administration.

48. Sufficient bonds, with two or more able sureties to the ordinary of this state, with like penalty and condition as in other cases of administration, shall be required of all husbands to whom administration shall be granted of the goods, chattels and credits of their deceased wives.

Security required of husbands on grant of administration on wife's estate.

49. Every court or other competent authority appointing a guardian, shall take bond of him with good sureties and in sufficient sum for the faithful execution of his office.

Security required of guardian.

50. Every guardian appointed by last will and testament, which shall be legally proved and recorded, shall, before he exercise any authority over the minor or his estate, appear before the orphans' court or surrogate and declare his acceptance of the guardianship, which shall

Security required of testamentary guardian.

be recorded, and shall give bond, with such sureties and in such sum as the said court or surrogate may approve of and order, for the faithful execution of his office, unless it is otherwise directed by the testator's will.

Non-residents applying for probate of will to give bond.

51. In all cases where any person or persons applying for the probate of any will shall reside out of the state of New Jersey, it shall be the duty of the orphans' court or surrogate to whom such application shall be made, before granting letters testamentary thereon, to take from such person or persons a bond with security for the faithful administration of the estate of the testator, in the same manner as is now required by law in the case of administrations with the will annexed; and in case any bond given under this act shall become forfeited, it may be prosecuted in the same manner that bonds given by administrators may be prosecuted; *provided*, that nothing in this act contained shall prevent the granting of letters testamentary on the estate of any deceased person to a non-resident executor or executors, without security, in cases where the will provides that no security shall be required of the person or persons named as the executor or executors therein.

Bond, how prosecuted.

Proviso.

In case value of estate is very large deposit may be made with fiduciary agent.

52. In all cases where a bond or bonds shall or may be required by the ordinary, orphans' court or by a surrogate from an executor, administrator, guardian or trustee, if the value of the estate or fund is so great that the ordinary, orphans' court or surrogate deems it inexpedient to require security in the full amount prescribed by law, the said ordinary, orphans' court or surrogate, as the case may be, may direct that any securities for the payment of money belonging to the estate or fund be deposited with such savings bank, savings institution or trust company duly incorporated under the laws of this state, as may be designated by the order of the ordinary, orphans' court or surrogate.

Bond with respect to remainder.

53. After such a deposit has been made, the ordinary, orphans' court or surrogate may fix the amount of the bond, with respect to the value of the remainder only of the estate or fund.

Deposit, how made and withdrawn.

54. Such deposit shall be made in the name of the executor, administrator, guardian or trustees, and the security or securities thus deposited shall not be with-

drawn from the custody of such savings bank, savings institution or trust company, except upon the special order of the ordinary, orphans' court or surrogate, and no executor, administrator, guardian or trustee shall receive or collect the whole or any part of the principal of such securities so deposited without the special order of the ordinary, orphans' court or surrogate, entered in the appropriate book.

When order of withdrawal of funds may be given.

Additional bond.

55. Such an order can be made in favor of the executor, administrator, guardian or trustee only where an additional bond has been given by him, or upon proof that the estate or fund has been so reduced by payments or otherwise, that the penalty of the bond originally given will be sufficient, in amount, to satisfy the provisions of law relating to the penalty thereof, if the security so withdrawn is also reckoned in the estate or fund.

Duplicate certificates issued by fiduciary agent.

56. The savings bank, saving institution or trust company receiving such deposit shall issue a certificate in duplicate, setting forth the amount and nature of securities deposited, and deliver one certificate to the ordinary, orphans' court or surrogate, and the other to the executor, administrator, guardian or trustee in each case.

VIII. INVENTORIES.

Inventories must be specific.

57. No inventory shall be received or admitted to be proved which is not full and specific in its details.

1. By Executors and Administrators.

Inventory by executors.

Appraisement.

58. Every executor and administrator shall make a true and perfect inventory of the goods and chattels, rights and credits and effects of the deceased, and cause a just appraisement of the same to be made by two discreet and impartial persons, which inventory shall be filed with the surrogate within three months after grant of letters testamentary or of administration, unless the orphans' court, for good cause shown, shall allow further time therefor; and if any executor or administrator shall fail to file such inventory with the surrogate within the time aforesaid, the surrogate shall report

Failure to file inventory.

such neglect to the orphans' court, and, if the said court so direct, shall cite him to render such inventory; and if he continue in default, the orphans' court shall revoke the letters testamentary or of administration, and grant letters to some other person.

Appraisers, how appointed.

59. The appraisers by whom the appraisement of the goods, chattels, rights, credits and effects of any testator or intestate shall be made, shall be chosen by the executor or administrator subject to the approval of the surrogate, unless in cases where it shall be necessary to set off goods and chattels for the benefit of the family of the deceased, as is provided in the next section.

Exemption for benefit of family

60. The wearing apparel of any person who shall die, leaving a family residing in this state, and goods and chattels, money and effects of the estate of such deceased to the value of two hundred dollars, shall be reserved to and for the use of the family, against all creditors, and before any distribution or other disposition thereof; and it shall be the duty of the executor or administrator of such deceased to apply to the surrogate of the county where such deceased resided at the time of his death,

Appraisers appointed by surrogate.

and the said surrogate shall thereupon appoint two discreet and judicious persons of said county, not interested in the estate of said deceased, and not of kin to his widow or children, who shall, before they enter

Sworn.

upon the duties of their appointment, be severally sworn before the surrogate, or any person lawfully authorized to administer an oath, faithfully, honestly and impartially to appraise such property, according to the true and intrinsic value thereof, without reference to what the same might be supposed to bring at a sale by vendue; and said appraisers, being so appointed and sworn, shall make an inventory and appraisement, in manner aforesaid, of the goods and chattels, moneys and effects, whereof such deceased died possessed;

Appraisement, how made.

which inventory and appraisement shall include all the property required to be inventoried and appraised by the executors or administrators of any deceased person; and the widow of the deceased, or his executor or

Goods selected and list annexed to inventory.

administrator, may select from such inventory, goods and chattels, money or effects, to the value of two hundred dollars, and annex to said inventory a list thereof; and the goods and chattels, money or effects, so selected,

shall thereupon become the property of said family and remain for their use.

Who deemed to have left family.

61. Every person residing in this state at the time of his death, dying testate or intestate, and leaving a widow or a child or children who shall reside in his family at his death, him surviving, shall be deemed and taken to have left a family entitled to the benefits of the last preceding section; but nothing in that section contained shall be permitted to conflict with the provisions of any last will.

Inventory proved before surrogate.

62. The inventory of every executor or administrator shall be proved by the oath of the executor or administrator that the same is just and true, and by the oath of the appraisers, or one of them, that the goods and chattels, rights, credits and effects in said inventory specified were appraised at their just and true respective values, according to the best of their or his (as the case may be) judgment; and if one only of the appraisers be sworn thereto, it shall be added that the other appraiser was present at the same time and consented to the said valuation and appraisement; which oaths shall be taken before the surrogate, deputy surrogate, or a master in chancery, and the same shall be indorsed on the said inventory which shall be filed with the surrogate; and in case goods and chattels or property of the deceased shall have been set off for the benefit of the family, the executor or administrator shall also verify by his oath the list of property selected for the use of the family, and file the same with the inventory.

Oath of executor and appraisers endorsed on inventory.

Oath as to selection for family use.

2. By Guardians.

Inventory of guardian to be filed within three months.

63. Every testamentary guardian, guardian in socage, or other guardian shall, within three months after his acceptance of or appointment to his office, deliver to the clerk of the orphans' court an inventory, upon oath, of all the estate, real and personal, which he shall have received or taken possession of.

In default surrogate shall cite.

64. If any guardian fail to deliver to the surrogate an inventory of the estate of the ward in the time and manner required by law, such surrogate shall report such neglect to the orphans' court, and if the said court

so direct, shall cite such guardian to deliver such inventory at the ensuing term of the orphans' court, and the costs of such citation and of the proceedings thereon shall be paid by such guardian out of his own private estate; and if he fail to deliver such inventory, according to such citation, the court shall revoke the letters of guardianship, and remove him from office, and appoint some suitable person in his place, who shall have all the powers of the person so removed; and the person so removed shall not be entitled to any commissions or compensation for his past services.

Court may revoke letters.

Not then allowed compensation.

IX. PAYMENT OF DEBTS.

No action brought under six months except for funeral expenses.

65. To enable executors or administrators to examine into the condition of the estate and ascertain the amount and value thereof, and the debts to be paid out of the same, no action, either at law or in equity, except for funeral expenses, shall be brought or maintained against executors or administrators of the estate of any decedent, within six months after probate shall have been granted to such executor or executors in case of a will, or letters of administration shall have been granted to such administrator or administrators in case of intestacy, or with a will annexed, as the case may be, unless by special leave of the court wherein such action is intended to be brought; *provided*, no execution shall issue on any such judgment within the six months aforesaid.

Special leave.

Proviso.

Preferred debts.

66. Judgments entered of record against the decedent in his lifetime, funeral charges and expenses, and the physician's bill during the last sickness, shall have preference and be first paid out of the personal and real estate of the testator or intestate.

1. Creditors, How Barred.

Rule to limit creditors.

67. The orphans' court, or the surrogate of the proper county, is hereby empowered to order executors and administrators to give public notice to the creditors of the decedent to bring in their debts, demands and claims against his estate, under oath, within nine months from

the date of such order, by setting up such notice in five of the most public places in said county for two months, and also by advertising the same at least once in each week for the like time, in one or more of the newspapers of this state as may be directed in said order, and any further notice in case the court or surrogate shall judge the same necessary, which order may be made at any time after the granting of letters testamentary or of administration, whether the estate be insolvent or not, and such notice shall be given and advertised within twenty days after the date of such order.

Publication of.

68. When any order to bring in debts and claims against the estate of any decedent shall be made in pursuance of the last preceding section, all claims and demands of the creditors of the deceased shall be presented in writing, specifying the amount claimed and the particulars of the claim, and shall be verified under oath, or the bringing in of the same shall be of no effect; *provided, however*, that when any executor or administrator shall have paid or shall pay in good faith any claim or demand of any creditor presented to him, which shall not have been duly verified as required by this act, and it shall be duly proven to the court or surrogate, on or before the final accounting of said executor or administrator, that said claim or demand was owing by said decedent and was a just claim and demand against said estate, said court or surrogate shall allow said executor or administrator for the amount of such claim and demand in said account, if there shall be sufficient of said estate to pay the debts of equal degree with said claim or demand in full; and if said estate is not sufficient for said purpose, then said executor or administrator shall be allowed for the pro rata amount such creditor would have been entitled to receive if said claim or demand had been presented to such executor or administrator duly verified as required by this act.

Claims specified and sworn to.

Proviso.

If estate insufficient, allowance made pro rata.

69. Debts and demands liquidated, not due and payable, but which are payable in the future, may be presented for allowance; a reasonable rebate of interest being made when interest is not accruing on the same; and if any such debt or demand be disputed, and action be brought therefor, the plaintiff shall not fail in such action on account of such debt and demand

Debts payable in the future may be presented.

being payable in the future, if the same be otherwise a legal debt or demand.

After expiration of time limit court may decree a bar.

70. After the expiration of the time in such order limited, the orphans' court or the surrogate of the proper county, upon proof to its or his satisfaction that notice thereof has been set up and advertised as directed, may, by final decree, order that all creditors who have not brought in their claims within the time in said order directed, shall be barred from any action therefor against the executor or administrator; and any creditor who shall have neglected to bring in his debt, demand or claim within the time so limited, shall, by such decree, be forever barred of his or her action therefor against such executor or administrator, except as hereafter provided; *provided, nevertheless,* that in case such creditor so failing to present his debt, demand or claim, shall, after the final settlement of the account of the executor or administrator, find some other estate not accounted for, he shall be entitled to have his debt, demand or claim paid thereout, or to a ratable proportion thereof, in case other creditors shall be barred of their debts, demands or claims.

Proviso.

If disputed, must be sued for in three months or barred.

71. If any executor or administrator to whom any such claim is presented dispute the same, or any part thereof, and shall give notice in writing to the creditor, claimant, his attorney or agent, that said claim, or any part thereof, is disputed, such creditor shall bring suit therefor in three months from the time of giving such notice; and in any suit not commenced within said time, said decree shall bar any recovery of the account or part so disputed, as if said debt or claim had not been presented within the time so limited by said court.

In cases where estate is settled and surplus remains, lawful for creditor who neglected to file claim to present same.

72. In all cases where any executor or administrator shall have settled the estate of any decedent, or may hereafter settle the estate of any decedent, and there has been, or shall be, upon such settlement a surplus to be distributed, it shall and may be lawful for any creditor of said estate, who may have neglected to file his claim with such executor or administrator within the time herein prescribed, to present such claim to such executor or administrator under oath at any time before said surplus shall have been distributed or paid over according to law by such executor or administrator, and

upon such claim being so presented, it shall be the duty of such executor or administrator to pay the same, or so much thereof as there may be surplus in his hands for that purpose, in case he is satisfied that it is correct and ought to be paid, or, if he is not satisfied of the correctness of such claim, he shall notify such creditor to proceed forthwith to establish said claim by the judgment of some court of competent jurisdiction, and in such case the said executor or administrator shall not make any distribution or payment of such surplus money to or among the devisees or next of kin of said deceased without retaining in his hands a sum sufficient to pay the amount of such claim so presented by such creditor, with interest and costs, in case it shall be established by the judgment of a court, until such creditor shall have had an opportunity to establish the validity of said claim by the judgment of some competent court.

Payment made if executor is satisfied of its validity.

May demand its establishment.

73. If such executor or administrator shall neglect or refuse to pay such claim upon being presented in manner aforesaid, it shall and may be lawful for such creditor to bring suit against such executor or administrator, for the recovery of said claim, in any court of competent jurisdiction, and the same proceedings may be had for the collection and recovery of said claim as if the same had been duly presented, before the settlement of said estate, within the time herein prescribed.

In case executor neglects to pay claim so presented creditor may bring suit.

74. If such creditor, after having been notified by the executor or administrator, as provided in section seventy-two, to bring suit for the establishment of his claim by the judgment of a court, shall neglect for the period of one month to commence such suit and prosecute the same with due diligence according to the rules and practice of the court, he shall be thereafter forever barred from bringing any suit or action for the recovery of such claim.

If creditor neglects to commence suit for one month, he shall be barred.

75. Nothing herein contained shall prevent or bar any person from bringing and maintaining any action against an executor or administrator for or in respect of the personal estate of his testator or intestate, or for or in respect of any waste or misapplication thereof by such executor or administrator.

Nothing herein to affect action for waste, &c.

76. In any citation to account, or suit for any legacy or distributive share, it shall be no defense that there

Outstanding claims no defence to citation to account.

are disputed claims outstanding or in suit against the estate, if the executor or administrator shall have neglected for six months to obtain an order to limit creditors, and to proceed thereon according to law, unless a suit brought within a year from the grant of probate or administration be pending on such claim.

Legacy or distributive share not attached or paid to be assets for payment of debts.

77. Any legacy or distributive share which shall not have been attached in the hands of the executor or administrator, or paid over to the person entitled to the same shall, notwithstanding such decree in bar of creditors, be assets in the hands of the executor or administrator for the payment of a ratable proportion of the debt or claim of any creditor who shall not have presented the same within the time limited; but such creditor in any action to charge such assets shall not recover any costs, and if judgment pass against him in such action, he shall pay costs.

Duty of executor, etc., to take a refunding bond.

78. Every executor or administrator, on the payment of any legacy or distributive share to the person entitled to the same, shall take a refunding bond therefor; which bond shall be filed in the surrogate's office of the county in which letters testamentary or of administration were granted; and any creditor, who may

Creditor barred may sue on refunding bond.

be barred by virtue of any decree of limitation, may, by order of the orphans' court, bring suit on such refunding bond in the name of the executor or administrator, but with the name of such creditor stated in the process and pleadings as the prosecutor thereof, and may

May recover proportion of his debt, but without costs.

recover thereon the proportion of his debt which ought to be paid out of the legacy or distributive share for which said bond was given, but shall not recover costs in such suit; and if judgment be given for the defendant therein, he shall have judgment against the prosecutor for his costs of suit, and not against the plaintiff; but there shall not be recovered on such bond, in the whole, a greater amount than the legacy or share actually received by the person by or for whom it was given;

Proviso.

provided, that nothing herein contained shall enable any person to recover any debt or demand barred by any limitation other than said decree.

79. In any action by a creditor to charge a legacy or distributive share as assets in the hands of an executor or administrator for the payment of a ratable proportion

of his debt, it shall be presumptive evidence that such legacy or distributive share, if not attached, was not paid to the legatee or distributee, if it appear that at the commencement of the suit no refunding bond had been filed therefor; and in such case such executor or administrator shall be chargeable with such legacy or distributive share as assets, unless it shall be proved that such legacy or distributive share was actually paid over before the commencement of such suit, and such executor or administrator shall at the time of pleading such decree in bar file therewith a proper refunding bond, and pay the plaintiff in such action his costs of suit which shall have accrued before plea filed.

In action by creditor against executor to charge legacy, &c., as assets, non filing of refunding bond proof that legacy has not been paid.

80. In case any executor or administrator shall neglect to make a final settlement of his account within one year after letters testamentary or of administration granted, or if any administrator shall not within three months after the final settlement of his account apply for a decree of distribution thereon, any creditor, whose debt or demand shall be barred by such decree of the orphans' court, may present a petition to the orphans' court, alleging such facts and praying relief; and the said court shall investigate the circumstances of the case, and the condition of the estate, and if it be made to appear that such delay was unreasonable and without sufficient cause, the said court may by decree give such creditor relief against any assets that may be in the hands of the executor or administrator, in the nature of the relief he would be entitled to in case the final account of such executor or administrator had been passed, and a refunding bond taken for any legacy or distributive share, and may make such order touching the proof of the claim of such creditor (if disputed), and the costs of such proceeding, as may be equitable; and the said court may in its discretion order and decree that such costs be paid by the executor or administrator out of his own estate.

In case of neglect to file account in one year, or to obtain decree of distribution, creditor may file petition for relief.

If delay unreasonable, court may decree relief.

And make order of proof of claim and cost of proceedings.

Costs paid by executor.

2. Sale of Lands for Payments of Debts.

81. The lands, tenements, hereditaments and real estate of any person who shall die seized thereof, or entitled to the same, as well as any share or shares, or

Lands may be sold for payment of debts by order of orphans' court.

part or parts of a share of propriety of undivided rights or warrant to locate lands in this state, shall be and remain liable for the payment of his or her debts, for one year after his or her decease, and may be sold by virtue of an order of the orphans' court of the county where such lands, tenements, hereditaments and real estate shall lie, or in case of any share or shares, or part or parts of a share of propriety of undivided rights, or warrant to locate lands, by an order of the orphans' court of the county where such decedent last resided, if obtained within the said period of time, any alienation, or incumbrance made or attempted to be made, by his or her heir or heirs, devisee or devisees to the contrary notwithstanding; *provided, always,* that nothing herein contained shall affect any right of dower in the said lands, tenements and real estate.

Notwithstanding alienation by heir if obtained in a year.

Proviso.

Proceedings to obtain order to sell.

82. When any executor or administrator shall discover or believe that the personal estate of his testator or intestate is insufficient to pay his debts it shall be his duty to exhibit, under oath, a true account of the personal estate and debts, as far as he can discover the same, to the orphans' court of the county in which the will of said testator was proved or letters of administration were granted, requesting its aid in the premises by petition, which petition shall set forth the description of all land of which the said testator or intestate died seized, where the same is situate, its character, condition and value as near as may be, and the said court shall thereupon make an order requiring all persons interested in such lands, tenements, hereditaments and real estate, to appear before it at a certain day and place, in the said order to be named, not less than two months after the day of making such order, to show cause why so much of the said lands, tenements, hereditaments and real estate of the said testator or intestate should not be sold as will be sufficient to pay his debts, or the residue thereof, as the case may require, which order, signed by the surrogate, shall be immediately thereafter set up at three of the most public places in said county for six weeks successively, and be published at least once in each week for the same time in one or more of the newspapers of this state, as the said court may direct.

Application made to orphans' court of county in which lands lie.

Rule to show cause, how published.

Court to examine into conditlon of estate.

83. The said orphans' court shall at the time and place mentioned in said order, or at such other time and place as they may then appoint, hear and examine the allegations and proofs of the said executor or administrator and other persons interested; and if, on full examination, the said court shall find that the personal estate of the said testator or intestate is not sufficient to pay his debts, the said court may order the executor or administrator to sell the whole, if necessary, of the lands, tenements, hereditaments and real estate of the said testator or intestate, for the payment of his debts, or so much thereof as will be sufficient for that purpose; and when a part only of the said lands, tenements, hereditaments and real estate is sufficient, such order shall specify the part to be sold; and no more of the said lands, tenements, hereditaments and real estate shall be sold than may be necessary to pay the residue of the said debts after the executor or administrator shall have applied the personal estate, or such part thereof as may have come to his hands, towards the payment thereof; *provided*, *always*, that where any houses and lots and lands are so circumstanced that a part thereof cannot be sold without manifest prejudice to the heirs or devisees, the said court may, in its discretion, order the whole or a greater part than is necessary to pay such debts to be sold; if the land lies in more than one county, the court in such order or decree shall further direct the executor or administrator to apply to the orphans' court of any other county wherein land of such testator or intestate is situate for an order to sell said land or parcels thereof lying in such other county, which order shall specify the particular lots to be sold and the county wherein they severally lie.

No more land to be sold than sufficient to pay residue of debts after personal estate applied.

Proviso.

If land lies in more than one county.

Orphans' court of any county, upon order, shall order sale.

84. The orphans' court of any county of this state, upon the production of a certified copy of such an order, directing the sale of lands lying therein, shall order the sale and conveyance of said lands and real property in pursuance of the original order.

Sale reported.

85. The executor or executors, administrator or administrators, and the survivor or survivors of them, who may be ordered to sell any lands, hereditaments or real estate of any testator or intestate, shall, after making such sale, report the same to the orphans' court

If approved, to be confirmed by court.

of the county in which the land lies, and if the said court shall approve of such sale, it shall confirm the same as valid and effectual in law, and shall by rule of court direct said administrator or administrators, executor or executors, and the survivor or survivors of them, to execute good and sufficient conveyances in the law, to the purchaser or purchasers, for the tract or tracts of land or real estate so sold.

Copy of report of sale and confirming order to be recorded.

86. When sale of any land has been made in pursuance of section eighty-four, an authenticated copy of the report of sale, and the order confirming such sale, shall be recorded and filed in the office of the surrogate of the county where the will was proved or administration was granted, and the executor or administrator shall account for the proceeds of said sale or sales to the orphans' court making the original order.

Proceeds of sale accounted for.

When real estate may be sold to satisfy mortgage.

87. Whenever any mortgagee or holder of any mortgage upon the real estate of any testator or intestate shall file a claim upon the debt secured by said mortgage with the executor or administrator of said testator or intestate, and it shall appear to the orphans' court to be necessary to sell the lands and premises incumbered by said mortgage, for the payment of the debts of said testator or intestate, the said court shall have power to order the said lands and premises sold free and clear of the incumbrance of said mortgage; *provided*, the said court shall, at the time of making the order to sell, also order that the moneys arising from such sale be first applied to the payment of the said mortgage debt, and the balance, after paying the same, to be assets in the hands of said executor or administrator.

Proviso.

If proceeds fail to satisfy mortgage.

88. Where the proceeds of said sale shall be insufficient to pay the said mortgage debt in full, the said mortgagee or holder of mortgage shall be entitled to be paid out of the other assets in the hands of said executor or administrator the balance only of his claim pro rata with the other creditors.

Heir may give bond for payment of debts.

89. When any order to show cause why lands and real estate should not be sold for the payment of debts shall be obtained, the heirs or devisees of the intestate or testator, or any of them, may appear before the said court at the time fixed for hearing, and enter into bond to the executor or administrator in such sum and with

Condition of bond.

such sureties as the court shall approve, conditioned for the payment to the said executor or administrator of so much money as may be required to pay the residue of the debts of the testator or intestate and the just expenses and allowances for the settlement of the estate which shall remain after the personal estate shall be applied thereto, and to indemnify and save harmless the said executor or administrator from any damages or costs which he may individually be lawfully subjected to by reason of the delay; and thereupon the hearing of the said rule to show cause and all proceedings thereunder shall stand adjourned until the amount of such deficiency shall be ascertained; and if such heir or devisee, on demand made of such heir or devisee or of the sureties on the said bond, shall refuse or neglect to pay to the executor or administrator the moneys required to pay the residue of the debts, expenses and allowances as aforesaid, the said orphans' court shall order the said bond to be prosecuted in any court of competent jurisdiction, or proceed to make such order for the sale of the lands and real estate whereof the testator or intestate died seized, as might have been made if the said bond had not been given.

If heir refuses to pay bond, may be prosecuted.

Court may proceed to make order to sell.

90. In any suit upon any bond which shall be given under the last preceding section, if judgment shall be recovered by the plaintiff, such judgment shall be for the penalty of the bond, together with costs of suit, and the sheriff or other officer to whom the execution thereon shall be issued, shall make the amount thereof out of the property of the defendants as in other cases, and shall pay the same into the orphans' court having jurisdiction over the accounts of such executor or administrator, and the said court shall apply the same, or so much thereof as may be needed, towards the payment of the residue of the debts, expenses and allowances aforesaid, which shall remain unpaid after the personal estate in the hands of the executor or administrator has been applied thereto, and the costs and damages of the executor or administrator, individually sustained as aforesaid; and the surplus, if any, shall be repaid to the defendants from whom such judgment was collected.

In suit on bond judgment for penalty.

Amount collected to be paid into court having jurisdiction.

Application of money.

Surplus repaid.

Security required of executor on order to sell.

91. When any orphans' court in this state shall order any executor or administrator to sell any lands, tenements, hereditaments or real estate of any testator or intestate, the said court shall take, of the executor or administrator applying for such an order, a bond, with two or more sufficient sureties to the ordinary of the state and his successors, in a penalty double the amount of the estimated value of the lands, tenements, hereditaments, or real estate ordered to be sold, with condition in form and manner following, to wit: the

Condition of bond.

condition of this obligation is such that if the above-bounden A. B., executor of the last will and testament of C. D., deceased (or administrator of all and singular the goods, chattels and credits of C. D., deceased, as the case may be), shall well and truly administer the moneys arising from the sales of any lands, tenements or real estate of the said C. D., directed by the order of the orphans' court of the county of M. to be sold according to law; and further do make or cause to be made, a just and true account of his administration, within twelve months from the date of the above obligation, and the surplus of money which shall be found remaining upon the account of such sale or sales (the same being first examined and allowed by the orphans' court of the county, or other competent authority), shall distribute and pay unto such person or persons respectively, as is, are, or shall be by law entitled to receive the same, then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue; and no further bond shall be required by the orphans' court of any other county in which land is situate.

In case lands are contiguous and situate in more than one county.

92. When any executor or administrator has been ordered to make sale of lands for payment of debts, and the lands to be sold are contiguous and situate in more than one county, and are so situated that, in the judgment of such executor or administrator, the same should be sold together and in one parcel or in several parcels, some, or all, of which may comprise as one parcel contiguous lands situate in more than one county, such executor or administrator may, in the exercise of his discretion, make sale of such lands as one parcel, or in several parcels, some or all of which may comprise as one parcel contiguous lands situate in more than one

county; and after such sale or sales report the same to the orphans' courts of the respective counties in which said lands lie for approval and confirmation; and, if the sales be approved, the same shall be confirmed, and the said administrator or administrators, executor or executors, and the survivor or survivors of them, shall execute and deliver conveyances to the purchaser or purchasers for the lands so sold upon compliance with the conditions of sale.

Order confirming sale or certified copy conclusive evidence of the validity of proceedings.

93. When any sale of lands shall hereafter be made by order of an orphans' court, and the sale shall have been confirmed by the court of the county in which the lands are situate, the order confirming the sale, or a certified copy thereof, shall be conclusive evidence in all courts, and for all purposes, of the validity of the proceedings for sale and of the fulfillment of all statutory requirements; such order of confirmation may be set aside or reversed by appropriate proceedings for that purpose; but no such reversal shall be of any force or avail against any bona fide purchaser, and the said purchaser, his heirs and assigns, after delivery of the deed to him, shall hold the lands so purchased, notwithstanding such reversal, and notwithstanding any defects in the proceedings for sale.

Reversal.

Deeds, what to recite.

94. The deeds or conveyances made by such executor or administrator for any lands or real estate sold by virtue of any order of the orphans' court, shall set forth that the sale of said lands or real estate was made by the said executor or administrator by virtue of an order of the orphans' court of the county in which the sale shall be authorized, and the date of such order and the term of the orphans' court in which the same was granted, and the date of the order of confirmation; which said deeds of conveyance, duly executed as aforesaid, shall vest in the purchaser or purchasers all the estate that the testator or intestate was seized of at the time of his or her death, if the order to show cause be obtained within one year thereafter; and if the said order be not obtained within that time, then the said conveyance shall vest in the purchaser or purchasers all the estate that the heirs or devisees of the testator or intestate were seized of at the time of the making of the said order of

What estate passes.

Not avoided by omission of recital.

the orphans' court; and any deed or conveyance made in pursuance of the order of the court confirming such sale shall be good and valid and received in evidence as such in any court in this state, notwithstanding the omission of the recital in the said deed of the orders of such orphans' court authorizing such sale, and confirming the same, and notwithstanding any variance between the recital in said deed of the said orders and the record thereof.

Proceeds of sale to be assets for payment of debts.

95. The moneys arising from such sale of the lands, tenements, hereditaments and real estate of such testator or intestate, shall be received by the executor or administrator, and be considered as assets in his hands for the payment of debts, and the surplus money arising from such sale, remaining after the payment of debts and just expenses (the personal estate in the hands of the executor or administrator being first applied thereto), if any, shall be distributed among the heirs or devisees according to the law of the descents in the former, and the will of the testator in the latter case; and the orphans' court in which the executor or administrator is required to account after such executor or administrator shall have legally accounted for and touching the sale or sales of the said lands, tenements, hereditaments and real estate of the person so deceased, shall order a distribution of the surplus, after debts and just expenses of every sort first allowed and deducted, among the heirs or devisees to whom the lands, tenements, hereditaments and real estate so sold, descended or were devised, according to the law of descents in the former, and the will of the testator in the latter case, and the persons entitled to such distribution, shall have their remedy at law, in case of non-payment, for the recovery of the same, against the executor or administrator so accounting saving to every one, if aggrieved, his, her, or their right of appeal; and further, the heir or devisee, whose lands, tenements, hereditaments and real estate, descended or devised to him, have been sold as aforesaid, for the payment of the debts of his intestate or testator, may compel all others claiming or holding under such intestate or testator to contribute in proportion to their respective interest, so as to equalize the burden or loss.

Surplus divided among heirs.

Orphans' court may decree such distribution.

Heir whose lands are sold may compel others to contribute.

Surplus from lands sold to pay debts of decedent may be used to meet judgments.

96. Whenever, on the application of any executor or executors, administrator or administrators, lands have been or shall be sold by the order of a court for the payment of the debts of any decedent, and there shall remain a surplus from such sale in the hands of such executor or executors, administrator or administrators, after the payment of the debts of such decedent, to be distributed among the heirs of such decedent or to the devisee under any will, and any judgment or judgments are or shall be obtained against any of such heirs-at-law or devisees or distributees under any will, entitled to such surplus or any part thereof, at any time prior to the distribution of such surplus, such judgment creditor or creditors may, upon petition filed in the court ordering such sale in such cause, have an order, and such court is hereby authorized to make the same, directing the payment of such judgment or judgments out of the proceeds of the sale of such share or shares against which the same would be a lien, had such share or shares been owned in severalty by such judgment debtor or debtors, and in the same order of priority as if sold under execution.

Creditor may apply to orphans' court to have order made.

97. When any creditor shall have obtained judgment against executor or administrator, and the execution issued on the same shall remain unsatisfied in whole or in part, for want of personal estate to be levied on and sold, and there is real estate, the creditor, or his legal representative (if the executor or administrator, being thereto required, shall neglect or refuse to take proceedings to obtain a sale thereof according to law, for the space of one month after being so required) may apply to the orphans' court of the proper county to order such sale to be made; and the said court, upon due notice given to said executor or administrator of such application, shall examine the circumstances of the case, and if it appears that the said debt or any part thereof is unpaid, and the personal estate deficient as aforesaid, and no sufficient cause being shown to the contrary, the said court shall make such order to show cause in the name of such executor or administrator as is above mentioned, and such further proceedings shall be had as is above prescribed in relation to the sale

of real estate where the personal estate is insufficient to pay debts.

Executor refusing to give security may be removed.

98. Where the orphans' court has made an order for sale under the provisions of this act, either on the application of the executor or administrator, or of a creditor or creditors, if the executor or administrator shall, at the term mentioned in the said order, neglect or refuse to give bond with sureties, as aforesaid, the said court shall forthwith revoke the letters testamentary or letters of administration of such executor or administrator, and thereupon the surrogate shall grant letters of administration or letters testamentary with the will annexed, to such person or persons having right thereto, as will give bond in manner and form aforesaid; and the order for the sale of lands shall be made in the name of such administrator so appointed, who shall be empowered to proceed with such sale as if the rule to show cause and other prior proceedings had been in his name.

Order of sale made to new administrator.

X. INSOLVENT ESTATES.

Estate, real and personal, to be distributed proportionately.

99. The estate, real and personal, of a testator or intestate, in case the same shall be insufficient to pay all his or her debts, shall be distributed among his or her creditors, in proportion to the sums that shall be due to them respectively, except that the debts which by this act are made preferred debts shall be first paid.

Executor believing estate insufficient to pay debts may obtain order for creditors to present claims.

100. When any executor or administrator shall, by application in writing, represent to the orphans' court of the proper county, on oath or affirmation, that the personal and real estate of the decedent is insufficient to pay the debts of the deceased, according to the best of his knowledge and belief, the said court shall thereupon direct the said executor or administrator to give public notice to the creditors of the estate to exhibit to such executor or administrator, under oath or affirmation, their claims and demands against the estate within such time as the court shall direct and appoint, not exceeding eighteen months nor less than six months, by setting up such notice in five of the most public places in the county, for the space of two months, and also by advertising the same at least once in each week

Time and notice given.

for the like period in one or more of the newspapers printed in this state, as may be appointed by the said court, and such further notice, if any, as the said court shall direct.

Claims, how presented.

101. The claims presented to the executor or administrator shall be in writing specifying the amount and particulars thereof and verified by oath; and any debt or claim which shall be due and payable in the future may be presented, a reasonable rebate of interest being made, when interest is not accruing on the same.

Debts growing due admitted.

Executor to report claims and present inventory.

102. The said executor or administrator shall make report to the said court of the several claims and demands which may be exhibited against said estate, particularly specifying the demand and amount thereof at the time of such report, and whether by judgment, decree, bond, note, book account or otherwise; and shall exhibit therewith under oath to the said court, a true and just account of the moneys, goods, chattels, rights and credits of the decedent, which have come to his knowledge, hands or possession, and also an inventory of the real estate of said decedent, which may have come to his or her knowledge, and the value thereof, as near as may be.

Report, when made.

103. The report required to be made by the last preceding section may be made at the term in which such limited time may expire, or at the term next after such time may expire, or at some future time to be fixed by the court on special application; and the said executor or administrator shall give two months' notice of his intention to make such report by advertisement, signed with his name, and set up in three of the most public places in the county where such decedent resided at the time of his death, and shall specify therein the day on which such report will be made to such court, and shall file such report in the surrogate's office, at least twenty days before the day named for presenting the same, or the day to which continuance may be made by the court.

When filed.

Exceptions to claim of creditor or account of executor.

104. Any creditor or other person interested may file exceptions to the account and exhibition of the said executor or administrator, in respect of the amount and value of the real and personal estate of the said decedent; and the executor or administrator, or other

person interested, may file exceptions to the claim or demand of any creditor, or any part thereof, and the court shall hear the proofs and allegations in the premises, at the same or any subsequent court, and upon such exceptions, decree and determine in regard to said claims and demands of creditors, respectively, and on the account of such executor or administrator, in respect of the personal estate, as may be just and lawful; and in case no exception be made against any claim or demand of a creditor, as aforesaid, it shall be held and deemed as justly due; and in like manner the account of said executor or administrator, not excepted to, shall be allowed and held as true; *provided*, that such exceptions shall be filed on or before the day specified for presenting such report to the court, or within such time as the court on application may allow; *and provided, further*, that either party may appeal from such decree to the ordinary, within twenty days from rendering the same, and not after.

How determined.

If no exception, claim allowed.

Proviso.

Proviso.

105. If any creditor, whose claim or demand is excepted to as aforesaid, shall elect to proceed at law or in equity, in preference to having the same determined by the orphans' court, such creditor shall so proceed immediately; and the sum recovered against the executor or administrator, if any, shall be the amount upon which a ratable proportion shall be paid as aforesaid; and in case any executor or administrator shall desire to have the claim or demand of any creditor against the estate determined in law or equity, he shall give notice thereof at the term at which report is made, and the said creditor shall proceed immediately in either court, as his case may be, and the sum recovered shall be the amount on which a ratable proportion shall be paid as aforesaid; and the court in which any such action may be brought shall take order, that the same may be determined as speedily as possible.

Creditor whose account is excepted to may proceed at law, or executor may require him to sue.

106. If any action be pending against said executor or administrator, at the time of making the application in the one hundredth section mentioned, or be brought against such executor or administrator after the making of the said application, the plaintiff may proceed to final judgment therein, unless the claim shall be adjusted as hereinbefore directed, or otherwise; but no execution

Suits pending may proceed to judgment

shall in any case issue after the making of said application; and the amount of such judgment, when recovered, shall be the sum on which the creditor shall receive his ratable proportion as aforesaid.

Sale of lands ordered if estate insolvent.

107. If upon the adjustment of the claims and demands of creditors, and consideration of the amount of the personal and real estate, and value thereof, it shall appear to the court that the real and personal estate is insufficient to pay the debts, and that the estate is likely to be insolvent, the said court shall so decree, and shall order and direct the said executor or administrator to proceed as if the estate was insolvent, and to make sale of the whole or any part of the real estate of the testator or intestate, from time to time, as may appear expedient, in such manner as is now or may hereafter be directed in case of an executor or administrator directed to sell lands by an order of the orphans' court, for the payment of the debts of a testator or intestate.

How lands in other counties sold.

108. It shall be lawful for the orphans' court of any other county, upon the production of an authenticated copy of such order and decree as is mentioned in the last preceding section, to order and decree the sale and conveyance of any lands or real estate of such decedent, situate in such other county, the report of which sale shall be made to the said orphans' court and if confirmed a copy of such report and confirmation shall be filed and recorded and the account of the proceeds of sale made as provided in section eighty-six, and the provisions of section ninety-three shall apply to such sale and conveyance.

If rule to limit obtained, executor may have estate decreed insolvent.

109. If an order to limit creditors under the sixty-seventh section of this act shall be obtained by the executor or administrator, and at the time of obtaining such order, or at any time thereafter, such executor or administrator shall, by application in writing, under oath, represent to the orphans' court of the proper county that according to the best of his knowledge and belief the real and personal estate of the decedent is insufficient to pay his debts, the orphans' court, on report of claims and presentation of the inventory of the real and personal estate of the decedent, as hereinabove prescribed, may decree the estate to be insolvent, and make order for the sale of lands and real estate, as in case of insolvent estates,

without the application and notice to creditors, mentioned in the one hundredth section; *provided*, that the notice to creditors, which is required to be given by the order to limit creditors, shall have been given, and the executor or administrator, with the notice that the report of claims will be made, shall also give notice that he will thereupon make application to have the said estate decreed insolvent.

Proviso.

Proceeds, how distributed.

110. The proceeds of the said personal and real estate of the testator or intestate, which shall come to the hands of the said executor or administrator (the preferred debts and the reasonable allowance which may be decreed by the court to the executor or administrator, for care and expenses, being first paid), shall be distributed to the said several creditors by the said executor or administrator, in proportion to the sums that shall be found due to them respectively, as aforesaid, under the direction of the said court, from time to time, as may be found convenient and just; and the said court may enforce obedience to such orders and directions by attachment.

Court may enforce obedience by attachment.

Residue to go to heirs.

111. If it should happen that there is enough produced from such real and personal estate to make full payment, and any residue of the said estate shall remain in the hands of the executor or administrator, after paying all the said debts and expenses, the said residue shall be divided among the heirs of the intestate, in such proportions as the said real estate would have descended, or in case of a will, as the said will directs.

Creditor not presenting his claim barred unless he find some estate not accounted for.

112. Any creditor who shall not exhibit his claim to the executor or administrator as aforesaid within the time so limited and prescribed shall be forever barred from prosecuting or recovering his said demand unless the estate shall prove sufficient, after all debts exhibited and allowed are fully satisfied, or such creditors shall find some other estate not inventoried or accounted for by the executor or administrator before distribution, in which case such creditor shall receive his ratable proportion out of the same; *provided, however*, that the orphans' court, before distribution made, may, upon the application of any creditor of any insolvent decedent, extend the time within which claims may be presented by creditors of such decedent upon

Proviso.

such terms as the court may deem just; and such notice of such application as the court may deem proper shall be given to the executor or administrator of such deceased insolvent.

Action for waste against executor not affected.

113. Nothing herein contained shall prevent any person from maintaining any action against any executor or administrator for, or in respect of, any waste or misapplication of the estate of the testator or intestate.

XI. ACCOUNTING.

1. By Executors, Administrators, Guardians and Trustees.

Accounts settled in a year unless further time allowed.

114. Every executor, administrator, guardian or trustee under a will shall state and settle his account in the surrogate's office within one year after his appointment, or at the first regular term of the orphans' court after the expiration of said year, unless the court, for good cause shown, allow further time therefor.

When guardian to present account.

115. Every guardian or trustee shall exhibit to the orphans' court once in three years, and oftener if required, an account of all moneys, goods and chattels he shall receive, and of the rents, issues and profits of any real estate in his possession belonging to his ward, or held in trust.

In case of failure to make settlement any person interested may cite.

116. In case of the failure of any executor, administrator, guardian or trustee to make such settlement within the time above limited or allowed by the court, or in case any guardian or trustee shall neglect to present intermediate accounts as aforesaid, any person interested in the estate, or any other person as the next friend of any infant interested, may cite such executor, administrator, guardian or trustee to make such settlement at the ensuing term of the court; and the costs of such citation and of the proceedings thereon shall be paid by such executor, administrator, guardian or trustee out of his own private estate, unless the court, for good cause shown, shall order otherwise.

On neglect to account for two years surrogate to cite heirs unless court allow further time.

117. If any executor or administrator shall neglect to render an account of the estate of the deceased for the space of two years after his appointment, or in case any guardian or trustee shall neglect to render intermediate

accounts as aforesaid, the surrogate shall report such neglect to the orphans' court, and if the said court so direct, it shall be the duty of the surrogate to issue a citation to such executor, administrator, guardian, or trustees to render his account, unless the court, for good cause shown, allow further time therefor; and if he fail to state and settle his account according to such citation, or within the time so allowed by the court, it shall be the duty of the orphans' court to remove such executor, administrator, guardian or trustee from office; and he shall pay the costs of such citation and proceedings out of his private estate, and shall forfeit his commissions and not be allowed any compensation for his services.

Upon failure to settle may be removed and allowed no compensation.

Proceedings in case of death of an executor.

118. Where an executor, administrator, guardian or trustee hath died, or shall die without having fully settled up and obtained an allowance of his account of the administration of the estate that has come into his hands, it shall be lawful for the executor, or administrator of such deceased executor, administrator, guardian or trustee to exhibit to the surrogate of the county wherein letters were issued or appointment made, in order to have the same duly settled and allowed, an account of the receipts and disbursements of said executor, administrator, guardian or trustee in his lifetime, of the assets of the estate which came to his hands or of so much thereof as may remain unsettled at the time of the death of such deceased executor, administrator, guardian or trustee; and the orphans' court is hereby authorized and required to take cognizance of the said accounts and to proceed and act therein as is required in regard to accounts in other cases.

When unnecessary to settle accounts in surrogate's office.

119. Nothing in the preceding sections shall make it the duty of any administrator, who is entitled to all the personal estate of the intestate, after payment of debts to settle his accounts in the surrogate's office, unless required to do so by some person interested in said estate; nor shall it be the duty of any guardian or trustee to settle an account, who shall file with the surrogate of the proper county a release or discharge from his ward or cestui que trust, of full age, duly executed and acknowledged as deeds for land are by law required to be executed and acknowledged.

Release of guardian by ward.

When unnecessary to file inventory.

120. It shall not be necessary for any executor or administrator, under any last will and testament, who is entitled to all the personal estate of the testator after payment of debts and specific bequests, legacies or trusts, to file an inventory or settle his accounts in the surrogate's office, unless required so to do as hereinafter set forth; *provided*, such executor or administrator shall, within one year after probate of said will, or such further time as the orphans' court of the county in which said will was proved shall for good cause shown, allow, record in the surrogate's office of the county in which his letters testamentary or of administration with the will annexed shall have been granted, full receipts, releases and discharges from the persons entitled to such specific bequests, legacies or trusts; *and provided further*, that any person interested in the estate may apply to the orphans' court of the county wherein said will may have been or may be proved, and upon such application, such court, on notice given to said executor or administrator in the manner directed by the court, and on consideration of the circumstances of the case, may make order requiring said executor or administrator to file an inventory and to settle his accounts, and thereupon said executor or administrator shall proceed and file an inventory and settle his accounts in the same manner as other executors or administrators are or may be required by law to do.

Proviso.

Proviso

Accounts to be stated by surrogate.

121. The surrogate shall audit and state the accounts of executors, administrators, guardians and trustees, and place the same on the files of his office, subject to the inspection of any person interested therein, at least twenty days previous to the same being presented to the court, and shall report the same to the orphans' court for confirmation and allowance on the day for which the same was noticed for settlement, or at such subsequent time to which the hearing shall then be adjourned.

Accounts noticed for settlement.

122. The account of every executor, administrator, guardian or trustee shall be noticed for settlement on a day certain, and shall not be allowed by the orphans' court, except as hereinafter provided, unless such executor, administrator, guardian or trustee shall first give at least one month's notice of such settlement by advertise-

Month's notice.

ments set up in five of the most public places of the county in which such settlement is to be made, one whereof shall be set up in the surrogate's office of said county, and also by publishing the same at least once in each week in one or more newspapers published in such county for the same length of time, and in case no newspaper be published in the county, then, instead of advertising such notice in the newspaper, by setting up advertisements in ten of the most public places in said county for the like space of time, two of which places shall be the clerk's and surrogate's offices of said county.

In cases of guardians and trustees citations to be issued.

123. In cases of the accounts of guardians and trustees, in lieu of the notice aforesaid the surrogate may issue citations to all persons concerned to appear at the said orphans' court, which citations shall be served at least ten days before the sitting of the court; and such guardian or trustee, or any person on his behalf, may serve such citation on such wards or other parties by delivering a copy thereof to them, or by leaving a copy at their usual place of abode with some person of the age of fourteen years or upwards, and make and file with the surrogate an affidavit setting forth the time, place and manner of such service, whereupon the same shall have the force and effect of a service by the proper officer, no other notice of such settlement shall be required; but a citation shall issue on the final accounting of guardians or trustees.

How served.

Accounts of guardians, etc., examined and approved.

124. The intermediate account of every executor, administrator, guardian or trustee, after the same has been audited and stated by the surrogate and reported to the orphans' court and notice given to or citation served on the parties in interest as aforesaid, shall be examined by the court, and being found to be properly and fairly stated, and the articles thereof to be supported and justified by the vouchers, shall be entered of record; and if any article of such accounts be at any time afterwards excepted to by the ward, cestui que trust or his representative, or other party interested, it shall be incumbent on him to prove or show the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the account, that such article would be excepted to and a memorandum

of that notice shall have been entered on record or desired to be entered.

Final decree on settlement.

125. The court to which the final account of any executor, administrator, guardian or trustee shall be reported, shall examine the said account and the vouchers and receipts for payments and disbursements claimed therein, and if the same be found to be correct in all respects, the court, on due proof that notice of such settlement has been given and advertised, or that the parties have been cited as aforesaid, and no exception being made to the report of the surrogate, shall decree an allowance of the account as stated; *provided*, that in all cases where it appears that there is a balance due the accountant the court shall not decree an allowance of the account until the next regular term after that to which the report is made.

Proviso.

Exceptions may be filed.

126. If any person interested in the settlement of the final account of any executor, administrator, guardian or trustee shall, by himself or attorney, appear and make exceptions to said account, the court shall either proceed to hear the proofs and allegations, at such time as they may appoint, and correct any mistake or errors that may happen in the account as reported, or refer the same to the surrogate, auditors or master in chancery to examine and re-state the account, after hearing parties and witnesses, and make report to the court for confirmation and allowance; the court to whom any account is reported for an allowance as aforesaid, or the surrogate, auditors or masters to whom an account is referred as aforesaid, at the instance of any party interested in the same, or by their own proper authority, may examine any executor, administrator, guardian or trustee exhibiting such account, on oath or affirmation, touching the truth and fairness of the same or any part or item thereof.

How heard or referred.

Examination.

Decree on final settlement conclusive.

127. The sentence or decree of the orphans' court on the final settlement and allowance of the accounts of executors, administrators, guardians or trustees shall be conclusive upon all parties, and shall exonerate and forever discharge every such executor, administrator, guardian or trustee from all demands of creditors, legatees or others, beyond the amount of such settlement, except for assets or moneys which may come to hand after set-

Exception.

tlement as aforesaid, excepting also in cases where a party applying for a re-settlement shall prove some fraud or mistake therein, to the satisfaction of the said orphans' court.

2. Commissions.

Allowance made with reference to actual trouble.

128. The allowance of commissions to executors, administrators, guardians or trustees shall be made with reference to their actual pains, trouble and risk in settling such estate, rather than in respect to the quantum of estate.

Limitation of rates.

129. On the settlement of the accounts of executors, administrators, guardians or trustees under a will, their commissions, over and above their actual expenses, shall not exceed the following rates: On all sums that come into their hands, not exceeding one thousand dollars, seven per centum; if over one thousand dollars, and not exceeding five thousand, four per centum on such excess; if over five thousand dollars and not exceeding ten thousand, three per centum on such excess; and if over ten thousand dollars, two per centum on such excess; *provided*, that the commissions of executors, administrators and trustees in any estate where the receipts exceed the sum of fifty thousand dollars, shall be determined by the orphans' court on the final settlement of their accounts according to the actual services rendered, not exceeding five per centum on all sums which come into their hands.

Proviso.

Money remaining after commissions are paid and final settlement.

130. Whenever, upon the settlement of the accounts of executors or trustees under a will, or of commissioners in partition, the usual commissions shall have been allowed them according to law, and in pursuance of the provisions of the will, or of the direction of the court, any money shall remain in the hands of, or be entrusted to any such person or persons, the interest of which is required to be paid to any legatee or other person that may be entitled thereto, it shall and may be lawful, upon any subsequent accounting, for the court before which said account shall be presented for settlement and allowance, to consider the actual pains, trouble and risk of such accountant, and to allow such commission upon the interest or income received as to

the said court shall be deemed fair and just; *provided*, that said allowance shall not exceed the sum of five per centum on such interest or income. Proviso.

Upon settlement of account of guardian of infant, etc., court may allow for trouble, etc.

131. Whenever, upon the settlement of the account of a guardian of an infant, idiot, lunatic or feeble-minded person it shall appear that the estate of such infant, idiot, lunatic or feeble-minded person received into the hands of such guardian exceeds the sum of twenty thousand dollars, it shall and may be lawful, upon such and any subsequent accounting, for the court before which said account shall be presented for settlement and allowance, to consider the actual pains, trouble and risk of such accountant, and to allow such commission upon the estate and interest or income received as to the said court shall be deemed fair and just; *provided*, that said allowance, with all former or other allowances made to such guardian, shall not together exceed the sum of five per centum on such estate and the income received by such guardian for such infant, idiot, lunatic or feeble-minded person. Proviso.

Provison for specific compensation.

132. Where provision shall be made by a will for specific compensation to an executor, guardian or trustee, the same shall be deemed a full satisfaction for his services in lieu of the allowance aforesaid, or his share thereof, unless he shall, by writing filed with the surrogate, renounce all claim to such specific compensation.

Differences between executors, etc., as to commissions.

133. Where any difference arises between executors, administrators, guardians or trustees in regard to the proportion of commissions between them, the orphans' court shall determine the same, having regard to their respective services.

Executor removed from office shall forfeit commissions.

134. Any executor, administrator, guardian or trustee, who is removed from his office by the orphans' court for any cause for which he may be removed by this act, shall forfeit his commissions and shall not be entitled to any commissions or compensation for his services, unless the court shall otherwise direct.

XII. POWERS OF THE COURT.

1. Appointment of New Trustees.

Filling place of trustee refusing to act or dying.

135. When any trustee, heretofore or hereafter appointed by last will, shall neglect or refuse to act, or shall die before the execution and completion of the trust committed to him, the orphans' court of the county where such testator resided at the time of his death, shall have power to appoint some suitable person or persons to execute such trust; and the said court is hereby authorized and required to take from such trustee or trustees a bond, with one or more sufficient sureties being freeholders, conditioned for the due performance of the said trust; and the trustee or trustees so appointed shall have all the power of the said trustee or trustees so neglecting, refusing or dying; *provided, always*, that nothing in this section shall be construed to apply to the office of executor.

Proviso.

2. Directing Investment of Money.

Executors, etc., may put money at interest.

136. Executors, administrators, guardians or trustees may, by direction of the orphans' court, put out at interest all moneys in their hands which they are or may be lawfully required to retain, whether the same belong to minors, legatees or other person or persons, upon such security, and for such length of time as the said court will allow, and if the security so taken, bona fide and without fraud, shall prove insufficient, it shall be the loss of the minors or other person entitled thereto, and it shall be the duty of executors, administrators, guardians and trustees, in cases where the estates of minors or other persons in their hands may be materially benefited thereby, to make application to the orphans' court for such direction, and in case they shall neglect so to do they shall be accountable for the interest that might have been made thereby; but if no person who may be willing to take the said money at interest, giving such security, can be found by the said executors, administrators, guardians or trustees, nor by any other friend or friends of such

minors or others, then the said executors, administrators, guardians or trustees shall, in such cases, be accountable for the principal money only, until it can be put out at interest as aforesaid; *provided, nevertheless*, that in any case where executors, administrators, guardians or trustees use the money of minors or others which shall come to their hands, they shall be accountable not only for the principal, but for the interest thereon. Proviso.

137. Any executor, administrator, guardian or trustee whose duty it may be to loan the money entrusted to him, may invest the same in any of the following securities: Securities that may be invested in.

1. Bonds issued by the United States of America; United States bonds.
2. Bonds issued by this state; State bonds.
3. Bonds of any county, city, town or township of this state, issued pursuant to the authority of any law of this state, where the total indebtedness of said county, city, town or township does not exceed in the aggregate fifteen per centum of the assessable valuation of all the taxable property within such county, city, town or township; Certain municipal bonds.
4. Bonds secured by first mortgage upon real estate estimated to be worth at least twice the amount loaned, at a rate of interest not less than four per centum, nor greater than six per centum per annum; this act shall not apply where the deed of trust, or the last will and testament of any testator, or any court having jurisdiction of the matter specially directs in what manner the trust fund shall be invested. First mortgage.

3. Account by Executor, etc., to His Co-Executor, etc.

138. Whenever there are two or more acting executors, administrators, guardians or trustees, the orphans' court may, from time to time, on application of any one or more of them, upon sufficient reasons given therefor, order and direct every such executor, administrator, guardian or trustee to account with his co-executor, administrator, guardian or trustee for all assets which have come to the hands of such executor, administrator, guardian or trustee, and the said court may also, upon Executor, etc., may require account of co-executor, etc.

Court may order security given to co-executor or bond to ordinary.

good cause shown, require any executor, administrator, guardian or trustee under a will, to give bond, in such sum and with such sureties as the court may approve, to his co-executor, administrator, guardian or trustee, conditioned to indemnify him from all loss that may happen to him by the neglect, default or breach of trust of such executor, administrator, guardian or trustee, or the like bond to the ordinary, conditioned for the faithful performance of his duties as such executor, administrator, guardian or trustee, and for the payment and delivery, to the person that may be entitled to receive the same, of any money or property that may then or thereafter be in his hands, as such executor, administrator, guardian or trustee; *provided, however*, that twenty days' notice be given to such executor, administrator, guardian or trustee of such application to the court, and of the reasons therefor.

Proviso.

4. Examination Into Condition of Estate.

Examination into condition of estate.

139. Whenever application shall be made to the orphans' court of the county in which letters testamentary, of administration or of guardianship were issued, by petition by or in behalf of any person interested in the estate in the hands of any executor, administrator, guardian or trustee, verified by affidavit, alleging that such executor, administrator, guardian or trustee has wasted, embezzled or misapplied the estate entrusted to him, the said court, by an order, may compel discovery to be made of the condition of the estate, by the production of books, papers, securities and documents relating to the estate, or the examination of such executor, administrator, guardian or trustee and witnesses, and may take such proceedings for the protection of such estate, by order or decree, as may be taken in like cases in the court of chancery, and compel obedience to such order or decree by the same process and in the same manner as orders or decrees of the court of chancery are enforced.

Proceedings to protect estate.

5. Security by Executors, etc.

When security may be required.

140. Whenever proof shall be made, to the satisfaction of the orphans' court, that the property in the hands of any executor or trustee under a will is unsafe, insecure, or in danger of being wasted, the court, at the instance of any person interested in the estate of the testator, or in such trust estate, may require such executor or trustee to give security to the ordinary of this state by bond with sureties, in such amount as said court shall deem proper, conditioned for the faithful performance, by such executor or trustee, of his duty under the will of the testator.

Additional security may be demanded.

141. The orphans' court shall have power, where letters of administration or guardianship shall have been granted upon insufficient security, or the sureties on any administrator's or guardian's bond shall be or become in failing or dubious circumstances, or insufficient for the security of the estate, to order and direct such administrator or guardian to give such further or other security to the ordinary, by bonds in the usual form, as the said court, after hearing creditors or persons concerned, shall approve.

A married woman may be executrix, etc.

142. A married woman may be an executrix, administratrix, guardian or trustee, and her husband may be accepted as a surety on any bond given by her as such; in case of the marriage of any female after her appointment, the orphans' court may, on application of any party in interest, in its discretion, make an order that her power cease and be suspended; and the said court may, on such notice to her as it may direct, revoke the letters issued to her and remove her from her said office, unless she shall, within such time as the said court may limit and appoint, give bond to the ordinary, with two or more sufficient sureties, to be approved by the court in such sum as the court may direct, conditioned for the faithful execution of the trust imposed and the true payment of all moneys of the estate which shall have come or shall thereafter come to her hands.

Powers of executrix suspended by marriage, unless she give bond to ordinary.

6. Relief of Sureties.

In case of waste, mismanagement, etc.

143. If the surety in any bond given by an executor, administrator, guardian or trustee for the execution of his office, shall believe that such executor, administrator, guardian or trustee is wasting or mismanaging the estate, whereby the said surety may became liable to loss or damage, the orphans' court, upon application of such surety and upon sufficient reason therefor, may order such executor, administrator, guardian or trustee to render an account of his or her administration or guardianship to such surety, and if it shall appear that such executor, administrator, guardian or trustee has embezzled, wasted, misapplied or mismanaged the estate, the said court shall direct the said executor, administrator, guardian or trustee to give separate security to his or her surety for the true payment of the balance remaining in his or her hands to creditors, representatives of the deceased, or the ward of such guardian or persons entitled to the same.

When sureties desire to be relieved from responsibility.

144. When either or all of the sureties of any executor, administrator, guardian or trustee shall desire to be released from responsibility on account of the future acts or defaults of such executor, administrator, guardian or trustee, such surety or sureties may make application to the orphans' court of the county in which the letters testamentary or of administration, or of guardianship, were granted, or appointment made, for relief; and the said court shall thereupon direct to be issued a citation to such executor, administrator, guardian or trustee, requiring him to appear before said court, at a time and place to be therein specified, to state and settle his account of the estate that has come into his hands, and of the claims presented to him against the same, and to give new sureties, in the usual form, for the discharge of his duties; and if such executor, administrator, guardian or trustee shall appear and give new sureties to the satisfaction of said court, the court may thereupon make order that the surety or sureties, who applied for relief in the premises, shall not be liable on their bond for any subsequent act,

Citation.

If new sureties given, court may relieve for sureties.

default or misconduct of such executor, administrator, guardian or trustee.

Discharge of sureties after final decree.

145. At any time after the expiration of three months from the filing of any final decree of distribution made after the passing by any orphans' court or other competent court of this state of the final account of any administrator, executor, assignee for the benefit of creditors, trustee under any will, or guardian of any minor, the court which passed such final account shall, upon application on behalf of any person interested, upon such notice to the other interested persons as the court may prescribe, and upon proof being made to the satisfaction of said court that the entire trust estate has been distributed according to law, and that no appeal from such orders of distribution is pending, make an order discharging the sureties or bondsmen of such administrator, executor, assignee, trustee or guardian, as the case may be, from any and every liability by reason of their having become such sureties; from and after the making of such order all liability of every such surety named in such order, and his, her or their heirs, executors and administrators, under or by virtue of his, her or their undertaking as such surety, shall cease, terminate and be at an end, but the personal liability of such administrator, executor, assignee, trustee or guardian, as the case may be, shall nevertheless be and remain as if no such order had ever been made.

Personal liability to remain.

7. Discharge and Removal of Executor, Administrator, Guardian or Trustee.

Application for discharge.

146. When any executor, administrator, guardian or trustee, who has entered on the duties of his office, shall desire to be discharged from the further performance of the same, it shall be lawful for him to apply for such discharge by petition to the prerogative court, when the appointment was made or the letters testamentary, of administration or of guardianship, have been issued by the ordinary, or to the orphans' court, when the appointment was made by that court or letters have been issued by the surrogate; and upon such application the court shall examine into the matter, and if it shall appear that

May be discharged for sufficient reasons.

there is sufficient reason for such discharge, it may, by an order made for that purpose, grant the same; and such executor, administrator, guardian or trustee so discharged shall thereupon be relieved and discharged from all further duties of his office, except accounting for and paying over the moneys or assets received by him by virtue of his office; *provided*, that if it shall appear to the court that such discharge will be prejudicial to the estate or to those interested therein, or if the court, for any other reason, shall be of opinion that the same ought not to be granted, such discharge shall not be made; and if such executor, administrator, guardian or trustee shall be discharged, the court shall make such order in relation to the commissions as shall be just and equitable.

Provided such discharge will not prejudice the estate.

Executor may apply for discharge from particular trust.

147. When any executor or trustee shall desire to be discharged from the performance of any particular trust imposed upon him by the last will and testament under which he is appointed, it shall be lawful for him to apply for such discharge by petition to the prerogative court, when the letters testamentary shall have been issued by the ordinary, or to the orphans' court when letters have been issued by the surrogate; and upon such application, it shall be lawful for the court, by an order made for that purpose, to grant such discharge; and such executor or trustee so discharged shall thereupon be relieved and discharged from all further liabilities and duties of his office with respect to the said particular trust, except the accounting for and paying over the moneys or assets received by him for such trust to his successor in office.

Two or more executors may join in application.

148. When there is more than one such executor or trustee appointed by any will, they may, all or any one or more of them, join in the same application to be discharged.

Upon failure to perform duties or orders of court, or evidence of waste, etc., orphans' court to remove executor, etc.

149. When any order or decree shall be made by the orphans' court that any executor, administrator, guardian or trustee shall file an inventory or account, or that any executor, administrator, guardian or trustee shall give security or additional security, or shall do or perform any act or thing which the court by this act is authorized to order or direct, and such executor, administrator, guardian or trustee, having legal notice of such decree or order, shall refuse or neglect to

perform or obey the same within such time as the court shall name, or if it shall be made to appear before said court by proof, on complaint duly made by any person interested, that any executor, administrator, guardian or trustee has embezzled, wasted or misapplied any part of the estate committed to his custody, or has abused the trust and confidence reposed in him, the said orphans' court may revoke the letters of such executor, administrator or guardian, and remove such executor, administrator, guardian or trustee from office.

Executor residing or removing out of state, or incapacitated, may be removed for neglect.

150. In case any executor, administrator, guardian or trustee has removed or shall hereafter remove out of this state or does not reside therein, and shall neglect or refuse to proceed with the administration of the estate and to execute and perform the duties and trusts devolving upon him, or shall be or become of unsound mind or mentally incapacitated for the transaction of business, the prerogative court, when the letters have been issued, or the appointment made by the ordinary, or the orphans' court of the county where the letters have been granted, or the appointment made upon complaint being made by any person interested in such estate, may inquire into the matter in a summary manner, and revoke such letters testamentary or of administration or of guardianship granted to such executor, administrator or guardian, and remove such trustee; *provided, however*, such notice of such application shall be served upon or mailed to such executor, administrator, guardian or trustee, as the court may direct, requiring such executor, administrator, guardian or trustee, on a certain day to be named therein, to appear before said court and show cause why such letters testamentary or of administration or of guardianship shall not be revoked, and such removal made.

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Appointment of successor.

151. In case any executor, administrator, guardian or trustee shall be removed or discharged by the prerogative court or orphans' court for any cause authorized by this act, the court shall appoint some suitable and proper person or persons in the place and stead of such executor, administrator, guardian or trustee so removed or discharged, and the person or persons so appointed shall, before letters of administration or of guardianship shall be issued or the appointment as trustee take effect,

Give bond.

Form of bond.

Power of successor.

give bond to the ordinary in such amount and with such sureties as the court shall approve, for the faithful execution of the trust reposed; which bonds in case of letters of administration cum testamento annexo or de bonis non or of guardianship shall be in the same form and condition, as near as may be, as is required on the grant of such letters in other cases; and the person or persons so appointed shall have power and authority to demand, receive and recover the property and assets of the estate, and to maintain all proper actions at law or in equity for the recovery of the same, and shall be authorized to do all acts necessary for the administration and settlement of such estate, and the execution of the powers and performance of the trusts contained in the will of the testator, in the same manner and to the same effect as if such person or persons had been appointed administrator or guardian in the first instance or named as executor or trustee in such will, and shall be liable in the same manner for any neglect or failure to perform the duties of such appointment and subject in all respects to the orders of the court;

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provided, nevertheless, that where one or more of the executors, administrators, guardians or trustees shall be removed or discharged, the office shall survive and devolve upon the others, who shall proceed with the performance of the duties thereof, and shall be entitled to the property and assets, and to sue for and recover the same, in the same manner as if such remaining executor or executors, administrator or administrators, guardian or guardians, trustee or trustees had been solely appointed to such office.

Executor removed to deliver property of estate to his successor.

152. When any executor, administrator, guardian or trustee shall be removed or discharged by the prerogative court or orphans' court, he shall immediately thereafter deliver over to the newly-appointed administrator, guardian or trustee, or to his co-executor, co-administrator, or joint guardian or trustee, who shall remain such, all goods and chattels, moneys and effects, and other assets which he may hold as such executor, administrator, guardian or trustee; and shall, at the next term of said court, state and settle his account; and within sixty days after such settlement shall pay the balance shown to be due to the newly-appointed admin-

istrator, guardian or trustee, or his co-executor, co-administrator, or joint guardian or trustee as the circumstances of the case may require or the court may order; and on failure thereof the court may enforce the performance of such order by a fine not exceeding the amount of the estate in the hands of such executor, administrator, guardian or trustee so removed, to be collected by execution against the goods and chattels and lands of such defaulter in favor of the person to whom the defaulter should have made such payment of delivery as aforesaid, or the payment of such fine or performance of such order may be enforced by attachment for contempt; and such fine, when collected, shall be paid to the representative of the estate, who shall account for the same when received as assets of the estate.

Court may enforce performance by fine.

To be collected by execution or attachment.

153. The discharge or removal of any executor, administrator, guardian or trustee, for any cause authorized by this act, shall not release or discharge him or the surety or sureties or any of them from liability for the estate or any part thereof which has been received, or which ought to have been received by him or them, or for any neglect, default, miscarriage or breach of trust in the execution of his office; and the administrator, guardian or trustee appointed in the place of such executor, administrator, guardian or trustee, or his co-executor, co-administrator, or joint guardian or trustee, may have actions for such goods and chattels as shall have come to the possession of any executor, administrator, guardian or trustee so discharged or removed, for any breach of trust, waste, embezzlement or misapplication of the same, and may proceed by actions at law or in equity for the recovery of the assets of the estate, either against such executor, administrator, guardian or trustee, or against any other person into whose possession such assets shall have come or in whose hands they may be.

Removal of executor, etc., not to release him or his sureties.

Successor may have action for waste, embezzlement, etc.

8. Fulfillment of Contract of Decedent for Sale of Lands.

154. When any testator or intestate shall in his or her lifetime have made any agreement for the sale or conveyance of any lands, tenements or hereditaments within

Fulfillment of contract made in writing.

this state, and the purchase-price shall have been paid therefor by the purchaser and the said purchaser shall have been placed in the possession of such lands, tenements or hereditaments by such testator or intestate, or when any testator or intestate shall, in his or her lifetime, have made any contract in writing for the sale or conveyance of any lands within this state, the executor or administrator of such testator or intestate, or the purchaser or his or her legal representatives or assigns may apply to the orphans' court of the county in which such lands lie for the fulfillment of such contract; *provided*, such application be made within five years from the date of such contract or making of such agreement.

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Notice, how given.

155. Notice of the application to the court for the fulfillment of such contract or agreement shall be given for at least two months prior to such application by advertisements set up and published in the same manner as advertisements for the sale of lands by a sheriff under execution are or may be by law required to be set up and published, and the court, upon proof of such publication and of the facts set forth in the last preceding section, shall cause proclamation to be made in open court of the purport of such application, and that any person having cause to show why the same should not be granted may appear for that purpose before the said court, at a certain day to be fixed by the said court, not less than ten days thereafter; and at the said day, or at such subsequent time to which the hearing shall then be adjourned, the court shall hear the allegations and objections, if any, of parties interested, and if such contract or agreement and such facts as are set forth in the preceding section shall be duly proved to the satisfaction of the court, and no sufficient cause to the contrary shall appear, it shall be lawful for the court to decree the fulfillment of such contract, which decree, together with the written contract, shall be entered of record in the minutes of the court, and such contract where there is a written contract, and in other cases a copy of the evidence and a copy of the papers produced in evidence, shall be filed in the office of the clerk of the said court, and the court shall thereupon order the executor or executors, administrator or administrators, or the survivor or survivors of them, or administrator or administrators

Make proclamation.

Application heard.

If proved, and no cause to contrary appear, court may decree fulfillment of contract.

pendente lite, or the legal representatives of the deceased, or his, her or their guardian or guardians, to make a good and sufficient deed of conveyance to the purchaser or his legal representatives or assigns, and any deed made and executed by virtue of such order of the court shall convey the lands directed to be conveyed as fully as if the testator or intestate had executed the same in his or her lifetime.

Order deed made.

XIII. DUTIES OF THE SURROGATE.

156. The probate of wills, and letters testamentary, of administration and of guardianship, issued by the surrogate under this act, shall have the same validity and effect as the probate of wills and letters of administration or guardianship issued by the register of the prerogative office in the name of the ordinary, with the seal of office affixed.

Probate of wills, etc., of same effect as issued by register.

157. The surrogate shall file all administration and guardianship bonds by him taken, and other instruments of writing required by law in conducting the business of his office, or which were heretofore used to be filed in the prerogative office.

Surrogate to file bonds and papers.

158. The surrogate of each county shall record, in books to be provided for that purpose, at the expense of the county for which they shall be used, all wills proved before him or before the orphans' court, together with the proofs thereof, all letters of guardianship, letters testamentary and letters of administration, by him issued or granted, and all things concerning the same, and also all inventories proved before him; which records shall be of the same force, validity and effect as the like records in the prerogative office, and the transcript of such records, certified under the hand and seal of office of the surrogate, shall be received in evidence in every court of this state, and have the same validity and effect as transcripts certified by the register of the prerogative court.

Shall record wills, etc.

Such records and transcripts received in evidence.

159. The surrogate, as clerk of the orphans' court, shall keep regular minutes of the trials and proceedings in said court, and shall record, in books to be kept for that purpose, all orders and decrees of the court; and

Keep minutes of court, accounts, partitions, etc.

all bonds required by law to be taken by the surrogate or given in pursuance of any order or decree of the orphans' court, and all accounts of executors, administrators, guardians, assignees and trustees, and all partitions, sales of land and acceptances, revocations, requests, renunciations and releases necessary or proper to be made, if desired by any party in interest.

All records and papers indexed.

160. It shall be the duty of the surrogate to keep all papers and records appertaining to his office properly indexed in an alphabetical manner, in which records of all the official acts (which are made of record in said office) of the previous week (so far as the same can be done) shall be recorded, properly indexed in manner aforesaid; upon any failure to perform said duties the surrogate shall forfeit and pay the sum of ten dollars for each and every week he shall neglect said duties, to be sued for and recovered by the director of the board of chosen freeholders in the county where the delinquency shall happen, in his own name, to be applied when recovered to and for the use of the county.

Surrogate for time being may sign entries of record, etc.

161. The surrogate for the time being is authorized to sign all entries of record and the certificate of the filing of papers in his office, either as surrogate or clerk of the orphans' court; and such signature by the surrogate in office shall be as good and effectual as if signed by the surrogate or clerk of the orphans' court at the time the said entries of record or the filing of such papers were or should have been made.

Records and transcripts evidence.

162. The records kept by the surrogate under the provisions of this act, and the transcript of such records under the hand and seal of office of the surrogate, shall be received as evidence in any of the courts of this state.

Receipts for legacies, etc., to be recorded.

163. Every executor, administrator, guardian or trustee who hath paid or shall hereafter pay any legacy, distributive share or sum of money to any person or persons entitled by law to receive the same, his, her or their executors or administrators may produce the receipts and discharges therefor to the surrogate of the county in which letters testamentary or of administration or guardianship have been or shall be granted, and the said surrogate shall immediately record the same in a book to be kept for that purpose; *provided*, that the same be first proved or acknowledged in the

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manner that deeds of conveyance of land are by law required to be proved or acknowledged; which proof or ackowledgment shall be recorded with such receipts or discharges; and the said surrogate shall indorse, on such receipts and discharges, the book and page in which the same is recorded, with the time of recording the same, and sign his name thereto; and the said record, or a copy thereof, under the hand and seal of office of the surrogate, shall be received in evidence in any court of record in this state, if it shall be made to appear to the satisfaction of said court that the original receipt or discharge hath been lost, or that it is not in the power of the party offering the copy in evidence to produce the same.

Record or copy when to be evidence.

164. Any oath, affirmation, affidavit, deposition or proof required to be made or taken in any proceeding before the surrogate or in the orphans' court of any county or necessary or proper to be used before such surrogate or court for any purpose whatever, including the proof of wills, may be made and taken by and before the surrogate or deputy surrogate of such county.

Administer oaths or take affidavit.

165. Every surrogate shall, on the first Monday of February, May, August and November, in each year, transmit to the register of the prerogative court all wills and inventories proved by him, and a return of all letters of administrations granted during the preceding three months, to be filed in the said register's office.

Transmit wills, etc., to register.

166. If any surrogate shall take other or greater fees than by law allowed, or shall take fees for services not performed, he shall, for every such offense, forfeit and pay the sum of thirty dollars, to be recovered in an action of debt, with costs of suit, before any court having cognizance thereof, by the party aggrieved.

Penalty for taking illegal fees.

167. If any surrogate before whom the probate of any will is required to be made, or by whom the letters of administration or of guardianship are required to be issued, or any other official act as surrogate is required to be done in the administration or settlement of any estate, shall be the executor, administrator, guardian or trustee, the duties required to be performed by the surrogate by this act with respect to the probate of the will, or the issuing of letters, or the administration or settlement of the accounts of such surrogate, may, in such

In case surrogate is executor, etc.

Duties performed by judge of orphans' court.

cases, be performed by a judge of the orphans' court of the same county.

XIV. DISTRIBUTION.

Distribution of estates of intestates.

168. After executors or administrators shall have legally accounted for the goods and chattels and credits of the deceased, the orphans' court of the proper county shall, by a decree of distribution, order a just and equal distribution of the personal estate whereof any deceased shall die intestate, which may remain after the payment of debts, funeral charges and just expenses, among the wife and children, or children's children, if any such there be, or otherwise to the next of kindred to the intestate, in equal degrees, or legally representing their stocks, each according to his or her respective right, pursuant to the laws in such cases, and the rules and limitations hereinafter set down, and the persons entitled to such distribution shall have their remedy at law, in cases of non-payment, for the recovery of the same, against the executor or executors, administrator or administrators, so accounting, saving to every one supposing him, her or themselves aggrieved, his, her and their right of appeal.

Manner of distribution.

169. The whole surplusage of the goods, chattels and personal estate of every person dying intestate shall be distributed in manner following, that is to say:

If there be widow or children.

I. One-third part of the said surplusage to the widow of the intestate, and all the residue, by equal portions, to and among the children of such intestate, and such persons as legally represent such children, in case any of the said children be then dead, other than such child or children, who shall have any estate by the settlement of the intestate, or shall be advanced by the intestate, in his lifetime, by portion or portions equal to the share, which shall, by such distribution, be allotted to the other children, to whom such distribution is to be made; and in case any child shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate, in his lifetime, by portion not equal to the share which will be due to the other children, by such distribution as aforesaid, then so much of the sur-

Settlements or advances deducted.

plusage of the estate of such intestate shall be distributed to such child or children, as shall have any land by settlement from the intestate, or were advanced in the lifetime of the intestate, as shall make the estate of all the said children to be equal, as near as can be estimated;

If widow, but no children.

II. In case there be no children, nor any legal representative of them, then one moiety of the said estate shall be alloted to the widow of the said intestate, and the residue of the said estate shall be distributed equally to every of the next of kindred of the intestate, who are in equal degree, and those who represent them; *provided*, that no representation shall be admitted among collaterals after brothers' and sisters' children;

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Children, but no widow.

III. And in case there be no widow, then all the said estate to be distributed equally to and among the children; and in case there be no child, then to the next of kindred, in equal degree, of or unto the intestate and their legal representatives as aforesaid, and in no other manner whatsoever;

Estate of deceased child, how divided.

IV. If, after the death of a father, any of his children shall die intestate, without wife or children, in the lifetime of the mother, every brother and sister, and the representatives of them, shall have an equal share with her; anything in this act or any law to the contrary notwithstanding;

When illegitimate child represents mother.

V. If the mother of any illegitimate child or children shall die without leaving a husband surviving her, and leaving no lawful issue, or the issue of any, then the surplusage of her goods, chattels and personal estate shall be paid to her illegitimate child or children;

Estate of illegitimate person.

VI. The whole surplusage of the goods, chattels and personal estate of any illegitimate person who shall die intestate and unmarried, and leaving no lawful issue or the issue of any, him or her surviving, shall go to and be paid over to the mother of such illegitimate person:

In case of leaving widow but no kindred entitled to personal estate.

VII. If any person shall have heretofore died intestate, leaving a widow, but without leaving any other kindred or relatives who could take or be entitled to his personal estate under the law in force at the time of his decease, and his estate be undistributed at the time of the passing of this act, or if any person shall hereafter die intestate, leaving a widow, and without leaving any

other kindred or relatives, then and in such cases all the personal estate of such person so dying, after payment of his debts, shall be given and belong to his widow so surviving him, or in case of her death intestate, to her next of kin, as if she had received said estate before her death;

In case intestate leave no relation.

VIII. If any person has died or shall die intestate, leaving no widow and no known kindred or relatives, the administrator or administrators of his estate shall, at the expiration of one year after the death of such intestate, put the surplus of said estate, after payment of debts and necessary expenses, out at interest, and pay the net interest or income thereof annually to the treasurer of the township or city in which said intestate has so died or shall so die, to and for the use of the poor of said township or city, and shall, whenever applied to for that purpose, pay the principal of such personal estate, if thereto required by the judgment or decree of any court of competent jurisdiction, within seven years next after the decease of such intestate, to his or her legal representative or representatives applying for the same, by assigning to him, her or them the bond or other security therefor, or by otherwise satisfying him, her or them for the same; and if no person or persons legally entitled to the personal estate of such intestate shall, within the said seven years next after his or her decease, make application as aforesaid to such administrator or administrators for the said principal, he, she or they so entitled shall forever thereafter be debarred from all right, title or claim to such decedent's personal estate, and the said administrator or administrators shall, immediately after the expiration of the said seven years, pay the whole of the said principal, with the interest that may then be due thereon, to the treasurer of the township or city in which said intestate died, to and for the use of the poor of the said township or city; *provided, always*, that the right of foreigners, by treaty or otherwise, shall not be affected by any thing in this section contained.

Surplus put at interest payable to city or township.

If not applied for in seven years, principal to be paid to overseer of poor.

Proviso.

Estates of femes covert.

170. Nothing in this act contained respecting the distribution of intestates' estates shall extend to the estates of femes covert who shall die intestate, but their husbands may demand and have administration of their

rights, credits and other personal estate, and recover and enjoy the same as fully as they might have done before the passing of this act, but that in cases where the total value of the assets of such estates shall not exceed two hundred dollars they shall be absolutely entitled without administration to the balance thereof remaining after the payment of all debts due from the estate of such deceased person out of said estate.

One year to elapse before distribution.

171. No distribution of the goods, chattels, credits and personal estate of any person dying intestate shall be made until one year after granting administration thereof unless a decree barring creditors has been entered, in which case such distribution may be made whenever twenty days shall have elapsed since the entry of such decree barring.

Refunding bonds required.

172. Every person to whom any distribution or share of the goods, chattels and personal estate of any intestate shall be allotted, shall give bond, in double the sum at least of such distributive share, to the administrators, with condition that if any debt or debts, truly owing by the intestate, shall be afterwards sued for and recovered or otherwise duly made to appear, and which there shall be no other assets to pay, that then and in every such case he or she shall respectively refund and pay back to the administrators his or her ratable part of such debt or debts and of the cost of suit and charges by reason of such debt or debts, out of the part and share so allotted to him or her; thereby to enable the said administrators to satisfy such debt or debts; which bond shall be good and sufficient if signed and executed by the next of kin giving the same, or guardian of such next of kin, without any sureties whatever.

Sufficient without sureties if signed by next of kin.

In case of will.

173. In all cases where any executor or administrator cum testamento annexo shall have filed any account, exhibiting the balance of any estate in his or her hands, up to the date of filing the same, and such account shall have been duly allowed by the decree of the orphans' court of any county of this state, it shall be lawful for the said orphans' court, upon the application of any party in interest, to adjust, order and make just distribution in accordance with the directions and provisions of the last will and testament in each case, of

Orphans' court may decree distribution.

Enforcement of decree.

what shall remain after all debts and expenses shall have been allowed and deducted; and the said orphans' court shall have power to enforce its decree as aforesaid, by attachment, sequestration or other process, or in any manner and with like effect that similar decrees can be enforced by the court of chancery of this state; reserving and hereby giving to every one feeling aggrieved by any such decree of distribution as aforesaid, the right to appeal to the prerogative court concerning any such decree or the enforcement thereof;

Proviso.

provided, that if any executor or administrator as aforesaid shall appeal from such decree of distribution or proceeding in the orphans' court as aforesaid, said appeal shall be filed within twenty days next after the date of said decree of distribution, and the appellant shall give a bond to the ordinary of this state, with two sufficient sureties, to be approved of by the said orphans' court, in double the sum adjudged due to the parties entitled to the same, and conditioned to pay such sum, costs, interest and damages accruing by reason of any such appeal, if the said order of distribution and enforcement be affirmed.

XV. PRACTICE.

1. Process.

Process for appearance by citation.

174. Process for the appearance of any person before the orphans' court or to compel any executor, administrator, guardian or trustee to perform any duty required by this act, may be by citation issued by the surrogate under the seal of his office, which, unless otherwise specially provided, shall be served ten days before the day whereon it shall be returnable, in the same manner as writs of summons are required to be served by the act entitled "An act to regulate the practice of courts of law."

How issued and served.

By whom served.

175. The sheriff and constables of the county shall be officers of the orphans' court of such county, and shall serve all process and orders of the court directed to them or any of them, to be served within such county.

May be issued into any county.

176. Citations issued out of the orphans' court and process of attachment to compel obedience to any citation or the performance of any order or decree of the court may be issued into any county of this state, and shall be served by the sheriff or other proper officer of such county; and the said sheriff or other officer is hereby authorized and empowered to serve and execute such citation or process; and the court may enforce obedience to all such citations and process in the same manner as if the same had been served within the county where such citation or process is issued.

Service on non-resident.

177. When any person against whom any citation or other process for appearance in any suit, matter or proceeding in the prerogative court or any of the orphans' courts of this state shall issue, resides out of the state, service thereof may be made by any person whom the ordinary or surrogate, under his hand, shall appoint, either personally or by leaving a copy of the same at his usual place of abode, with some person of the age of fourteen years or upwards, thirty days before the return of such citation or process; and the person serving such citation shall make and file an affidavit setting forth the time, place and manner of such service, whereupon the same shall have the force and effect of a service by the proper officer within this state.

Person serving to make affidavit.

Court may order absent defendant to appear.

178. When it shall appear to the satisfaction of the prerogative court or any orphans' court that the person against whom a citation or other process has been issued resides out of this state, or cannot be found therein to be served therewith, the said court may by order direct such absent defendant to appear in such suit, matter or proceeding at a certain time not less than thirty days from the date of said order, or that such proceeding will be had against the said absent defendant as if he had appeared in said suit or proceeding; and notice of such order shall be served and published in the same manner as like notices are required to be served and published in proceedings against absent defendants in the court of chancery; and if such absent defendant shall not appear and cause his appearance to be entered in said court at or before the time mentioned in such order, he shall be proceeded against in the same manner as if he had appeared, and the determination of any of said courts upon

Notice of order served and published.

Determination of non-residence, etc., conclusive in collateral proceedings.

proofs that such person against whom process shall be issued resides out of the state or cannot be found therein, or that he has been served with a copy of such process, or that the notice of the order to appear has been served or published as required by law, shall be sufficient evidence, and in collateral proceedings conclusive evidence, of the fact so determined.

May proceed in certain cases by rule to show cause.

179. In any proceedings against executors, administrators, guardians or trustees by virtue of this act, after grant of letters testamentary, of administration or guardianship, the court may proceed by a rule to show cause, a copy of which shall be served upon the person or persons therein named, in such manner as the court may direct; and upon such service, duly verified by affidavit, the court may proceed therein the same as if such person or persons had been summoned by citation.

2. Testimony, How Taken.

Reduced to writing.

180. Upon all causes heard before the orphans' court, the evidence and proceedings, upon the application of either party, shall be reduced to writing by the clerk of the court; and the court, upon just cause, may put off the hearing of the cause to another time, upon the application of either party.

May be taken before surrogate or master.

181. All examinations to be taken and made use of at the hearing of any cause in the orphans' court of any county may be taken and reduced to writing before the surrogate of such county, or a master in chancery, which examinations shall be taken on ten days' notice of the time and place of taking the same, given by the party or his attorney to the opposite party or his attorney; and either of the parties may, in person or by his attorney, be present and examine and cross-examine such witnesses, and the examination so taken shall be of the like force and effect as if taken in the orphans' court, and shall be filed with the clerk of the said court and read in evidence upon the hearing of the cause, saving all just exceptions.

Orphans' court may certify any question of fact into circuit court.

182. The orphans' court may certify any question of fact into the circuit court of the same county for trial before a jury, and upon filing the certificate in the circuit court such proceedings shall be had thereupon as

are provided for in the trial of questions involved in the probate of wills before a jury.

3. Orders and Decrees, How Enforced.

By attachment, imprisonment or distress.

183. Every person duly cited or summoned to appear at any of the said orphans' courts, who shall make default, shall be liable to attachment for contempt, and the said courts are hereby authorized and empowered to compel obedience to their process, orders and sentences, by imprisonment of body or distress and sale of lands and goods, as fully and amply as any other court of record in this state.

Decrees imposing fine or ordering payment to be recorded and signed.

184. All decrees or orders of the orphans' court whereby any fine is imposed or a sum of money is ordered to be paid by one party to another shall be recorded and shall be signed by a judge of the court, and the said decrees and orders shall have the same liens and priorities as judgments of the circuit court of the same county, and the like executions may issue thereon, or if need be the court may enforce performance of the same by writs of attachment, injunction and ne exeat, in the same manner as may be done by the court of chancery; *provided*, that no decree of the orphans' court of any county hereafter to be made shall become a lien upon or bind any lands, tenements, hereditaments or real estate, until some party interested in such decree shall have filed in the office of the clerk of the circuit court of the same county a statement or abstract of such decree containing the names of those against whom it is rendered, the time at which said decree was signed and the amount of the fine imposed, or sum of money therein ordered to be paid, which statement or abstract said clerk shall forthwith file in his office, and index and record the same in the books in which judgments recovered in said circuit court are recorded and indexed.

Proviso.

Executions must be recorded.

185. No execution hereafter issued out of the orphans' court shall bind lands unless the same shall, before it is delivered to the sheriff, be recorded in the book kept for recording executions issued out of the circuit court of the county.

Imprisoned person, how relieved.

186. When any person shall be imprisoned by virtue of any order, writ or process, made by or issued out of the orphans' court, the court making such order, or out of which such writ or process has issued, is hereby authorized to discharge the person so imprisoned at the discretion of said court, whenever in the judgment of said court the ends of justice require such discharge.

4. Prosecution of Bonds.

Bonds prosecuted by ordinary.

187. In case any bond given by executors, administrators, guardians or trustees, in pursuance of this act, shall become forfeited, the ordinary may cause the same to be prosecuted in any court of record, at the request and expense of any party aggrieved by such forfeiture; and the moneys recovered upon such bond shall be applied towards making good the damage sustained by the not performing the said condition in such manner as the ordinary shall by his sentence or decree direct.

When bond of executor has been prosecuted to judgment, surety may obtain order for presentation of claims.

188. In case any bond given by executors or administrators, in pursuance of the act to which this is a supplement, has or shall become forfeited, and has been or may be caused by the ordinary to be prosecuted to judgment, in any court of record, and it shall be made to appear to the ordinary, by petition filed by any surety, against whom judgment has been or shall have been rendered upon such bond, that the damages sustained by the non-performance of the condition of such bond, together with the costs of suit and execution fees thereon, have been fully satisfied so far as such surety shall have been able to ascertain such damages, the ordinary, upon application of such surety, may make an order directing such surety to give public notice to the creditors of the decedent and any persons aggrieved by the forfeiture of such bond, to bring in their debts, demands and claims against the estate of the decedent, under oath, within three months from the date of such order, by advertising such notice for six weeks successively, once in each week, in one or more of the newspapers of this state, as may be directed in said order, and any further notice, in case the ordinary shall judge the same necessary, and such notice shall be advertised within twenty days after the date of such order.

Claims and demands must be in writing.

189. When any order to bring in debts and claims shall be made, in pursuance of the preceding section, all claims and demands of the creditors of the deceased, and of all persons aggrieved by the forfeiture of such bond, shall be presented in writing, specifying the amount claimed and the particulars of the claim, and shall be verified under oath, or the bringing in of the same shall be of no effect.

Exceptions to claims.

190. The surety or sureties may except to any claim, debt or demand, and thereupon the same shall be tried in such manner as the ordinary may direct, and the ordinary may, if the same be not proved on such trial to his satisfaction, disallow and reject the same.

Satisfaction of judgment entered.

191. After the expiration of the time in such order limited, the ordinary, upon proof, to his satisfaction, that such notice has been advertised as directed, and that no claims or demands have been presented, or that all claims which have been presented and allowed, have been fully paid and satisfied by such surety, or otherwise, may order satisfaction of such judgment to be entered, pursuant to the provisions of the act entitled "An act concerning judgments" (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four.

5. Suits for Legacies and Distributive Shares.

Commenced by petition.

192. Suits for the recovery of legacies and distributive shares before the orphans' court shall be commenced by petition setting forth concisely the petitioner's claim and the relief prayed for and shall be verified by the oath of the petitioner, his agent or solicitor, and on filing thereof a citation or citations shall issue under the seal of the court, signed by the clerk and by the petitioner or his solicitor, and may be served in the same manner as citations are served in other cases, and may be made returnable in term or vacation; and the proceedings in such suits thereafter shall in all respects be governed by the rules and practice of the court of chancery so far as the same are applicable; *provided, however*, that any question arising in any such suit or proceeding may be tried and determined in a summary way before the court without being referred to a master.

Citation how served.

Practice like chancery.

Proviso.

Duties and fees of clerks and solicitors.

193. In suits under the last preceding section, the clerks of the orphans' court shall perform the same duties as are required to be performed by the clerk of the court of chancery in similar cases, and in such suits the fees of the solicitor for drawing and engrossing a petition, or answer thereto, shall in no case exceed three dollars, and all other fees and costs shall be the same as are allowed for similar services in the court of chancery, except that the fees of the clerk shall be two-thirds of the sum allowed for like service in the court of chancery.

6. Ordinary to Make Rules.

Ordinary to make rules.

194. It shall be the duty of the ordinary, from time to time, to make such rules and orders to regulate the pleadings and practice in the prerogative court and in the orphans' court as may, in his judgment, render the practice and proceedings therein more simple, expeditious and efficient, and prevent unnecessary costs and delay, and for that purpose he shall have full power to change and regulate such pleadings and practice.

Orphans' court or ordinary may amend defects in proceedings.

195. In order to prevent the failure of justice by reason of mistakes and objection of form, it shall be lawful for the orphans' court or the ordinary, at all times and in all cases, to amend all defects and errors in any proceeding, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not, and all such amendments may be made with or without costs, and upon such terms as to the orphans' court or ordinary may seem fit; and all such amendments as may be necessary for the purpose of determining in the existing suit or proceeding the real question in controversy between the parties, or the real question raised on the application to amend, shall be so made.

XVI. COSTS.

Court to adjudge who shall pay costs in litigation.

196. In all litigated suits in the orphans' court, the court shall adjudge and direct which party shall pay the costs and expenses of such litigation, and shall have

the power to apportion and determine the costs and expenses to be paid by either party.

Costs, how adjudged in probate.

197. In causes respecting the probate of a will, or of a codicil to a will, if probate be refused, the court may order the costs and expenses of the litigation to be paid by the person or persons propounding the will or codicil, or to be paid out of the estate of the deceased; but, if probate be granted, the court shall order the party or parties contesting such will or codicil to pay the costs and expenses of the litigation, unless it shall appear to the court that the person or persons contesting such will or codicil had reasonable cause for contesting the validity of the same, or shall not have offered on the trial or hearing any evidence other than the subscribing witnesses to the will or codicil; and in case it shall appear to the court that the person or persons contesting such will or codicil had reasonable cause for contesting the validity thereof, the court may order that the cost and expenses of the litigation, as well on the part of such contestant or contestants as on the part of the person or persons propounding such will or codicil for probate, be paid out of the estate of the deceased.

When expenses of contest may be paid from estate.

Costs taxed by surrogate.

198. The bills of costs shall be drawn, taxed and filed by the surrogate, who shall, in case the same be not paid, issue execution therefor against the goods and chattels, and lands and tenements, of the party adjudged to pay the same; and the court shall have power to enforce the payment thereof by attachment or other process in the same manner as other orders and decrees of the court are enforceable.

Collection.

Costs paid to surrogate.

199. The costs, when paid or levied, shall be received by the surrogate, who shall pay to the sheriff and crier, each their fees, as the same shall be taxed, and the residue to the persons entitled thereto.

Fees allowed.

200. The surrogates and other officers of the orphans' court shall receive, for the services hereinafter mentioned, the fees thereunto annexed, and no more; and a sheet or folio shall contain one hundred words.

Folio.

Fees to be received by the surrogate for services directed by law to be performed by the register of the prerogative court, and to be paid over to him:

For recording the name of each testator, the year in which the will was proved, and filing the will, twenty-five cents;

Recording the name of each intestate where administration hath been granted, and the year when granted, twelve cents;

Filing every inventory, twelve cents.

Fees of Surrogate and Clerk of the Orphans' Court.

For drawing applications for probate or for letters of administration, taking proof and recording the same, one dollar and sixty cents;

For drawing and taking depositions on will or inventory, one dollar and sixty cents;

Engrossing a will, codicil and proof, each sheet, fourteen cents;

Recording a will, codicil and proof, each sheet, ten cents;

For making and signing every order or decree, one dollar;

Granting probate, one dollar and twenty cents;

Engrossing probate, fourteen cents;

Recording probate, ten cents;

Drawing and taking depositions to codicils, seventy-four cents;

Drawing administration bond and taking deposition thereon, one dollar and sixty cents;

Granting letters of administration, one dollar and twenty cents;

Engrossing letters of administration, fourteen cents;

Recording letters of administration, ten cents;

Filing administration bond, ten cents;

Recording administration bond, each sheet, twelve cents;

Drawing and making appointment of appraisers, and drawing the oath for the appraisers, one dollar and twenty cents;

Recording inventory and proof, each sheet, ten cents;
Drawing bond and petition for guardianship, one dollar and sixty cents;
Reading bond and petition for guardianship, twelve cents;
Filing bond and petition for guardianship, ten cents;
Granting letters of guardianship, one dollar and twenty cents;
Engrossing letters of guardianship, fourteen cents;
Recording letters of guardianship, ten cents;
Drawing petitions, stating a list of debts, credits on application for sale of real estate, entering sale and making copies, one dollar and seventy-six cents;
Exhibiting proofs of advertising rule to show cause, entering decree and copies thereof, and receiving and filing report of sales, five dollars and four cents;
For advertising rule of court or notice, when done by the surrogate, one dollar and twenty cents;
For services enjoined by the act concerning contracts of real estate made by testators and intestates in their lifetime, the same fees as allowed for the sale of land;
Drawing petitions, reading, filing and recording decree appointing commissioners for the division of real estate, and a certified copy of such decree, four dollars and eight cents;
Recording report of commissioners, each sheet, ten cents;
Recording drafts for each and every course, four cents;
Drawing petition on application for rule to limit time to creditors, entering the rule and decree, making the rule absolute, and a certified copy of the decree, five dollars and four cents;
Drawing citation or other process, thirty-six cents;
Sealing the same, seventeen cents;
Entering every action, ten cents;
Entering the return of a writ, twelve cents;
Entering every rule or order of court, twelve cents;
Copy of such rule or order, ten cents;
Searching the records, fourteen cents;
Swearing each witness, seven cents;
Reading every petition or other writing given in evidence, twelve cents;

Filing every citation, exception, or other paper, ten cents;

Indexing each paper required to be indexed, ten cents;

Entering every discontinuance, twelve cents;

Entering every decree, twelve cents;

Taxing every bill of costs, sixty cents;

Issuing execution for costs, sixty cents;

Entering and filing appeal, twenty-four cents;

Copies of citations, exceptions, records and other papers, each sheet, ten cents;

Seal and certificate, thirty cents;

Taking depositions, each sheet, fourteen cents;

Taking the examination of every witness, for each sheet, twenty cents;

Recording certified copy of proceedings in cases of lunacy, transmitted to the court, each sheet, ten cents;

Recording all bonds required to be taken by or filed with the surrogate, each sheet, twelve cents;

Recording accounts of executors, administrators, guardians and trustees, partitions, requests, renunciations, releases, receipts and discharges, and all other papers required by this act to be recorded and not otherwise provided for, each folio, twelve cents;

For auditing, stating and reporting the accounts of executors, administrators, guardians, trustees and assignees on estates not exceeding ten thousand dollars, fifteen dollars;

Over ten thousand dollars and not exceeding fifty thousand dollars, thirty dollars;

Over fifty thousand dollars, and not exceeding five hundred thousand dollars, at the rate of one-tenth of one per centum, and where estates exceed five hundred thousand dollars the court shall fix and determine the additional fees to be allowed on such excess; *provided*, such further and additional fees may be allowed in any case as the court shall think reasonable.

Proviso.

XVII. APPEAL.

1. From Surrogate.

Appeal to orphans' court on grant of administration or proof of inventory.

201. Any person aggrieved by any order or proceeding of a surrogate in proving an inventory or granting letters of administration or of guardianship may, by filing a petition of appeal with the surrogate within twenty days after such order or proceeding, appeal therefrom to the orphans' court, which appeal the said court shall hear in a summary way, and affirm or reverse the order or proceeding complained of, either wholly or in part.

On probate of will.

202. Proceedings of surrogates respecting the probate of will shall be subject to appeal to the orphans' court by any person interested, or other person legally representing him, and to proceedings thereon, as if the will had not been proved; *provided*, that such appeal be made within three months after such proceedings, before the surrogate, or within six months after such proceedings in cases where the person appealing resides out of this state at the death of the testator.

Proviso.

To prerogative court in other cases.

203. All proceedings of surrogates, from which an appeal is not provided for in the last two sections, shall be subject to appeal to the prerogative court by any persons interested, or other person legally representing them; *provided*, such appeal be made within six months after any such proceedings.

Proviso.

2. From Orphans' Court.

Appeal to prerogative court.

204. Any person aggrieved by order or decree of the orphans' court, of whatever nature, may appeal from the same to the prerogative court; *provided*, that the appeal, if from an order or decree of the court respecting the probate of a will or right of administration or the fairness of an inventory, shall be demanded within thirty days after such order or decree, and if from any other order or decree, the same shall be demanded within three months from the making of such order or decree, unless otherwise specially provided.

Proviso.

Approved June 14, 1898.

CHAPTER 235.

An Act for the punishment of crimes (Revision of 1898).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

I. CRIMES AGAINST THE STATE.

1. Treason, Sedition and the Like.

Treason.

1. Any person owing allegiance to this state, who shall levy war against it, or shall adhere to its enemies, or to the enemies of the United States, by giving them aid or comfort within this state or elsewhere, or by giving them advice or intelligence by letters or writing of any kind, or by messages, words, signs or tokens, or in any way whatsoever, within this state or elsewhere, or by procuring for, or furnishing to them, money, or any kind of provisions, arms or warlike stores, within this state or elsewhere, or by bribery, or for reward, or promise thereof, or through favor, partiality or treachery yielding or surrendering to them any town or fortress, castle, garrison, troops, militia, citizen or citizens of the state or of the United States, or any ship, boat or vessel of this state, or of the United States, or by giving them aid and comfort in any other way; and shall be thereof convicted, on the testimony of two witnesses, to the same overt act of the treason whereof he shall stand indicted, or on confession in open court, shall be guilty of treason, and suffer death.

Misprision of treason.

2. Any person having knowledge of the commission of any of the treasons aforesaid, who shall conceal and not, as soon as may be, disclose and make known the same to the governor of this state, or to some one of the justices of the supreme court thereof, or to a judge of the court of quarter sessions, or to a magistrate, shall be guilty of misprision of treason, and punished by fine

not exceeding one thousand dollars, or imprisonment at hard labor not exceeding seven years, or both.

Maintaining foreign authority.

3. Any person owing allegiance to this state, who shall, by speech, writing, open deed or act, advisedly and wittingly maintain and defend the authority or jurisdiction of any foreign power, potentate, republic, king, state or nation whatsoever, in and over this state, or the people thereof, shall be guilty of a high misdemeanor.

Conspiracy to make war on other states.

4. Any person who shall, within this state, get up or enter into any combination, organization or conspiracy, with the intent and purpose of making or attempting to make a hostile invasion of any other state or territory of the United States, or shall engage in plotting or contriving any such invasion; or who shall knowingly furnish any money, arms, ammunition, or other means in aid of such object, or shall in any way knowingly and willfully aid, abet or counsel any such combination, organization or conspiracy, or any such hostile invasion, shall be guilty of a high misdemeanor.

Concealment of aforesaid crimes.

5. Any person having knowledge of the commission of any of the high misdemeanors aforesaid, who shall conceal and not, as soon as may be, disclose and make known the same to one of the public officers mentioned in the second section of this act, shall be guilty of a high misdemeanor.

2. Against Public Justice and the Administration of Government.

Obstructing execution of process.

6. Any person who shall knowingly and willfully obstruct, resist or oppose any sheriff, coroner, constable, or other officer, or other person duly authorized, in serving or attempting to serve or execute any mesne process, writ, warrant, rule or order of any of the courts of this state, or any other legal or judicial writ, warrant, or process whatsoever; or who shall assault, beat or wound any sheriff, coroner, constable, or other officer or person duly authorized, in serving or executing any writ, rule, order, process or warrant aforesaid, or for having served or executed the same, shall be guilty of a misdemeanor.

Suffering escape in capital cases.

7. Any sheriff, coroner, jailer, keeper of a jail, constable or other officer or person whatsoever, having any offender guilty of treason or murder in his custody, who shall voluntarily permit or suffer such offender to escape and go at large, shall be guilty of a high misdemeanor, and on conviction thereof shall be punished by imprisonment not exceeding thirty years; *provided*, nothing herein contained shall be construed to prevent any sheriff, coroner, jailer, keeper of jail, constable or other officer or person so guilty of such voluntary escape as aforesaid, from being prosecuted for a misdemeanor as at common law.

Proviso.

Escapes in other cases.

8. All voluntary escapes in cases not punishable with death, and all negligent escapes of whatever kind in criminal matters, shall be misdemeanors; and any sheriff, coroner, jailer, keeper of jail, constable or other officer who shall be guilty of any voluntary escape in any criminal case whatever, shall be disqualified from holding any office of honor, trust or profit under this state.

Rescues in capital cases.

9. All rescues of any person guilty of treason or murder shall be high misdemeanors, and every person so offending, on conviction thereof, shall be punished by imprisonment not exceeding thirty years; *provided*, nothing herein contained shall be construed to prevent any such rescue as aforesaid from being prosecuted for a misdemeanor as at common law.

Proviso.

Rescues in criminal cases.

10. All rescues in criminal cases not punishable by death, and in all civil cases, shall be misdemeanors.

Attempted rescue.

11. Any person who, after an execution had, shall rescue, or attempt to rescue, the body of an offender out of the custody of the sheriff or his officers, or any person or agent to whom the sheriff shall have delivered the body, or from any house or place where such body may be, shall be guilty of a misdemeanor.

Breaking prison.

12. Any person who, being imprisoned for any crime, shall break prison and escape, or shall break prison, although no escape be actually made, shall be guilty of a misdemeanor.

Aiding escapes.

13. Any person who shall, by any means whatsoever, aid or assist any prisoner in jail, indicted for or convicted of any offense, or sentenced to imprisonment on such conviction, or committed or detained in such jail on any criminal charge, or held awaiting extradition, to

make or attempt to make his escape from any jail, although no escape be actually made; or any person who shall convey or cause to be conveyed, into any jail or other place of confinement, any mask, visor, or other disguise, or any instrument or arms intended to facilitate the escape of such prisoner, or the same deliver or cause to be delivered to any prisoner, or to any other person, for the use of any prisoner, although no escape or attempt to escape be actually made, shall be deemed to have delivered such mask, visor, or other disguise, instrument, or arms, with intent to aid or assist such prisoner to escape; or any person who shall aid or assist any prisoner to attempt to make his escape from any jail or prison, or from the custody of any constable, officer or other person who shall have the lawful charge of such prisoner, in order to conduct or carry him to jail by virtue of a warrant of commitment for any crime expressed in such warrant, or by virtue of any order, sentence, or judgment of imprisonment, on conviction of any crime, shall be guilty of a misdemeanor.

Stealing, altering records, etc., whereby verdict is reversed, etc.

14. Any clerk, coroner, sheriff, magistrate or judge, or any other person, who shall steal, embezzle, take away, alter, withdraw, falsify, mutilate, or avoid any record or parcel of the same, or any writ, return, panel, process, minutes, documents, book or other proceedings of or belonging to any of the courts of this state, or of or belonging to the office of the secretary of state, or the office of the clerk of the supreme court, or the court of chancery, or the court of common pleas, or the court of oyer and terminer, or quarter or special sessions, or other court, of any city or county of this state, by means whereof any verdict, judgment, sentence or decree shall be reversed, annulled, made void, or lose its force and effect, and his procurers, counselors, aiders and abettors shall be guilty of a high misdemeanor; and in case no verdict, judgment, sentence or decree shall be reversed, annulled, made void or lose its force and effect by any such stealing, embezzling, taking away, altering, withdrawing, falsifying, mutilating, or avoiding of any of the records, proceedings, minutes, books, matters or things aforesaid, then every such offender, his procurers, counselors, aiders and abettors, shall be guilty of a misdemeanor.

If not reversed.

Injuring public notices.

15. Any person who shall willfully or maliciously take down, remove or injure any notice, advertisement or other placard legally and publicly set up by any officer or other person in accordance with the laws of this state, before the time to which said notice, advertisement or placard relates, shall be guilty of a misdemeanor.

Embracery.

16. Embracery and all attempts to corrupt or influence a jury or any juror, or any way to incline such jury or any juror to be more favorable to the one side than to the other by promises, persuasions, entreaties, threats, letters, money, entertainments or other sinister means; all indirect, unfair and fraudulent practices, arts and contrivances to obtain a verdict, and all attempts to instruct a jury or juror beforehand, at any place or time, or in any manner or way, except only in open court at the trial of the cause, by the strength of the evidence, the arguments of the parties or their counsel, or the opinion or charge of the court, shall be misdemeanors, and punished as are misdemeanors under this act.

Punishment of juror for embracery.

17. Any juror who shall take money, goods, chattels or other reward of the one party or the other, or be as aforesaid embraced, shall be guilty of a misdemeanor, and punished accordingly; and be forever disqualified from acting as a juror in this state.

Perjury.

18. Any person who shall willfully and corruptly commit perjury or shall by any means procure or suborn any person to commit corrupt and willful perjury, on his oath or affirmation, in any action, plea, suit, bill, answer, complaint, indictment, controversy, matter or cause depending, or which may depend, in any of the courts of this state, or before any referee, arbitrator, or in any deposition, or examination, taken or to be taken pursuant to the laws of this state, before any public officer legally authorized to take the same; or any person who shall be sworn or affirmed before a commissioner, authorized by any commission issued out of any court of competent jurisdiction of the United States, or of any state or territory of the United States, to take the testimony of any witness in any cause named in such commission; or any person who shall be sworn or affirmed before a commissioner appointed by authority of any other state or territory of the United States, to take affidavits, or the acknowledgment and proof of

Before commissioner taking testimony in suits in other states.

deeds, or sealed instruments of writing in this state to be used in the state or territory, by authority of which such commissioner was appointed, in a judicial proceeding, or to prove the execution of a deed, or the identity of a grantor in any deed; and who shall, in taking such oath or affirmation, willfully swear or affirm falsely before such commissioner or any person who shall use or offer for use for any purpose whatever, any oath or deposition required or authorized to be taken in any suit or legal proceeding in this state, or for any lawful purpose whatever, whether the same shall be taken in or out of this state, knowing the same to be untrue, shall be guilty of a high misdemeanor, and punished accordingly; and be thereafter rendered incapable of giving testimony in any court of this state, until such time as the judgment so given shall be reversed.

Uttering false oaths.

19. Any person who shall take money, goods, chattels, lands or other reward, or promise thereof, to compound, or upon agreement to compound, any arson, breach of prison, bribery, burglary, embracery, escape, forgery, housebreaking, kidnaping, larceny, manslaughter, murder, perjury, or subornation of perjury, rape, rescue, robbery, sodomy, treason, or misprision of treason, or any high misdemeanor or misdemeanor under this act, shall be guilty of a misdemeanor.

Compounding of crimes.

20. Any person who, having knowledge of the actual commission of arson, burglary, forgery, manslaughter, murder, rape, robbery, or sodomy, or of any high misdemeanor under this act, within the jurisdiction of this state, who shall conceal, and not, as soon as may be, disclose and make known the same, to some one of the justices of the supreme court, or a judge of the court of quarter sessions, or a magistrate, shall be guilty of a misdemeanor.

Concealment of crimes.

21. Any person who shall directly or indirectly give any sum or sums of money, or any goods, chattels, lands or real estate, or any other thing, as a bribe, present or reward, or give or make any promise, contract, covenant, obligation or security for the payment, delivery, alienation or transfer of any money, goods, chattels, lands or real estate, or other thing, as a bribe, present or reward, to obtain, procure or influence the opinion, judgment, decree or behavior of any judge or

Bribery of judge.

magistrate in any action, plea, suit, complaint, indictment, controversy, matter or cause depending, or which shall depend before him or them, and the judge or magistrate who shall in any wise receive or accept the same shall be guilty of a high misdemeanor, and punished accordingly; and such judge or magistrate shall forever be disqualified from holding any office of honor, trust or profit under this state.

Extortion.

22. Any judge, magistrate, sheriff, coroner, constable, jailer or other officer as aforesaid, who shall receive or take, by color of his office, any fee or reward whatsoever not allowed by the laws of this state for doing his office, shall be guilty of a misdemeanor.

Neglect of duty.

23. Any magistrate or other public officer who shall willfully refuse or neglect to perform, within the time required by law, any duty imposed upon him by law; or any magistrate or constable who shall ask, demand or receive from any complainant, witness or other person, directly or indirectly, any fee or reward for the performance of any service in any criminal case, shall be guilty of a misdemeanor.

Violation of procedure for extradition.

24. Any agent or officer, or other person, appointed by or representing the authorities of any other state, who shall violate any provision of any statute of this state regulating the procedure for the extradition of any person charged with any criminal offense in any other state, or claimed to be a fugitive from justice, shall be guilty of a misdemeanor.

Bribery of members of legislature.

25. Any person who shall, directly or indirectly, give, offer or promise to give any sum of money or other valuable thing, or any promissory note, bill of exchange, check or other evidence of debt, or any other thing, as a bribe, present or reward, or give or make, or offer to give or make, any promise, contract, covenant, obligation or security for the payment, delivery, alienation or transfer of any money or other valuable thing, or any other thing as a bribe, present or reward, to obtain, procure or influence the opinion, behavior, vote, or abstaining from voting, of any member of the senate or general assembly, upon any bill, resolution, or other proceeding, depending before the legislature, or before the senate or general assembly, or upon any election or appointment to office to be made by the senate

or the general assembly, or by the senate and general asssembly in joint meeting, and the member of the senate or general assembly, or other person who shall in any wise, directly or indirectly, receive or accept the same, shall be guilty of a high misdemeanor, and punished by fine not exceeding five thousand dollars, or imprisonment, at hard labor or otherwise, not exceeding five years, or both; and shall also be forever disqualified from holding any office of honor, trust or profit, under this state; *provided*, if the person who shall make such gift, offer or promise shall, in any legal proceeding in which the evidence shall be relevant and material, give evidence concerning such gift, offer or promise, against any member of the senate or general assembly, or other person who shall in any wise, directly or indirectly, accept any such promise or reward as aforesaid, he shall not be liable to indictment or conviction for having made any such gift, offer or promise; *provided further*, if any member of the senate or general assembly, or other person who shall in any wise, directly or indirectly, receive or accept any such gift, promise or reward, shall, in any legal proceeding in which the evidence shall be relevant and material, give evidence concerning such gift, offer or promise, against any person who shall make any such gift, offer or promise, he shall not be liable to indictment or conviction for accepting or receiving said gift, promise or reward as aforesaid.

Proviso.

Proviso.

Illegal voting.

Fraudulent voting.

Advising illegal voting.

26. Any person convicted of any crime which excludes him from the right of suffrage under the provisions of the constitution of this state, who shall vote at any election, without having previously been pardoned or restored by law to the right of suffrage; or any person who shall fraudulently vote, or offer to vote, at any election to be held under any present or future law of this state, who shall not be duly qualified to vote at the place where and time when his vote is given or offered, knowing that he is not duly qualified; or any person who shall procure, aid, assist, counsel, or advise another to give his vote, knowing that such other person is not duly qualified to vote at the place where and time when the vote is to be given; or any person who shall have voted at any election, and shall offer himself a second

time as a voter at such election, shall be guilty of a misdemeanor.

Influencing voters.

27. Any person who shall in any way, directly or indirectly, by menace or other corrupt means or device, directly or indirectly, attempt to influence any person in giving, or refusing to give, his vote at any such election; or who shall deter or dissuade any person from giving his vote thereat; or who shall disturb, hinder, persuade, threaten or intimidate any person from giving his vote thereat; or who shall, at any such election, knowingly and willfully make any false assertion or propagate any false report concerning any person who shall be a candidate thereat which shall have a tendency to prevent his election, or with a view thereto; or any officer or other person who shall summon, call out or request any company or body of militia to appear, parade or exercise on the day of any such election, except in case of invasion or insurrection, shall be guilty of a misdemeanor.

Militia not to be called out.

Soliciting votes.

28. Any member or officer of any state, county or city government, or any member of any public board, association or commission, who shall solicit or receive, either directly or indirectly, any money or valuable thing, reward or commission for his vote in the appointment or selection of any person or persons to any position in any department of any public body aforesaid, shall be guilty of a misdemeanor, and punished accordingly, and be forever thereafter disqualified from holding any office of profit, trust or emolument in this state.

Employe must not be interested in furnishing supplies.

29. Any employe or person having the whole or partial control or management of any institution, the moneys for the support of which are drawn in whole or in part from the treasury of the state, or any county or city thereof, who shall be directly or indirectly interested in furnishing any goods, chattels, supplies or property of any kind whatsoever to or for the use of any such institution, shall be guilty of a misdemeanor.

Bribe for giving out printing of blanks.

30. Any person who shall directly or indirectly give, or receive, or promise, contract or agree to give or receive, any sum or sums of money, or any goods, chattels, gift, lands or real estate, or any other thing, present or reward whatsoever, to secure or obtain, or to give out or grant the printing of blanks, notices,

advertisements or any other printing, or any other work or thing, connected with, or in or appertaining to, any office or department of the government of this state, or any office or department of the government of any county, city, town, township, borough or other place in this state, shall be guilty of a misdemeanor.

Penalty for disbursing moneys in excess of amount limited by law.

31. Any board of chosen freeholders, or any township committee, or any board of aldermen, or common councilmen, or any board of education, or any board of commissioners of any county, township, city, town or borough in this state, or any committee of any such board, committee or commission, which, or any member thereof who, shall disburse, order or vote for the disbursement of public moneys, in excess of the appropriation respectively to any such board or committee; or which board or committee, or any member thereof, who shall incur obligations in excess of the appropriation and limit of expenditure provided by law for the purposes respectively of any such board or committee, thus disbursing, ordering or voting for the disbursement and expenditure of public moneys, or thus incurring obligations in excess of the amount appropriated, and limit of expenditure as now or hereafter appropriated and limited by law, shall be jointly or severally guilty of a misdemeanor; *provided*, nothing herein shall prevent any board of education from keeping open the public schools.

Proviso.

Not to be interested in contract for building or supplies.

32. Any member of any board of chosen freeholders, or any township committee, or any board of aldermen or common council, or any board of education or school trustees in any city, or any board of commissioners of any county, township, city, town, borough or school district in this state, who shall be directly or indirectly concerned in any agreement or contract for the construction of any bridge or building of any kind whatsoever, or any improvement whatever to be constructed or made for the public use or at the public expense, or shall be a party to any contract or agreement, either as principal or surety, between the county, township, city, town, borough or school district, as the case may be, and any other party, who shall be directly or indirectly interested in furnishing any goods, chattels, supplies or property of any kind whatsoever to or for the county, township,

city, town, borough or school district, the contract or agreement for which is made or the expense or consideration of which is paid by the board, council or committee of which such member is a part, shall be guilty of a misdemeanor.

Proposals.

33. When bids or proposals for supplies or for public works or buildings or other public purposes are asked for by boards of managers having charge of any of the public institutions of this state, or by boards of freeholders, common councils, boards of works or other bodies having control of the counties, cities or other municipal bodies of this state or any department of the same, or any committees representing such boards or bodies, such boards or bodies or committees shall proceed in the manner following, to wit: said boards or governing bodies or committees shall give public notice at the time such bids or proposals are advertised of the time and place when such bids shall be received, and at such time and place the said board or governing body or committee, being in session, shall receive such bids, and thereupon immediately proceed to unseal the same and publicly announce the contents in the presence of the parties bidding or their agents, providing said parties or agents choose to be then and there present, and also make proper record of the prices and terms upon the minutes of the body; no bids shall be received previous to the hour designated in the public notice, and none shall be received thereafter; and any failure to comply with the provisions hereof shall be a misdemeanor.

Evasion of taxes by transfer of property.

34. Any person who shall make a transfer of any property or goods or chattels liable to taxation by the laws of this state for the purpose of thereby evading the payment of any taxes that may be afterward assessed thereon, or shall obtain a loan for the purpose of thereby claiming a deduction in any taxes that may be afterward assessed against him, with the intention of obtaining a retransfer of said property or goods or chattels, or of taking up said loan when such purpose shall be accomplished, shall be guilty of a misdemeanor.

Who may not practice before judge.

35. No practicing attorney of this state, in the employ of or in partnership with, or occupying any office with any judge of any court of this state, shall practice before or transact any business whatever before said judge in

any court where said judge shall preside; and any person offending against this section shall be guilty of a misdemeanor.

Personating an officer.

36. Any person who shall, without authority, exercise or attempt to exercise the functions of, or hold himself out to anyone as a deputy sheriff, marshal, policeman, constable or other peace officer, not so being, shall be guilty of a misdemeanor.

Conspiracy.

37. Any two or more persons who shall lawfully agree, unite, combine or confederate together to do any unlawful act, or any two or more persons who shall unlawfully agree, unite, combine or confederate together to do any lawful act, shall be guilty of a conspiracy and be liable to the same penalty as persons convicted of a misdemeanor, but no agreement to commit any crime other than arson, burglary, manslaughter, murder, rape, robbery, or sodomy, shall be deemed a conspiracy, unless some act in execution of such agreement be done to effect the object thereof by one or more of the parties to such agreement.

II. AGAINST THE PUBLIC PEACE.

Challenge and duelling.

38. Any person who shall, by word, message, letter, or in any other way, challenge another to fight a duel, or shall accept a challenge, although no duel be fought, or knowingly be the bearer of such challenge; or who shall in any way abet, prompt, encourage, persuade, seduce, or cause any person to fight a duel, or to challenge another to fight such duel; or who shall engage in and fight a duel with another, although death does not thereby ensue; or who shall be a second in any such duel, shall be guilty of a misdemeanor.

Threatening letters.

39. Any person who shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or sign, with a fictitious name, any letter or letters threatening to accuse any person of a crime of an indictable nature under the laws of this state, with intent to extort from any person any money or other valuable thing; or demanding money or other valuable thing, or threatening to maim, wound, kill or murder any person, or to burn his or her house, outhouse, barn,

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or other building, or stack or stacks of corn, grain or hay, or to do any civil injury to any person, or to his property, though no money or other valuable thing be demanded by such letter or writing, shall be guilty of a misdemeanor.

Assault and battery.

40. Any two or more persons who shall fight together, or shall commit or attempt to commit assaults and batteries upon each other, or shall be present aiding, assisting or abetting the same either in public or a private place, shall be jointly guilty of a misdemeanor.

Prize fighting.

41. Any person who shall be engaged in any fight or combat, with fists, with or without gloves, whether such fight or combat be for money or any other valuable thing, or for any benefit for any other person, or merely to test the skill or bodily powers of the pugilists or combatants, and every person who shall aid, assist or abet in any such fight or combat; or any person who shall be present at any such fight or combat, whether coming from a foreign state or not, for the purpose of witnessing the same, shall be guilty of a misdemeanor.

Hindering proclamation.

42. Any person who shall, with force and arms, willfully and knowingly oppose, obstruct, or in any manner willfully and knowingly hinder or hurt any person or persons who shall begin to proclaim or go to proclaim, according to the proclamation directed to be made by any law of this state, or by the act of this state entitled "An act to prevent routs, riots and tumultuous assemblies," whereby such proclamation shall not be made, shall be guilty of a misdemeanor.

Unlawfully continuing together.

43. Any person who shall, for the space of one hour after such proclamation made, or attempted to be made, as in the next preceding section mentioned, unlawfully, riotously and tumultuously continue together, to the number of twelve or more, if armed, or of thirty or more, if unarmed, shall be guilty of a misdemeanor.

III. AGAINST PUBLIC MORALS AND THE INSTITUTION OF MARRIAGE.

Sodomy.

44. Sodomy, or the infamous crime against nature, committed with man or beast, shall be high misdemeanor, and punished by fine not exceeding one thou-

sand dollars, or imprisonment at hard labor not exceeding twenty-one years, or both.

Incest.

45. Any person who shall intermarry within the degrees prohibited by law, or, being related within such degrees, shall together commit fornication or adultery, shall be guilty of incest, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding five years, or both.

Incestuous conduct between parent and child.

46. Every parent who shall be guilty of incest, fornication, adultery or open lewdness with, or any act of indecency towards, or tending to debauch the morals and manners of any child or children of such parent; and every parent who shall make any infamous proposal to any child or children of his own flesh and blood, with intent to commit adultery or fornication with such child, shall be guilty of a high misdemeanor, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding fifteen years, or both.

Adultery.

47. Any person who shall commit adultery shall be guilty of a misdemeanor.

Fornication.

48. Any person who shall commit fornication shall be guilty of a misdemeanor, and punished by fine not exceeding fifty dollars, or imprisonment not exceeding six months, or both.

Intercourse of married man with single female under promise of marriage.

49. Any married man, who shall have sexual intercourse with any single female of good repute for chastity, by representation that he is a single man, or under promise of marriage, she thereby becoming pregnant, shall be guilty of a high misdemeanor, and punished accordingly; but the evidence of the female must be corroborated to the extent required in case of indictment for perjury.

If single man have intercourse.

50. Any single man over the age of eighteen years, who, under promise of marriage, shall have sexual intercourse with any single female of good repute for chastity, under the age of twenty-one years, she thereby becoming pregnant, shall be guilty of a high misdemeanor, and punished accordingly; but the evidence of the female must be corroborated to the extent required in case of indictment for perjury; and if the man offending marry the female at any time before sentence, the same shall be suspended, and he shall be discharged from custody;

and if he marry the female after sentence, he shall be discharged from further imprisonment.

Lewdness.

51. Any person who shall be guilty of open lewdness, or any notorious act of public indecency, grossly scandalous, and tending to debauch the morals and manners of the people, shall be guilty of a misdemeanor.

Bigamy.

52. Any person who, having a husband or wife living, marries another person, shall be guilty of bigamy, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding ten years, or both; but nothing in this section contained shall extend to any person whose husband or wife shall be continually remaining without the United States of America for the space of five years together, or whose husband or wife shall absent himself or herself, the one from the other, for the space of five years together, in any parts within this state or the United States, the one of them not knowing the other to be living within that time; nor to any person who is or shall be, at the time of such marriage, divorced, by the judgment or decree of any authority or court having cognizance thereof; nor to any person where the former marriage hath been, or shall be, by the judgment or decree of any such authority or court, declared to be void and of no effect.

Exceptions.

Indecent publications.

53. Any person who, without just cause, shall utter or expose to the view of another, or have in his possession, with intent so to utter or expose to view, or to sell the same, any obscene or indecent book, pamphlet, picture, or other representation, however made; or any instrument, medicine, or other thing, designed or purporting to be designed for the prevention of conception, or the procuring of abortion, or who shall in any wise advertise, or aid, or assist in advertising the same, or in any manner, whether by recommendation against its use or otherwise, give or cause to be given, or aid in giving any information how or where any of the same may be had or seen, bought or sold, shall be guilty of a misdemeanor.

Sending indecent communications.

54. Any person who shall willfully and wantonly send or convey to any female, against her will and consent, any insulting, indecent, lascivious or disgusting letter or communication, without lawful purpose in sending or conveying the same, shall be guilty of a misdemeanor.

Unlawful to expose body of one who has suffered death penalty.

55. It shall be unlawful to expose to public view the body of any person who shall have suffered the death penalty, either in this state or in any part of the United States, for the crime of murder, after such body shall have been delivered from the custody of the sheriff, and it shall be unlawful to have other than a private funeral in connection with the burial of the body of any such offender; any person offending against the provisions of this section shall be guilty of a misdemeanor; *provided*, nothing in this act contained shall prevent relatives within the first or second degrees and the clergymen officiating from being present and viewing the body.

Proviso.

Apprenticing minors for mendicant or immoral purposes.

56. Any person who, whether as parent, relative, guardian, employer, or otherwise, having in his or her custody or control, lawfully or unlawfully, any minor child under the age of eighteen years, who shall sell, apprentice, give way, let out, employ, hire or otherwise dispose of such minor or minors for the purpose of begging, singing and playing on a musical instruments, rope-walking, dancing, or for any mendicant or wandering business whatsoever, or in any immoral conduct or occupation in the streets, roads and other highways or public places of this state, and any person who shall take, receive, hire, employ, use or have in custody any such minor or minors, under the age of eighteen years, and use or employ him, her or them in any such purpose, or any of them, for any mendicant or immoral business whatsoever, either in public or private places within this state, shall be guilty of a misdemeanor, and punished accordingly; and if, upon such conviction, the minor or minors shall have no home or means of support and no one to take proper care of him, her or them, the court may, in its discretion, if it shall appear a humane and proper thing to do, commit such minor or minors to the state reform school for boys, or the state industrial school for girls, until said minor or minors attain the age of eighteen years, or for a less age, in the discretion of the court.

Court may commit to reform school.

Lotteries.

57. Any person who shall give, barter, sell or otherwise dispose of, or offer to give, barter, sell or otherwise dispose of, any ticket or tickets or any share or interest in any ticket or tickets in any lottery, whether erected, set up, opened or made in this state or elsewhere, or the

chance or chances of any such ticket or tickets; or who shall issue any policy of insurance, or insure or receive any consideration for insuring for or against the drawing of any ticket or tickets, number or numbers, or any share or interest in any ticket or tickets, in any lottery, or shall receive any money, goods or thing in action, in consideration of any agreement to repay any sum or sums of money, or to deliver any goods or thing in action, if any ticket or tickets, or any share of any ticket or tickets, in any lottery, shall prove fortunate or unfortunate, or shall be drawn or not drawn on any particular day, or in any particular order, or shall promise or agree to pay any sum of money, or deliver any goods or thing in action, or to do or forbear to do anything for the benefit of any other person or persons, upon any event or contingency dependent on the drawing of any ticket or tickets, or any share of any ticket or tickets, or upon the drawing of any number or numbers in any lottery, shall be guilty of a misdemeanor.

Advertise or aid lottery.

58. Any person who shall advertise, either directly or by indirect, covert or suggestive language, any lottery company or the place and manner at or in which the tickets, slips or advertisements of any lottery company can or may be procured, or shall bring into this state, or print or distribute herein, any such advertisements; or who shall knowingly be engaged as a messenger, clerk or copyist, or in any other capacity in or about any office or room in any building, or place, where lottery slips or copies of numbers or lists of drawings of any lottery drawn or alleged to be drawn anywhere within or without this state shall be printed, kept or used in connection with the business of lottery or lottery policy, so called; or any owner or owners of any building or place where any business of lottery, or lottery policy, so called, shall be carried on, who shall knowingly by himself, or his agent, permit such premises to be so used, shall be guilty of a high misdemeanor.

Messages, etc., must not be received or carried.

59. Any express, telephone, telegraph, or other company or corporation, engaged in the business of carrying or transmitting packages, letters, or communications within this state, or any person engaged in such business, that shall knowingly bring or transmit by letter or communication of any kind, telephonic, telegraphic, or

in any other way, whether written or expressed by letters, numbers, characters or cipher, the drawing or list of numbers drawn or purporting to be drawn of any lottery or drawing, to any place within this state; or that shall knowingly receive from any person by letter, telephone or telegraph, such list of numbers or drawing of any such lottery; or that shall knowingly carry any message or messages that shall further or promote the interest of any unlawful pursuit, or in any way enable any person to carry on any business or practice declared illegal by the statutes of this state, shall be guilty of a high misdemeanor.

Gaming.

60. All playing for money or other valuable thing, at cards, dice or other game, with one or more die or dice, or with any other instrument, engine or device, in the nature of dice, having one or more figure or figures, number or numbers thereon, or at billiards, or A. B. C., or E. O. table, pool table, or other tables, or at tennis, bowls, or shuffleboard, or at faro-bank, or other bank of the like kind, under any denomination whatever; and all cock-fightings shall be misdemeanors.

Racing for money prohibited.

61. All racing for money or other valuable thing, by running, pacing or trotting of horses, mares or geldings shall be a misdemeanor, and the authors, parties, contrivers and abettors thereof, and all and every other person or persons concerned therein, either directly or indirectly, or present thereat, shall be guilty of a misdemeanor.

Betting races.

62. No person shall make up any purse, plate or other thing for any running, pacing or trotting of any horses, mares or geldings, or contribute or collect, or ask any other person to contribute or collect, any moneys, goods or chattels, to make up any purse, plate or other thing to be run, paced or trotted for by any horse, mare or gelding, at any place in this state; and any person violating the provisions of this section shall be guilty of a misdemeanor.

Holding stakes or riding races

63. Any person who shall be a stakeholder of any sum of money or other thing betted, staked or wagered upon any such running, pacing or trotting, or shall cause to be printed or set up any paper or other thing notifying or advertising any such running, pacing or trotting, or shall be the rider or driver of any horse, mare or

gelding in any such race, either running, pacing or trotting, shall be guilty of a misdemeanor.

Maintaining race course.

64. Any person who shall let or rent his land for the purpose of a race-course for the running, pacing or trotting of horses, mares or geldings, or shall knowingly suffer any such running, pacing or trotting upon lands belonging to him, or of which he may be in possession, shall be guilty of a misdemeanor; *provided*, nothing in this section shall prohibit any fair or agricultural society now organized under any law of this state from offering premiums or awarding prizes as heretofore; *and provided, further*, that it shall be unlawful to permit the racing, running, trotting or pacing of horses, mares or geldings on any track in this state, for any purpose whatsoever, between the first day of November in any year and the first day of April of the succeeding year.

Proviso.

Proviso.

Book making and pool-selling.

65. Any person or corporation that shall habitually or otherwise, buy or sell what is commonly known as a pool, or any interest or share in any such pool, or shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this state, of any horse, mare or gelding, or shall conduct the practices commonly known as book-making and pool-selling, or either of them, or shall keep a place to which persons may resort for engaging in such practices, or either of them, or for betting upon the event of any horse race, or other race or contest, either within or without this state, or for gambling in any form, or aiding, abetting or assisting therein, shall be guilty of a misdemeanor, and punished by a fine of not less than one thousand dollars, nor more than five thousand dollars, and by imprisonment in the state prison for not less than one year nor more than five years; and any corporation of this state convicted of offending against this section, shall be dissolved thereby, and its corporate franchises shall thereby become forfeited and void, without any other proceedings to that end.

Selling liquor without license.

66. It shall not be lawful for any person, without license for that purpose first had and obtained, to sell or permit to be sold, any vinous, spirituous or malt liquors, wine, rum, gin, brandy or other ardent spirits, or any composition of which any of the said liquors

shall form the chief ingredient, except such as shall be compounded and intended to be used as medicine, by less measure than one quart, or any mixed liquors by less measure than five gallons; and any person so offending shall be guilty of a misdemeanor.

In court-house or jail.

67. Any sheriff, under-sheriff, jailer or other person whatever, who shall sell, or give, or knowingly permit to be sold or given, in any of the court-houses or jails of this state, any vinous, spirituous or malt liquors or ardent spirits, or any composition of which any of said liquors shall form the chief ingredient, shall be guilty of a misdemeanor.

On election day.

68. Any person who shall sell, or offer to sell, or expose for sale, within the limits of any city, precinct, borough, village, town, township or other municipality within this state, any spirituous, vinous or malt, or any intoxicating liquors, on any day upon which any election, either general, special or municipal, shall be held in said city, precinct, borough, village, town, township or other municipality, between six o'clock in the morning and seven o'clock in the evening, or at any hour upon the Sabbath, commonly called Sunday, shall be guilty of a misdemeanor.

Within two miles of camp-meeting sssociation.

69. Any person who shall sell from any wagon, sleigh or vehicle, within two miles of any incorporated camp-meeting association, any spirituous, vinous, malt or intoxicating liquors, shall be guilty of a misdemeanor; *provided*, that it shall be lawful for any person having a license to sell said liquors to deliver the same within the limits above prescribed from a wagon, sleigh or vehicle, on orders signed by the person desiring said liquors, specifying the quantity desired and the place where the same shall be delivered.

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Gaming by minors where liquor is sold.

70. Any proprietor or keeper of any saloon or other place where alcoholic, vinous or malt liquors, or intoxicating drinks of any kind are sold, who shall himself, or by his agent, barkeeper or other employe, permit or allow in any such place any gaming by minors, or any playing by minors, under the age of eighteen years, with cards, dice, billiard or pool balls, or any other article, device, tool or instrument whatever, such as are used in gaming, shall be guilty of a misdemeanor;

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provided, this section shall not be construed to prohibit playing by minors when accompanied by a parent or guardian, or when parents or guardians have previously given to the keeper of the saloon or other place where intoxicating drinks are sold written permission for their sons or wards to play in such saloon or place.

Witchcraft.

71. Any person who shall pretend to exercise or use any kind of conjuration, witchcraft, sorcery or enchantment, or pretend, from his skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels, supposed to have been stolen or lost, may be found, shall be guilty of a misdemeanor.

Impostors in religion.

72. All impostors in religion, such as pretend to personate Jesus Christ, or suffer their followers to worship or pay them divine honors, or who terrify, delude or abuse the people by false denunciation of judgments, shall be guilty of a misdemeanor.

Blasphemy.

73. Any person who shall willfully blaspheme the name of God, by denying, cursing or contumeliously reproaching His being or providence, or by cursing or contumeliously reproaching Jesus Christ, or by profane scoffing at, or exposing them or either of them to contempt or ridicule, shall be guilty of a misdemeanor.

IV. OF CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY.

Injuring bridges, dams, etc., or obstructing navigation.

74. Any person who shall willfully or maliciously cut down, break down, level, demolish or otherwise destroy or damage any bridge, or any sea or river bank, or any meadow bank, or milldam, or any canal or raceway used for navigation purposes, or any gate, lock or plane necessary or appertaining thereto, or any towing path, tunnel or other work on or belonging to any navigable river, or other water or canal, or any public reservoir of water; or who shall willfully or maliciously cut off, draw up, or remove any piles, or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank, dam, or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbor, dock, quay, wharf, jetty or dock, or shall willfully

or maliciously open or draw up any floodgate, or sluice, or do any other injury or mischief to any navigable river or canal, with intent thereby to obstruct or prevent the carrying-on, completing or maintaining the navigation thereof; or who shall willfully or maliciously pull or throw down, or in anywise destroy any bridge (whether over any stream of water or otherwise), or any viaduct, or aqueduct over or under which bridge, viaduct or aqueduct any highway, railway or canal shall pass, or do any injury with intent thereby to render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, shall be guilty of a misdemeanor.

Moor vessel to or remove buoy.

75. Any person who shall moor any vessel or vessels of any kind or name whatsoever or any raft or part of a raft to any buoy or beacon placed in the waters of New Jersey by the authority of the United States lighthouse board, or shall in any manner hang on with any vessel or raft, or part of a raft, to any such buoy or beacon, or shall willfully remove, damage or destroy any such buoy or beacon, or shall cut down, remove, damage or destroy any beacon or beacons erected on land in this state by the authority of the said United States lighthouse board, shall be guilty of a misdemeanor.

Obstructions on railways.

76. Any person who shall willfully or maliciously put, place, cast or throw upon or across any railway, any wood, stone or other matter or thing; or who shall willfully or maliciously take up, remove or displace any rail, sleeper, or other matter or thing belonging to any railway; or who shall willfully or maliciously turn, move or divert any switch or other machinery belonging to any railway; or who shall willfully or maliciously make or show, hide or remove, any signal or light upon or near to any railway; or who shall willfully or maliciously do or cause to be done any other matter or thing with intent in any of the cases aforesaid to obstruct, upset, overthrow, injure or destroy, any engine, tender, carriage, car or truck, upon or using such railway, shall be guilty of a high misdemeanor.

Obstructing engines and carriages on railway.

77. Any person who, by any unlawful act, or by any willful omission or neglect, shall obstruct or cause to be obstructed, any engine or carriage using any railway, or

shall aid or assist therein, shall be guilty of a misdemeanor.

Injuring railroads.

78. Any person who shall willfully or maliciously injure, hinder or obstruct, impair or destroy any railroad within this state, or any of the necessary works, carriages or machines used in said railroad, shall be guilty of a misdemeanor.

Unauthorized attempt to control trains.

79. Any person unauthorized or unemployed by the individuals or corporations managing or owning any railway cars in this state, who shall maliciously or wantonly, for the purpose of hindering or delaying such car or cars, let down or apply the brakes of any car, or shall pull the bell-rope, or convey to the engineer, conductor, or others employed in the management of such cars, any such signal as is or may be used for regulating the running and management of such cars, shall be guilty of a misdemeanor.

Guideposts, etc.

80. Any person who shall willfully or maliciously break, destroy or remove any milestone, mileboard, guideboard or milepost, or cautionary board, made of wood, stone or metal, erected upon any street, public road, turnpike, plank road or railroad in this state, or shall willfully or maliciously deface or alter any inscription upon such stone, board or post, shall be guilty of a misdemeanor.

Filling low land with decaying matter.

81. It shall be unlawful for any individual, individuals, firms or corporations owning lands bordering upon the tide or river-waters of this state, or owning or possessing rights to low lands or lands covered by tide or river-waters, to cause or allow said lands to be filled in with any substance containing animal or vegetable matter, or any other material which is or is likely to become prejudicial to the health or comfort of any of the inhabitants of the city or other municipality within whose limits such filling is caused or allowed; *provided*, nothing in this section shall be held to prevent the dumping or depositing of any animal or vegetable matter by any individual or individuals, firm or corporation, or the employe or employes, or agents of such individual or individuals, firm or corporation, during the months of October, November, December, January, February and March; *and provided further*, that the matter or refuse so dumped be covered with earth so

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that it will not emit any stench, to the discomfort of or danger to the health of the inhabitants of any city or other municipality within whose limits such filling is done; and any person or persons, firm or corporation owning such lands, or in possession or having the control thereof, or any officer or officers, agent or agents, attorney or attorneys, employe or employes of any corporation or firm owning or in possession of such lands, who have the control or management thereof on behalf of such corporation or firm, offending against this section, shall be guilty of a misdemeanor.

Deposit of mud, etc., in Hudson river prohibited.

82. Any person who, by means of any boats, scows or vessels, in any manner whatever, shall cast or cause to be cast, thrown, dumped or deposited any mud, earth, soil, ashes or refuse rock, or other solid substance or material, into the waters of the North or Hudson river, at any point west of the line between the states of New Jersey and New York, unless the same be so deposited, dumped or placed behind a bulkhead for filling, or by the side of a bulkhead, to be thrown over the same, or be so confined that no dirt or refuse can escape into the waters of said river, shall, for each and every offense, be guilty of a misdemeanor; *provided*, nothing in this act shall be held to interefere with improvements made upon lands under water which have been or may be granted or leased by the riparian commissioners, or which have been granted or leased by direct legislative act, but all such improvements shall be so made as to deposit, dump or place all filling behind a bulkhead, so that no portion of such filling shall escape onto the lands under water adjoining such grantee or lessee of the riparian commissioners, or such grantee or lessee by direct legislative act.

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Deposit of mud, etc , in Delaware river.

83. Any person who shall, by means of any boats, scows or vessels, or in any manner whatever, cast or cause to be cast, thrown, dumped or deposited, any mud, earth, soil, ashes, gravel, refuse, rock or other solid material, into the waters of the river Delaware below the head of navigation, shall, for each and every such offense, be guilty of a misdemeanor; *provided*, nothing in this section shall be taken to interfere with or prevent any person or persons dumping or depositing any such material within any bulkhead, or by the

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side of any bulkhead to be forthwith thrown into the same, or where the same shall be so confined that no dirt or refuse therefrom can escape into the waters of said river, or with improvements made upon lands under water which have been or may hereafter be granted or leased by the riparian commissioners, or granted by legislative act, but all such improvements shall be so made that no portion of such filling shall escape upon the lands of any such adjoining grantee or lessee; *provided*, this and the preceding section shall not apply to any person acting under and by virtue of any act of congress of the United States, or authority of the secretary of war of the United States; and for any violation of this or the preceding section, done in the view of any constable or police officer, such constable or police officer is hereby authorized and required, without warrant, to arrest and carry such offender or offenders before a justice of the peace of the county where such arrest is made, there to be proceeded with as in other criminal cases; and any constable or police officer who shall neglect or refuse to perform the duties required of him by this section, shall be guilty of a misdemeanor.

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Waters distributed for public use.

84. Any person who shall throw, cause or permit to be thrown into any reservoir, or into the waters of any pond or lake or brook, creek or river of this state, which runs through or along the border of any city or other municipality, the waters of which are used to supply any aqueduct or reservoir for distribution for public use, any carcass of any dead animal or any offal or offensive matter whatsoever, calculated to render said waters impure, or to create noxious or offensive smells, or shall connect any water-closet with any sewer, or other means whereby the contents thereof may be conveyed to and into such pond, or lake, or brook, or creek, or river, or reservoir, or shall so deposit, or cause or permit to be deposited, any such carcass, offal or other offensive matter that the washing or waste therefrom shall or may be conveyed to and into any such pond, or lake, or brook, or creek, or river, or reservoir, shall be guilty of a misdemeanor.

Burial of offensive matter.

85. It shall be the duty of the owner or occupant of any land whereon any carcass, offal or other offensive matter may be, to cause the same to be buried forth-

with, so that all portions thereof shall be covered with solid earth to a depth of at least two feet below the surface of the ground, and not within a distance of two hundred feet from any pond, or lake, or brook, or creek, or river, or reservoir, mentioned in the next preceding section; and any such owner or occupant who shall refuse or neglect for the space of two days to remove and bury as aforesaid, or cause to be removed and buried, any such carcass, offal or offensive matter, shall be guilty of a misdemeanor.

Pollution of waters from which ice is taken.

86. Any person who shall throw, cause or permit to be thrown into the waters of any pond or lake, or brook, creek or river of this state, the waters of which may be used for the cutting and harvesting of ice, any carcasses of any dead animal or any offal or offensive matter whatsoever, calculated to render said waters impure or create noxious or offensive smells, or shall connect any water-closet with any sewer or other means whereby the contents thereof may be conveyed to and into any such pond, or lake, or brook, creek or river, shall be guilty of a misdemeanor.

Refuse of chemicals.

87. Any manufacturer of chemicals in this state who shall deposit or cause to be deposited on any vacant lot within one hundred feet of any human habitation any refuse or proceeds from such manufacture, shall be guilty of a misdemeanor.

Burial of poultry or animals dying of contagious disease.

88. Any person who shall own or have in possession any poultry or animals of any kind that came to their death by reason of any contagious disease, shall, within twenty-four hours after such death, bury such poultry or animals under the surface of the earth to a depth not less than two feet; and any person neglecting or refusing to comply with this section shall be guilty of a misdemeanor.

Shipping explosives deceptively.

89. Any person who shall deliver, or cause to be delivered, to any canal, railroad, steamboat or other transportation company, or to any person, firm or corporation engaged in the business of transportation, any nitroglycerine, dualin, dynamite, gunpowder, mining or blasting powder, gun-cotton, phosphorus, friction matches, or other explosive or dangerous material of any nature whatsoever, under any false or deceptive invoice or description, or without previously informing such per-

son, firm or corporation, in writing, of the true nature of such article, and without having the box, keg, barrel, can or package containing the same plainly marked with the name of the explosive or dangerous material therein contained, shall be guilty of a misdemeanor.

Unlawful to transport explosives on passenger train.

90. It shall be unlawful for any railroad corporation, doing business in this state, to transport upon trains of cars carrying passengers in this state, any giant powder, dynamite, nitro-glycerine or other explosive or dangerous material; and any corporation violating this section shall be guilty of a misdemeanor.

Shipping nitro-glycerine by boat limited to fifty pounds.

91. It shall not be lawful to transport or carry in any boat or boats in or upon any of the ponds or lakes of this state, or those lying partly in this state, any dynamite, blasting powder, dualin, forcite, giant powder, nitro-glycerine, or any powder or explosive of which nitro-glycerine is an essential ingredient or forms a component part, in a greater quantity than fifty pounds; and every person or persons or corporation offending against this section shall be guilty of a misdemeanor; *provided*, nothing in this section shall apply to the carrying or transporting of any of the explosives above mentioned on any lake or pond near which the same is intended to be used for excavating or blasting purposes on or near the shores of any pond or lake in this state, or those lying partly within the borders of this state, if done with all due care.

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Manufacture of nitro-glycerine near dwelling or municipality prohibited.

92. No person or corporation shall be permitted to erect, have or maintain, or cause to be erected, had or maintained, any establishment, building or manufactory which shall be actually employed in the manufacturing or storing of nitro-glycerine, or any powder or material of which nitro-glycerine is an essential ingredient or forms a component part, or any nitro-naphthaline, blasting powder, or any material of which nitro-naphthaline is an essential ingredient or forms a component part, within the distance of a quarter of a mile from any city or other municipality, or within the distance of a quarter of a mile from any inhabited house, without the consent in writing of the occupant or occupants of such inhabited house, and every person or corporation offending against this section shall be guilty of a misdemeanor.

Maintaining buildings for storage or manufacture of nitro-glycerine within one thousand feet of public road prohibited.

93. No person or corporation shall be permitted, within this state, to erect, have or maintain, or cause to be erected, had or maintained, any establishment, storehouse or building in which shall be manufactured, stored or kept, any gunpowder, blasting powder, dualin, dynamite, forcite, giant powder, nitro-glycerine or any powder or materials of which nitro-glycerine is an essential ingredient or forms a component part, or any other explosive, within the distance of one thousand feet from any public road; and every person or corporation offending against this section shall be guilty of a misdemeanor, and punished by a fine not exceeding two thousand dollars; *provided*, nothing in this act shall be construed to prevent any person or corporation from storing in fire-proof magazines any quantity of gunpowder or blasting powder not exceeding in quantity two thousand pounds, within the said distance of one thousand feet of a public road.

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Restrictions regarding inflammable fluids.

94. It shall not be lawful for any person to keep or offer for sale or use in any place or building within this state, petroleum oil, or any product thereof, or to knowingly keep or offer for sale any mixture of naphtha or imflammable fluids for illuminating purposes, for use in lamps or other portable receptacles, that will flash at a less temperature or fire test than one hundred, or inflame at less temperature or fire test than one hundred and ten degrees Fahrenheit; and any person offending against this section shall be guilty of a misdemeanor.

Unlawful to sell, etc, firearms to persons under fifteen.

95. It shall not be lawful to sell, barter, exchange, hire or loan to any person under the age of fifteen years, any gun, pistol, toy pistol, or other firearms, or for any person under the age of fifteen years to purchase, barter or exchange any gun, pistol, toy pistol, or other firearms, nor for any person under the age of fifteen years to carry, fire or use a gun, pistol, toy pistol or other firearms, except in the presence of his father or guardian, or for the purpose of military drill in accordance with the rules of a school; and any person offending against this section shall be guilty of a misdemeanor.

Nor to carry same.

Sale of poisons.

96. Any person who shall sell, either at wholesale or retail, any of the drugs usually denominated poisons, without distinctly labeling each and every box or pack-

age thereof with the name of the drug therein, and the word "poison," together with the name and place of business of the seller, shall be guilty of a misdemeanor.

Vending unwholesome provisions.

97. Any butcher or other person who shall sell, offer or expose to sale, the flesh of any animal dying otherwise than by slaughter, or slaughtered while diseased, or any contagious or unwholesome flesh; or any baker, brewer, distiller, or other person who shall sell unwholesome bread, drink, or liquor, shall be guilty of a misdemeanor.

Adulteration of liquor.

98. Any person who shall manufacture, or import already manufactured, or barter or sell, or keep in his possession for barter or sale, any rum, brandy, wine or spirits of any kind, or any other liquid of which distilled spirits of any kind shall form a component part to be used as a beverage, that shall be adulterated or manufactured with spurious or poisonous ingredients of any description, shall be guilty of a misdemeanor.

Drugging liquor.

99. Any person who shall adulterate, mix, compound or poison any malt liquors, with intent to barter or sell the same, or shall mix, compound or poison any malt or vinous or spirituous liquors, the one with the other, or in any way whatever, or give, barter or sell the same, with intent to make greater profit, or with intent to produce intoxication or stupefaction, shall be guilty of a misdemeanor.

Manufacture of adulterated lard.

100. Any person who shall knowingly sell or exchange, or expose for sale or exchange, any impure or adulterated lard, or who shall manufacture or refine lard, adding thereto fat of other animals than swine, water, liquid or any chemical substance, and offer the product thereof for sale, without plainly stamping upon the firkin, package, box or parcel containing the same, in plain and durable letters, the words "adulterated and impure lard," shall be guilty of a misdemeanor.

Rendering or selling fat of diseased swine.

101. Any person who shall render, or cause to be rendered, swine or the fat of swine that have died a natural death by desease or in transportation to market, and expose or offer the product of the same for sale or exchange as lard, shall be guilty of a misdemeanor.

Obstructing firemen at fires, etc.

102. Any person who shall, during an alarm of fire, willfully hinder, prevent or deter by any device whatsoever, any fireman or other person from rendering lawful

assistance in abating or quelling such alarm of fire, if false, or from going to or returning from the place where any building or other property is on fire, or from which an alarm proceeds, or from aiding and assisting in extinguishing the fire in any building, or other property on fire, or shall willfully obstruct or hinder the passage of any fire engine, hook and ladder truck, or hose-cart, in going to or from the place from which an alarm of fire proceeds, or where any building or other property may be burning; or shall at any time willfully cut, deface or injure any fire engine, hook and ladder truck, hose-cart, hose or any other apparatus or implement used for extinguishing fires, shall be guilty of a misdemeanor.

Injuring fire alarm apparatus

103. Any person who shall willfully or maliciously destroy or injure any of the wires, posts, machines, bells, boxes, locks or other apparatus of any fire alarm system of any municipality of this state, or shall willfully or maliciously interfere with the same, or any part thereof, with intent to create a false alarm, or shall in any way willfully and maliciously obstruct or attempt to obstruct the efficient operation of the same, or any part thereof, or hinder or impede any of the operations lawfully intended to be accomplished thereby, shall be guilty of a misdemeanor and punished accordingly; and shall be liable for the damages occasioned thereby.

Injuring telegraph or telephone lines.

104. Any person who shall willfully or maliciously cut, break, throw down, destroy, injure or remove any battery, machinery, wire, cable, post or other matter or thing whatsoever, being part of or being used or employed in or about any electric or magnetic telegraph or telephone, or in the working thereof, or shall willfully and maliciously prevent or obstruct in any manner whatsoever the sending, conveyance or delivery of any communication by such telegraph or telephone, shall be guilty of a misdemeanor.

Number of passengers carried in sailboat.

105. Not more than thirty passengers shall be taken on board, within this state, or permitted to be on board, at any one time, of any sailboat or sailing vessel used or engaged in the business or occupation of carrying out to sea or upon the ocean, passengers or parties from any place or places within this state, and the captain, sailing master or other person in charge of any sailboat

or sailing vessel so used or engaged, who shall take or permit to be on board more than thirty persons at one time, shall be guilty of a misdemeanor; *provided*, nothing in this section shall be construed to apply to any vessel carrying passengers between different ports of the United States, or from any port in the United States to any foreign port, nor any vessel of more than one hundred tons register.

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II. Crimes Which Involve Private Injury.

V. To the persons of individuals.

Murder.

106. Any person who, in committing or attempting to commit arson, burglary, rape, robbery, sodomy, or any unlawful act against the peace of this state, of which the probable consequence may be bloodshed, shall kill another; or if the death of anyone shall ensue from the committing or attempting to commit any such crime or act as aforesaid; or if any person or persons shall kill any judge, magistrate, sheriff, coroner, constable, or other officer of justice, either civil or criminal, of this state, or the marshal or other officer of justice, either civil or criminal, of the United States, in the execution of his office or duty, or shall kill any of his assistants, whether specially called to his aid or not, endeavoring to preserve the peace or apprehend a criminal, knowing the authority of such assistant, or shall kill a private person endeavoring to suppress an affray, or to apprehend a criminal, knowing the intention with which such private person interposes, then such person or persons so killing as aforesaid shall be guilty of murder.

Degrees of murder.

107. Murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in perpetrating or attempting to perpetrate any arson, burglary, rape, robbery or sodomy, shall be murder in the first degree; and all other kinds of murder shall be murder in the second degree; and the jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, designate by their verdict whether it be murder in the

first degree or in the second degree; and in no case shall the plea of guilty be received upon any indictment for murder; and if, upon arraignment, such plea of guilty should be offered, it shall be disregarded, and the plea of not guilty entered, and a jury, duly impaneled, shall try the case in manner aforesaid; *provided*, nothing herein contained shall prevent the accused from pleading non vult or nolo contendere to such indictment; the sentence to be imposed, if such plea be accepted, shall be the same as that imposed upon a conviction of murder in the second degree. Plea. Proviso.

108. Every person convicted of murder in the first degree, his aiders, abettors, counselors and procurers, shall suffer death; and every person convicted of murder in the second degree, shall suffer imprisonment at hard labor not exceeding thirty years. Punishment of.

109. Any person who shall commit the crime of manslaughter shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding ten years, or both. Manslaughter.

110. Any person who shall kill another by misadventure, or in his or her own defense, or in the defense of his or her husband, wife, parent, child, brother, sister, master, mistress, or servant, or who shall kill any person attempting to commit arson, burglary, murder, rape, robbery or sodomy, shall be guiltless and totally acquitted and discharged. Killing by misadventure or in defense.

111. All willful poisoning of any person or persons that shall be done, or attempted to be done, with intent to kill, although death shall not ensue therefrom, shall be a high misdemeanor, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding fifteen years, or both. Poisoning where death does not ensue.

112. Any person who, from premeditated design, evinced by lying in wait for the purpose, or in any other manner, or with intent to kill, maim or disfigure, shall cut out and disable the tongue, put out an eye, cut off or slit a lip, cut off, slit or destroy a nose or ear, or cut off or disable any limb or member of another, willfully and on purpose, shall be guilty of a high misdemeanor. Mayhem.

113. Any person who shall commit an assault, with an intent to kill or to commit any burglary, rape, rob- Assault with intent to murder, etc.

bery, sodomy, or atrocious assault and battery, shall be guilty of a high misdemeanor.

Kidnapping.

114. Any person who shall kidnap or steal, or forcibly take away any man, woman or child, and send or carry, or with intent to send or carry, such man, woman or child to any other point within this state, or into another state or country, or shall force, persuade or entice any child within the age of fourteen years to leave his father, mother or guardian, or other person or persons entrusted with the care of such child, and secrete or conceal the said child, and his procurers, shall be guilty of a high misdemeanor, and punished by fine not exceeding five thousand dollars, or imprisonment at hard labor not exceeding twenty years, or both.

Rape.

115. Any person who shall have carnal knowledge of a woman forcibly against her will, or shall aid, abet, counsel, hire, cause or procure any person or persons to commit the said offense, or who, being of the age of sixteen years or over, shall unlawfully and carnally abuse a woman under the age of sixteen years, with or without her consent, shall be guilty of a high misdemeanor, and punished by a fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding fifteen years, or both.

Abduction.

116. Any person who shall unlawfully take any maid, widow or wife, contrary to her will, and shall marry her himself, or cause or procure her to be married to another, either with or without her consent, or shall defile, or cause her to be defiled, his aiders, abettors, counselors and procurers, and such as receive such woman, so taken against her will, knowingly, shall be guilty of a high misdemeanor, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding twelve years, or both; and

Marriage void.

every such marriage shall be void; and also, the person to whom such woman shall be so married shall not receive, take, hold, possess or enjoy any part of her estate, real or personal, by any gift, grant, bequest or devise of, from or under her; but every such gift, grant, bequest or devise so made to him, or for his use, shall be void and of no effect.

Seduction.

117. Any person who shall unlawfully convey or take away any woman child, unmarried, whether legitimate

or illegitimate, being within the age of sixteen years, out of or from the possession, custody or governance, and against the will of the father, mother or guardian of such woman child, though with her own consent, with an intent to seduce, deflower or contract matrimony with her, shall be guilty of a misdemeanor; and if he deflower such woman child, or, without the consent of her father, mother or guardian, contract matrimony with her, he shall be guilty of a high misdemeanor; and further, every such marriage shall be void.

Concealment of pregnancy and birth.

118. Any woman who shall conceal her pregnancy, and shall willingly and of purpose be delivered in secret by herself, of any issue of her body, male or female, which shall by law be a bastard; any woman who shall endeavor privately, by drowning or secret burying, or in any other way, either by herself or the procurement of others, to conceal the death of any such issue of her body, which, if it were born alive, would by law be a bastard, so that it may not come to light, whether it were born alive or not, or whether it were murdered or not, her aiders, abettors, counselors and procurers, shall be guilty of a misdemeanor.

Miscarriage.

119. Any person who maliciously or without lawful justification, with intent to cause or procure the miscarriage of a woman then pregnant with child, shall administer to her, prescribe for her, or advise or direct her to take or swallow any poison, drug or medicine or noxious thing; or who maliciously or without lawful justification, shall use any instrument or means whatever, with the like intent, shall be guilty of a high misdemeanor, and punished accordingly; and if the woman or child die in consequence thereof, be punished by fine not exceeding five thousand dollars, or imprisonment at hard labor not exceeding fifteen years, or both.

Robbery.

120. Any person who shall forcibly take from the person of another, money or personal goods and chattels, of any value whatever, by violence, or putting him in fear, and his aiders, procurers and abettors, shall be guilty of a high misdemeanor, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding fifteen years, or both.

Intent to rob

121. Any person who shall willfully or maliciously assault another with any offensive weapon or instru-

ment, or by menaces, or in and by other forcible and violent manner and means demand of another, any money or personal goods and chattels, with intent to rob him, and his counselors, aiders and abettors, shall be guilty of a high misdemeanor.

Larceny from the person.

122. Any person who shall willfully or maliciously take or steal any money, goods or chattels from the person of any other, whether privily or without his knowledge or not, but without such force or putting in fear as is sufficient to constitute robbery, or shall attempt so to do, or who shall be present, aiding or abetting therein, shall be guilty of a high misdemeanor.

VI. To Property—I. By Direct Injury.

1. to dwellings and other buildings.

Arson.

123. Any person who shall willfully or maliciously burn, or cause to be burned, or aid, counsel, procure or consent to the burning of the dwelling-house of another, or any kitchen, shop, barn, stable or other out-house, that is a parcel thereof, or belonging or adjoining thereto, or any other building, by means whereof a dwelling-house shall be burnt, shall be guilty of arson, and punished by fine not exceeding two thousand dollars, or imprisonment at hard labor not exceeding fifteen years, or both.

Burning buildings, etc.

124. Any person who shall willfully or maliciously burn, or cause to be burned, or aid, counsel, procure, or consent to the burning of any barn, stable, or other building of another, not a parcel of a dwelling-house, or any shop, storehouse, warehouse, malt-house, mill, or other building of another, or any ship, boat, or other vessel of another, lying within the body of any county within this state, or any church, meeting-house, court-house, workhouse, jail or other public building, shall be guilty of a high misdemeanor.

Setting fire to.

125. Any person who shall willfully or maliciously set fire to, or aid, procure or consent to the setting fire to, any church, meeting-house, court-house, workhouse, jail or other public building, or any dwelling-house, kitchen, shop, storehouse, warehouse, malt-house, mill,

barn, stable, or other house or building of another, or any ship, boat, or other vessel of another, lying within the body of any county in this state, with intent to burn the same, shall be guilty of a misdemeanor.

Burning building to defraud insurers, etc.

126. Any person who shall willfully or maliciously set fire to, or burn, or aid, counsel, procure, or consent to the setting fire to or burning of any building, ship, or vessel, or any goods, wares, merchandise, or other chattels, which shall at the time be insured by any person or corporation against loss or damage by fire, with intent to prejudice any person or corporation that has underwritten or shall underwrite any policy of insurance thereon, whether the same be the property of such person, or any other, shall be guilty of a high misdemeanor.

With intent to defraud.

127. Any person who shall willfully or maliciously set fire to, or burn, or aid, counsel, procure or consent to the setting fire to or burning of any dwelling-house, shop, barn, stable, warehouse, or other building of another, in his possession, with intent to defraud any person whatever, shall be guilty of a misdemeanor.

Attempting to destroy buildings with explosives.

128. Any person who shall willfully or maliciously place or throw in, into, upon, under, against or near any building, fire, matches, or any gunpowder or other explosive substance, with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods or chattels, shall, whether or not any fire or explosion take place, and whether or not any damage be caused, be guilty of a misdemeanor.

Tenants maliciously burning buildings, etc.

129. Any person who, being in the possession of any dwelling-house, or any kitchen, shop, barn, stable, or other outhouse that is parcel thereof, or belonging or adjacent thereto, under lease or other lawful possession, but not being the owner thereof, shall willfully or maliciously burn, or cause to be burned, or aid, counsel, procure or consent to the burning of such dwelling-house, or such kitchen, shop, barn, stable, or other outhouse that is parcel thereof or belonging or adjacent thereto, or any other building, by means whereof a dwelling-house shall be burnt, shall be guilty of arson, and punished by fine not exceeding two thousand dollars or imprisonment at hard labor not exceeding fifteen years, or both.

Endangering property by burning brush.

130. Any person who shall burn any pit of charcoal, or set fire to or burn any brush or other material, whereby any property may be endangered or destroyed, unless he shall keep and maintain a careful and competent watchman in charge of said pit, bed or other material while burning, shall be guilty of a misdemeanor.

Burglary.

131. Any person who shall, by night, willfully or maliciously break and enter any church, meeting-house, dwelling-house, shop, warehouse, mill, barn, stable, outhouse, railway-car, canal-boat, ship or vessel, or other building whatever, with intent to kill, rob, steal, commit rape, mayhem or battery, and his counselors, procurers, aiders and abettors, shall be guilty of a high misdemeanor.

Breaking with intent.

132. Any person who shall, by day, willfully or maliciously break and enter any church, meeting house, dwelling-house, shop, warehouse, storehouse, mill, barn, stable, outhouse, railway-car, canal-boat, ship, vessel or other building whatever, with intent to kill, rob, steal, commit rape, mayhem or battery, and his counselors, procurers, aiders and abettors, shall be guilty of a high misdemeanor.

Entering with intent to kill.

133. Any person who shall willfully or maliciously enter, either by day or night, any church, meeting-house or place of worship, or any dwelling-house, shop, warehouse, storehouse, mill, barn, stable, outhouse, railway-car, canal-boat, ship, vessel or other building whatever, without breaking the same, with intent to kill, rob, steal, commit rape, mayhem or battery, and his counselors, procurers, aiders and abettors, shall be guilty of a high misdemeanor.

Manufacturing or having burglars' tools.

134. Any person who shall manufacture, or knowingly have in his possession any engine, machine, tool or implement adapted or designed for cutting through, forcing or breaking open any building, room, vault, safe or other depository, in order to steal therefrom any money or other property, knowing the same to be adapted or designed for the purpose aforesaid, with intent to use or employ or allow the same to be used or employed for the purpose aforesaid, shall be guilty of a high misdemeanor.

2. MALICIOUS MISCHIEF.

Injuring buildings, carry off crops, etc.

135. Any person who shall willfully or maliciously break or destroy the windows or doors, or other part or parts, of any dwelling-house, or other house or building, or set fire to, or burn, carry off or destroy, or procure or cause to be burned or destroyed, or carried off, any barrack, cock, crib, rick or stack of hay, corn, wheat, rye, barley, oats, or grain of any kind, or any fences, rails, inclosures, piles of wood, boards or other lumber, or any trees, herbage, growing grass, hay, or any vegetables, or shall willfully, unlawfully and maliciously kill or destroy any horse, mare or gelding, or any bull, ox, steer, bullock, cow, heifer, or calf, or any sheep, goat or lamb, with intent to injure any person, shall be guilty of a misdemeanor.

Tenants maliciously injuring property.

136. Any person who, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, held for any term of years or other less term, or at will, or held over after the termination of any tenancy, shall unlawfully and maliciously pull down or demolish, or begin to pull down or demolish the same or any part thereof; or shall unlawfully and maliciously pull down or sever from the freehold any fixture being fixed in or to such dwelling-house or building, or part of such dwelling-house or building, shall be guilty of a misdemeanor.

Tenant or owner in fee willfully destroying after foreclosure is commenced.

137. The owner in fee of any mortgaged premises, or any tenant or tenants under him, who shall willfully remove, tear down or destroy, or aid, counsel, procure or consent to the removing, tearing down or destroying of any dwelling-house, shop, warehouse, storehouse, mill, barn, stable, wagon-house, outhouse or other building whatsoever, erected upon said mortgaged premises, or any of the fencing thereon, or shall cut down and remove the growing timber thereon, with the intent to cheat, wrong or defraud the parties holding incumbrance or incumbrances, after foreclosure proceedings have been commenced thereunder, and a subpœna legally served upon such owner or tenant, without having first obtained the written consent of the complainant in such suit, and all other persons holding incumbrances against said

mortgaged premises, or the written consent of the chancellor, or of one of the justices of the supreme court, if foreclosure be commenced in the circuit court, upon petition for that purpose, shall be guilty of a misdemeanor.

Unlawful cutting of timber, etc

138. Any person who shall unlawfully cut, fell, work up, carry away, box, bore, bark or destroy any tree, sapling, log or pole, standing or lying on any land, to which such person hath not any legal right or title, without leave first had or obtained of the owner or owners of the said land for that purpose, shall be guilty of a misdemeanor; *provided*, this section shall not apply to any person who shall do the same by mistake or accident, or without any intention to injure or defraud the owner thereof.

Proviso.

Taking drift lumber or boats.

139. Any person who shall take up and secure any drift lumber or boards, rails, posts or other valuable lumber, boats, scows, skiffs, barges or other craft, which may be found adrift or lodged on the land of any person in any of the rivers running through or bordering on this state, and shall carry away the same to a greater distance than twenty yards from the margin of the river in which the same may be found; or who shall secrete the same in any place whatever; or who shall appropriate the same, or any part thereof, to his own use, without having first complied in all respects with the requirements of the timber act; or who shall aid in, assist or procure the same to be done, shall be guilty of a misdemeanor.

Injuring dams, bridges, etc.

140. Any person who shall willfully or maliciously cut down, break down, level, demolish or otherwise destroy or damage any bridge, or sea or river bank, or any meadow bank, or milldam, or any canal or raceway used for manufacturing purposes, or any gate, lock, or plane necessary or appertaining thereto, or any towing-path, tunnel, or other work, on or belonging to any river, or other water, or canal, shall be guilty of a misdemeanor.

Breaking down dam of fishery, mill dam, or poisoning fish.

141. Any person who shall willfully or maliciously cut through, break down, or otherwise destroy the dam, floodgate or sluice of any fishpond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to

take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish; or shall willfully or maliciously put any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish that may then be or that may thereafter be put therein; or shall willfully or maliciously cut through, break down or otherwise destroy the dam or floodgate of any mill-pond, reservoir or pool, shall be guilty of a misdemeanor.

Injuries to gas and water pipes.

142. Any person who shall willfully or maliciously cut down, break down, level, demolish or otherwise destroy or damage any conduit, aqueduct, or artificial water-course, for the purpose of leading water to any dwelling-house, barn, spring-house, or other outbuilding, or to the lands of any person, or the pipes or other machinery for making or conveying gas belonging to any individual or incorporated gaslight company, shall be guilty of a misdemeanor.

Conveying water into mine, obstructing shaft, etc.

143. Any person who shall willfully or maliciously cause any water to be conveyed or run into any mine, clay pit, or marl pit, or into any subterraneous passage communicating therewith, with the intent thereby to destroy or damage such mine, clay pit, or marl pit, or to hinder or delay the working thereof; or shall with the like intent willfully or maliciously pull down, fill up, or obstruct, or damage, with intent to destroy, obstruct, or render useless, any airway, waterway, drain, pit, level, or shaft of or belonging to any mine, shall be guilty of a misdemeanor.

Damaging steam engines and appliances pertaining to mines, etc.

144. Any person who shall willfully or maliciously pull down or destroy, or damage, with intent to destroy or render useless any stationary steam-engine or other engine, whether in a building or not, or the building itself, if such engine be in a building; or shall willfully or maliciously stop, obstruct, or hinder the working of any such stationary steam or other engine, with intent thereby to destroy or damage any mine or pit, or to hinder, obstruct or delay the working thereof, or shall willfully and maliciously, wholly or partially cut through, sever, break or unfasten, or damage, with intent to destroy or render useless, any rope, chain or tackle, of whatever material the same may be made,

used in any mine, marl pit, or clay pit, or in or upon any inclined plane, railway or other way, or other work whatsoever, in anywise belonging or appertaining to or connected with or employed in any such mine or pit, or the working or business thereof, shall be guilty of a misdemeanor.

Injuring machinery.

145. Any person who shall willfully or maliciously destroy, break, injure or obstruct any machinery or gearing, or any part thereof, owned or used by any other person or persons, or by any incorporated company for manufacturing purposes, shall be guilty of a misdemeanor.

Damaging or destroying books, works of art in museums, etc., or in churches, etc., or in public places.

146. Any person who shall willfully or maliciously destroy or damage any book, manuscript, picture, print, statue, bust or vase, or any other article or thing kept for the purpose of art, science, or literature, or as an object of curiosity in any museum, gallery, cabinet, library, or other repository, which museum, gallery, cabinet, library, or other repository, is either at all times, or from time to time, open for the admission of the public, or of any considerable number of persons to view the same, either by the permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument or other memorial of the dead, painted glass, or other ornament or work of art, in any church, chapel, meeting-house, or other place of divine worship, or in any building belonging to any county, city, borough, or to any university, or college, or hall of any university, or in any street, square, churchyard, burial-ground, public garden or ground, or any statue or monument exposed to public view, or any ornament, railing or fence surrounding such statue or monument, shall be guilty of a misdemeanor.

Defacing books, etc., by members of library association.

147. Any officer, clerk, agent, or member of any library association, or any person whatsoever, who shall willfully cut, mark, mutilate or otherwise injure any book, volume, map, chart, magazine, newspaper, painting or engraving belonging to or deposited with any library, or shall procure such injury to be done, shall be guilty of a misdemeanor.

Robbing or desecrating graves.

148. Any person who shall remove the body or remains of any deceased person from his grave or tomb,

or other place of sepulture, for the purpose of dissection or of any surgical or anatomical experiments, or for the purpose of selling the same, or from mere wantonness, or shall open the grave, tomb or other place of sepulture of any deceased person, or the grave, tomb or other place of sepulture where the body or remains of any deceased person have been deposited, for the purpose of removing therefrom such body or remains of any deceased person, for any of the purposes aforesaid, or from mere wantonness, without the consent of the surviving husband or wife, or, if there be no surviving husband or wife, of the next of kindred of such deceased person, or by the order of a coroner or other person having legal authority in the premises, or shall in any way aid, assist or procure the same to be done, shall be guilty of a high misdemeanor.

Malicious destruction o deeds, etc.

149. Any person who shall willfully or maliciously tear, cut, burn, or in any way whatever, destroy any letters-patent, charter, deed, indented or poll, lease, indenture of apprenticeship, writing sealed, will, testament, bond, annuity, bill, writing obligatory, release, bank bill or note, check, draft, bill of exchange, promissory note for the payment of money, indorsement or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill or other security for the payment of money, or any warrant, order or request for the payment of money, or the delivery of goods or chattels of any kind, or any certificate or other public security of the United States or of this state, or of any of the United States, for the payment of money, or acknowledging the receipt of money or goods, or any acquittance or receipt, either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels or other property whatsoever, or any letter of attorney, or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal, or any day-book, journal, ledger or book of accounts, or

any agreement or contract in writing, whether sealed or not, respecting any estate, real or personal, or any valuable security, or any document of title to lands, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, shall be guilty of a misdemeanor.

Destroying land-marks.

150. Any person who shall willfully or maliciously remove any monument of stone, wood or other durable material, erected for the purpose of designating the corner or any other point in the boundary of any lot or tract of land, road or street; or shall willfully or maliciously deface or alter the marks upon any tree, post or other monument, made for the purpose of designating any point, course or line in the boundary of any lot or tract of land, road or street; or shall willfully or maliciously cut down or remove any tree upon which any such marks shall be made for such purpose, with the intent to destroy such marks, shall be guilty of a misdemeanor.

Defacing public bridges, or laying wires or pipes thereon without permission.

151. Any person who shall deface or mar any of the public bridges in this state, or obstruct, or attach, or lay upon any such bridge any telegraph, telephone or electric wires, or any water or gas mains, without permission first had and obtained from the board of chosen freeholders of the county, or other proper authority, wherein such bridge is situate, shall be guilty of a misdemeanor.

Advertising on the Palisades.

152. Any person who shall paint or print upon, or in any manner place upon or affix to any of the steep rocks called the Palisades, on the Hudson river, in this state, any word, letter, character or device, stating, referring to or advertising, or intending to state, refer to or advertise the sale or manufacture of any property or article, profession, business, exhibition, amusement, or place of amusement, or other thing; or who shall directly or indirectly cause any such act to be done, or shall aid therein, shall be guilty of a misdemeanor.

Malicious damage to any goods, etc.

153. Any person who shall willfully or maliciously cut, break, burn, destroy or damage, with intent to destroy or render useless, any goods or chattels, or any written chose in action, or any hay, grain or other cultivated vegetable produce, whether standing or cut

down, or any tree, sapling, plant, flower, shrubs or underwood, wheresoever growing, the property of any other person, shall be guilty of a misdemeanor.

Abuse of hired animals.

154. Any person who shall hire, or cause to be hired, for his or her own use, any horse, mare, mule, wagon or other vehicle or livery driving rig or outfit from any keeper of a livery stable resident in this state, and shall willfully abuse, injure, overdrive or neglect to properly care and provide for and return such personal property to the custody of the person so hiring out the same, shall be guilty of a misdemeanor.

Cruelty to animals.

155. Any person who shall cruelly beat or torture any horse, mule, ox, cow, or other animal, whether belonging to himself or to another, shall be guilty of a misdemeanor.

Killing or maiming animals.

156. Any person who shall willfully and maliciously kill, maim, or wound any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall be guilty of a misdemeanor.

Malicious damage not provided for.

157. Any person who shall willfully and maliciously commit any damage, injury or spoil to or upon any real or personal property whatsoever, either of a public or private nature, for which no punishment is hereinbefore provided, shall be guilty of a misdemeanor.

3. STEALINGS AND OTHER TAKINGS.

Larceny.

158. Any person who shall steal of the money, or personal goods and chattels of another; or any flower, shrub or tree, planted, growing, or being in any graveyard; or any glass or woodwork belonging to any building whatsoever; or any lead, iron, copper, brass or other metal, or other material fixed in or to any building whatsoever, or anything made of metal fixed in any land, being private property, or for a fence to any dwelling, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground, or any lead or iron bar, iron rail, iron gate, or iron palisade, or any lock fixed to any dwelling-house, outhouse, stable, or other building; or

any flax, grass, or indian corn, wheat, rye, barley, oats, or grain of any kind, standing or growing; or any railroad ticket, or contract of passage or carriage, commonly called a "ticket" entitling the holder to passage or carriage on the cars of any person, company or corporation; or any oysters or oyster brood from any oyster bed, laying or fishery, sufficiently marked out or known as such; or any dog, or fish in any waters, belonging to another, or birds or beast, not the subject of larceny at common law, but which are tamed or kept in confinement by any person claiming property therein; or any carcass, skin or part of any animal; or the whole or any part of any tree, sapling, shrub or any underwood, or any plant, root, fruit or vegetable production whatsoever or wheresoever the same may be growing; or any live or dead fence, or any wooden post, pole, wire or rail, set up or used as a fence, or any stile or gate; or the ore of any metal, coal, marl, fire clay, porcelain clay, feldspar, kaolin or other merchantable earth useful for manufacture, for any mine, bed, pit or vein thereof respectively; such article, property or thing belonging to another; or who shall dig, pull, pull up, pick, gather, break, rip, cut, sever, root up or otherwise destroy or damage, carry away or unlawfully appropriate, with intent to steal, any of the foregoing articles, property, or things, or any part thereof, the same being the property of another; or shall willfully kill any animal, with intent to steal, carry away, or unlawfully appropriate the carcass, skin, hide, or flesh, or any part thereof, the property of another, shall be guilty of a misdemeanor, if the price or value of the article, property, or thing, be under twenty dollars; and if the price or value of the article, property, or thing be of or above twenty dollars, shall be guilty of a high misdemeanor.

Stealing bills, bonds, etc.

159. Any person who shall steal or take by robbery any bank bill or note, bill of exchange, order, warrant, draft, check, bond, bill or promissory note for payment of money, or any certificate or other public security of the United States or of this state, or of any of the United States, for payment of money, or acknowledging the receipt of money or goods, being the property of any other person or corporation, notwithstanding the

said particulars, or any of them, are or may be termed in law choses in action, shall be guilty of a high misdemeanor.

Stealing deeds, etc.

160. Any person who shall steal or take by robbery, any letters-patent, charter, testament, will, or deed whether indented or poll, covenant, assurance, lease, indenture of apprenticeship, articles of agreement, contract, letter of attorney, or other power, or any instrument of writing respecting any property, real or personal, or any release, acquittance, voucher, receipt-book, waste-book, day-book, journal, ledger, or other book of accounts of or belonging to another, shall be guilty of a high misdemeanor.

Stealing or destroying wills or codicils.

161. Any person who shall, either during the life of the testator, or after his death, steal, or, for any fraudulent purpose, destroy, cancel, obliterate or conceal the whole or any part of any will, codicil or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, shall be guilty of a misdemeanor; and it shall not in any indictment for such offense be necessary to allege that such will, codicil or other instrument is the property of any person.

Stealing fowls.

162. Any person who shall carry away or unlawfully appropriate, with intent to steal, any turkey, goose, duck, chicken or other domestic fowl, by whatever name known or designated, the property of another, shall be guilty of a misdemeanor.

Killing or detaining homing pigeons.

163. Any person who shall kill or forcibly detain any homing pigeon, which may be identified by any device or mark, shall be guilty of a misdemeanor.

Obtain electricity unlawfully.

164. Any person who shall, without permission, connect by wire or in any other manner with the wire or wires of any electric light or other electric company, for the purpose of obtaining electric power or electric current, shall be guilty of a misdemeanor.

Taking certain animals, although temporarily.

165. Any person who shall unlawfully, willfully and maliciously take any horse, mare, gelding or mule without the consent of the owner thereof, and cause the same, either directly or indirectly, to be removed from the possession or control of such owner, although only temporarily, shall be guilty of a misdemeanor.

Receiving stolen goods, etc.

166. Any person who shall receive or buy any goods or chattels or chose in action, or valuable thing whatso-

ever that shall be stolen from any other person, or taken by robbery from him, knowing the same to have been stolen or taken by robbery, or shall receive, harbor or conceal any thief or thieves, robber or robbers, knowing him, her or them to be so, shall be guilty of a misdemeanor.

2. FRAUDS AND EMBEZZLEMENTS.

Embezzlement.

167. Any person who, holding an office of trust and profit under the authority of this state, or under any public or private corporation existing under the laws thereof, who shall embezzle any of the money, property or securities committed to his keeping, with intent to defraud the state, or any county thereof, or any city, borough, township, body corporate or person, or shall fraudulently dispose of the same, shall be guilty of a high misdemeanor.

By collectors, constables, etc.

168. Any county, township, village, borough, city or ward collector, or constable having taxes to collect, or any receiver of taxes or collector of arrearages of taxes, who shall embezzle, unlawfully loan, or retain in his hands any money received or collected by him for the state, or any county, city, township, village, borough, ward or school, or road district, shall be guilty of a high misdemeanor.

Unlawfully obtain or counsel obtaining money, etc.

169. Any officer of any city, township, village, borough, ward or county of this state who shall hereafter obtain, or counsel, aid, assist, or procure in obtaining for any other person or persons, corporation or corporations, any sum or sums of money, notes, bonds, scrip, securities, or other valuable thing, from any such city, township, village, borough, ward or county, or from this state, not lawfully and justly due to said officer, or to such other person or persons, corporation or corporations, at the time of obtaining the same, shall be guilty of a high misdemeanor.

Unlawful detention of public property.

170. Any officer or agent of this state, or of any public or municipal corporation existing by the laws thereof, into whose hands or possession any money, books, papers, evidences of debt or other instruments of writing, or other property, of whatever nature, real or personal, belonging to the state, or the said public

corporation, may have come, or shall hereafter come, by virtue of his office or agency, who shall refuse or neglect, on demand, to deliver the same to his successor in office, or other person or persons authorized by law to receive or have charge of the same, shall be guilty of a misdemeanor.

Embezzlement or fraud by bank officers.

171. Any director of any incorporated bank in this state, or any cashier, bookkeeper, or other officer or agent of any such bank, who shall knowingly overdraw his account with the bank of which he shall be director, cashier, bookkeeper, officer or agent, for his own private use and benefit, or shall purloin, embezzle or convert to his own use any money, bank bill or note, the property of the said corporation, with intent to defraud the said corporation, or wrongfully to make use of the same; or any cashier, bookkeeper, or other officer employed in any such bank as aforesaid, who shall make, or cause to be made, any false entry in any book of account of the said bank, or in any way falsely keep the accounts of the said bank, with intent to cheat or defraud the said corporation or any person dealing therewith, shall be guilty of a high misdemeanor.

Directors, etc., fraudulently appropriating property.

172. Any person who, being a director, member or public officer of any body corporate or public company, shall fraudulently take or apply for his own use or benefit, or for any use or purpose other than the use or purpose of such body corporate or public company, any of the property of such body corporate or public company, shall be guilty of a misdemeanor.

Keeping fraudulent accounts.

173. Any person who, being a director, public officer or manager of any body corporate or public company, shall, as such, receive or possess himself of any of the property of such body corporate or public company, otherwise than in payment of a just debt or demand, and shall, with intent to defraud, omit to make, or to cause or direct to be made a full and true entry thereof in the books and accounts of such body corporate or public company, shall be guilty of a misdemeanor.

Willfully destroy books, etc , or make false entry.

174. Any person who, being a director, manager, public officer or member of any body corporate or public company, shall, with intent to defraud, destroy, alter, mutilate or falsify any book, paper, writing or valuable security belonging to the said body corporate or public

company, or make or concur in the making of any false entry, or omit or concur in omitting any material particular in any book of accounts or other document belonging thereto, shall be guilty of a misdemeanor.

Publishing false statements.

175. Any person who, being a director, manager or public officer of any body corporate or public company, shall make, circulate or publish or concur in making, circulating or publishing any written statement or account which he shall know to be false in any material particular, with intent to deceive or defraud any member, shareholder or creditor of any such body corporate or public company, or with intent to induce any person to become a shareholder or partner therein, or to entrust or advance any property to such body corporate or public company, or to enter into any security for the benefit thereof, shall be guilty of a misdemeanor.

Funds for charitable purposes.

176. Any person who, being a trustee of any property for the use or benefit, either wholly or partially, of any public or charitable purpose, shall, with intent to defraud, convert or appropriate the same, or any part thereof, to or for his own use or benefit, or for any purpose other than such public or charitable purpose as aforesaid, or otherwise dispose of or destroy such property, or any part thereof, shall be guilty of a misdemeanor.

Withholding or converting trust funds.

177. Any person who, acting as executor, administrator, trustee or guardian, appointed by any will, deed or other written instrument, or by the judgment, order or decree of any court in this state, shall willfully or fraudulently convert to his own use, or take, make away with, or secrete, with intent to convert to his own use, or shall fraudulently withhold any money, goods, property, rights in action, or other valuable security or effects whatever belonging to the estate or persons for whose benefit or in whose behalf such executor, administrator, trustee or guardian may have been appointed, and which shall have come into his possession or under his care and control by virtue of said trust, employment or office, shall be guilty of a misdemeanor.

Embezzlement by apprentice or servant.

178. Any apprentice or servant, whether bound or hired, to whom any money, bank bill or note, or goods or chattels, shall be, by his master or mistress, delivered, to be safely kept, who shall withdraw himself from his

said master or mistress, and go away with the said money, bank bill or note, goods or chattels, or any part thereof, with intent to steal the same and defraud his said master or mistress thereof, contrary to the trust and confidence in him reposed by his master or mistress, or, being in the service of his said master or mistress, shall embezzle the said money, bank bill or note, goods or chattels, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal the same, shall be guilty of a misdemeanor.

By agents

179. Any servant, employe or agent of any individual or incorporated company, who shall take or receive any money, bank bill or note, of or above the price or value of twenty dollars, belonging to his master, employer, or said incorporated company, with intent to defraud such master, employer or incorporated company thereof, and shall willfully retain and appropriate to his own use the said money, bank bill or note, knowing the same to belong to his master, employer, or said incorporated company, shall be guilty of a misdemeanor.

By lodger.

180. Any lodger or tenant who shall take away, with intent to steal, embezzle or purloin, any bedding, furniture, goods or chattels, which by contract or agreement he is to use, or which shall be let to him to use, in or with his lodging or demised property, shall be guilty of a misdemeanor.

By carrier.

181. Any person who, engaged in transporting coal, iron, lumber, or other articles of merchandise, or any property whatsoever, on any highway, river, railroad or canal, within this state, shall sell, dispose of, or pledge the same, or any part thereof, without the consent of the owner thereof, or shall purchase such property or other articles of merchandise, without the consent of the owners of said property, or any coal, iron, or other articles of merchandise, or any property whatever, consigned to any person in this state, or any other state, knowing the same to be consigned, from any captain of a canal boat, or any other person engaged in transporting the said property, shall be guilty of a misdemeanor.

By operatives.

182. Any person into whose hands or possession any goods or materials may have been placed, or may hereafter be placed, for the purpose of being manufactured,

repaired, made up, or having any labor bestowed thereon for the benefit of the owner, who shall, without consent of the owner, unlawfully sell and dispose of the same, or shall, with intent to defraud the owner, on payment or tender of all just claims and liens for work or labor done upon such goods or materials, unlawfully refuse or neglect to deliver the same to the owner, or to his order on demand; or any person or persons hired or employed to prepare or work up any silk or other manufacture, who shall purloin, embezzle, secrete, sell, or otherwise unlawfully dispose of any of the materials with which he shall be entrusted, whether the same or any part thereof be, or not, first manufactured in merchantable wares, or be finished or unfinished, shall be deemed guilty of a misdemeanor.

Receiving goods wrongfully obtained.

183. Any person who shall buy, receive, or take by way of gift, sale, exchange, or in any other manner, of or from any person or persons hired or employed to manufacture, prepare or work up silk, or any fabric of which silk is a component part, any silk or any of the materials of which said fabric is to be composed, whether the said silk or materials shall be in a finished or in an unfinished state, knowing the person or persons of whom he may so buy, receive, accept, or take the said silk or materials to be so hired or employed as aforesaid, not having first obtained the consent of the person or persons so hiring or employing him, who shall offer to sell, pawn, pledge, exchange, or otherwise dispose of the said materials, and any person who shall buy, receive, accept or take, in any manner whatever, of or from any other person or persons whatever, any of the said silk or other materials, whether finished or unfinished, knowing the same to be purloined or embezzled, shall be guilty of a misdemeanor.

Consignee, etc., converting property.

184. Any consignee, factor, bailee, agent or servant, entrusted with the care or sale of any personal property, or entrusted with the collection or care of any moneys, who shall fraudulently take or convert the same, or the proceeds of the sale of the same, or any part thereof, to his own use, or to the use of any other person or persons whatsoever, except the rightful owner thereof, shall be guilty of a misdemeanor.

Thimblerigging.

185. Any person who shall knowingly or designedly, by means of balls, cups, paper safe, or any mechanical contrivance, invention or device, obtain from any person any money or other valuable thing, with intent thereby to cheat or defraud such person, shall be guilty of a misdemeanor.

Obtaining goods by false pretense.

186. Any person who, knowingly or designedly, by color of any false token, counterfeit letter or writing, or false pretense or pretenses, shall obtain from any person money, wares, merchandise, goods or chattels, or other valuable thing, with intent to cheat or defraud any person, body politic or corporate, of the same, shall be guilty of a misdemeanor.

Inducing by fraud execution of papers, etc.

187. Any person who, with intent to defraud or injure any other person, shall, by any false pretense, fraudulently cause or induce any other person to execute, make, accept, indorse or destroy the whole or any part of any valuable security, or to write, impress or affix his name, or the name of any other person, or of any company, firm or copartnership, or the seal of any body corporate, company or society, upon any paper or parchment, in order that the same may be afterwards made or converted into, or used, or dealt with as valuable security, shall be guilty of a misdemeanor.

Counterfeiting.

188. Any person who shall sell or exchange, or offer for sale or exchange, or willingly receive, any forged or counterfeit promissory note, with intention to have the same uttered or passed, to defraud any person or corporation; or shall make or engrave, cause or procure to be made or engraved, any plate for forging or counterfeiting any promissory note for the payment of money in the name of any person or corporation; or shall have in his possession, or receive from any other person, any forged or counterfeit promissory note for the payment of money, with intent to utter or pass the same, or to permit or cause, or procure the same to be uttered or passed, with intention to defraud any person or corporation whatsoever, knowing the same to be forged or counterfeited; or shall have or keep in his possession any blank or unfinished note, made in the form and similitude of any promissory note for the payment of money, made to be issued by any incorporated bank of

this state, or any of the United States, with intention to fill up and complete such blank or unfinished note, or to permit, cause, or procure the same to be filled up and completed, in order to utter or pass the same, or permit, cause or procure the same to be uttered or passed, to defraud any person or corporation whatsoever; or shall have or keep in his custody or possession any plate for forging or counterfeiting any promissory note for the payment of money, in form or similitude of any promissory note issued by any of the banks aforesaid, with intent to forge or counterfeit, or to assist in forging or counterfeiting, or to permit, cause or procure to be counterfeited, any promissory note issued by any of the aforesaid banks, shall be guilty of a high misdemeanor.

Counterfeiting coin or passing same.

189. Any person who shall counterfeit, or cause or procure to be counterfeited, any of the species of gold or silver coins now current, or which hereafter shall be current in this state, or shall pass or give in payment or offer to pass or give in payment the same, knowing the same to be counterfeit, shall be guilty of a high misdemeanor.

Counterfeiting foreign coin.

190. Any person who shall, within this state, counterfeit any gold, silver, copper or other metallic coin of any foreign government or country, although the same be not current in this state, shall be guilty of a high misdemeanor.

Having counterfeit coin with intent to export.

191. Any person who shall have or keep in his possession or custody any such counterfeit gold, silver, copper or other metallic coin, with the intent of exporting the same, to injure or defraud any foreign government or the subjects thereof, shall be guilty of a high misdemeanor.

"Green goods."

192. Any person who prints, writes, utters, publishes, sells, lends, gives away, circulates or distributes, or has in his possession with intent to utter, publish, sell, lend, give away, circulate or distribute, any letter, writing, circular, paper, pamphlet, handbill or any other written or printed matter, advertising, offering or purporting to advertise or offer for sale, loan, exchange, gift or distribution, or to furnish, procure or distribute any counterfeit coin, paper money, internal revenue stamp, postage stamp, or any other token of value, or what purports to be

counterfeit coin, paper money, internal revenue stamp, postage stamp, or any other token of value; or giving, or purporting to give, either directly or indirectly, information where, how, of whom or by what means any counterfeit coin, paper money, internal revenue stamp, postage stamp or token of value can be procured or had, or what purports to be counterfeit coin, paper money, internal revenue stamp, postage stamp, or other token of value, can be procured or had; or whoever shall aid, assist or abet in any manner, in any scheme or device whatsoever, offering or purporting to offer for sale, loan, gift, exchange or distribution, any counterfeit coin, paper money, internal revenue stamp, postage stamp or other token of value, whether called "green articles," "queer coin," "paper goods," "bills," "spurious treasury notes," "United States goods," "green paper goods," "business that is not legitimate," "cigars," "green segars," or by any other name or title, any other device of a similar character, shall be guilty of a high misdemeanor.

Aiding or abetting "green goods" scheme.

193. Any person who, for executing, operating, promoting, carrying on, or in the aiding, assisting or abetting the promoting, operating, carrying on or executing of any scheme or device whatsoever to defraud by use or means of any papers, writings, letters, circulars, or written or printed matter concerning the offering for sale, loan, gift, distribution or exchange of counterfeit coin, paper money, internal revenue stamps, postage stamps or other token of value, as provided in the next preceding section of this act, shall use any fictitious, false or assumed name or address, or name or address other than his own right, proper and lawful name; or whoever, in the executing, operating, promoting, carrying on, aiding, assisting or abetting in the execution, promotion or carrying on of any scheme or device offering for sale, loan, gift or distribution, or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit coin, paper money, internal revenue stamp, postage stamp or other token of value can be obtained or had; or shall knowingly receive or take from the mails of the United States any letter or package

addressed to any such fictitious, false or assumed name or address, or name other than his own right, proper or lawful name, shall be guilty of a high misdemeanor.

Uttering bad bills.

194. Any person who, with intent to defraud any person or body corporate, shall utter and publish as of value any bank bill or note, issued by any bankrupt, broken or insolvent bank, knowing the same to be of no value, shall be deemed guilty of a misdemeanor.

Counterfeiting letters of credit.

195. Any person who shall forge, alter or counterfeit, or cause, counsel or procure to be forged, altered or counterfeited, with intent to defraud any person, any order or request in writing for the giving of credit to any person in such order or request in writing named or referred to; and any person who shall utter and publish as true, with such fraudulent intent as aforesaid, any such forged, altered or counterfeited order or request in writing, knowing the same to be forged, altered or counterfeited, shall be guilty of a high misdemeanor.

Counterfeiting trade-marks, or selling without notice.

196. Any person who shall knowingly and willfully forge or counterfeit, or cause or procure to be forged or counterfeited, upon any goods, wares or merchandise, the private stamps or labels of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares or merchandise whatsoever, or who shall vend any goods, wares or merchandise, having thereon any forged or counterfeited stamps or labels, purporting to be the stamps or labels of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser, shall be guilty of a misdemeanor.

Falsely making, altering, forging, etc., records, drafts, notes, etc.

197. Any person who shall falsely make, alter, forge or counterfeit, or cause, counsel, hire, commend or procure to be falsely made, altered, forged or counterfeited, or willingly act or assist in the false making, altering, forging or counterfeiting any record or other authentic matter of a public nature, character, letters-patent, deed, lease, writing sealed, will, testament, annuity, bond, bill, writing obligatory, bank bill or note, United States treasury note, check, draft, bill of exchange, promissory note for the payment of money, indorsement or assignment of any check, draft, bill of exchange, or promissory note for the payment of money, or any acceptance

of a bill of exchange, or the number, principal sum of any accountable receipt for any note, bill or other security for the payment of money, or any warrant, order or request for the payment of money, or delivery of goods or chattels of any kind, or any acquittance or receipt, either for money or goods, or any acquittance, release or discharge of any debt, account, action, suit, demand or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels or other property whatsoever, or any letter of attorney, or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, sell, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real and personal, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, or who shall utter or publish, or cause, counsel, hire, command or procure to be uttered or published, as true, any of the above false, altered, forged or counterfeited matters as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, injure, damage or defraud any person or persons, body politic or corporate, shall be guilty of a high misdemeanor.

Forging passenger tickets.

198. Any person who shall falsely make, forge, counterfeit or alter, or cause to be falsely made, forged, counterfeited or altered, any railroad ticket, ferry ticket, or steamboat ticket, or any ticket or token given or issued upon payment of fare, or without payment, as evidence of the right of any person to pass over any railroad, ferry, steamboat, or other road or public conveyance; or who shall utter, publish or use, or cause or counsel to be uttered, published or used as true, any such ticket or token, knowing the same to be false, forged, counterfeited or altered, with intent to defraud any person or corporation, shall be guilty of a misdemeanor.

Using fraudulent tickets.

199. Any person who shall knowingly or designedly cause or procure himself or any other person to pass or be carried without payment over any railroad, ferry, steamboat or other road or public conveyance, by color of any false, altered or counterfeited ticket or token, or by exhibiting on such passage or at the entrance to or exit from such railroad, ferry, steamboat or other road

or conveyance, as a ticket, token or order for such passage, any ticket, token or order, which to his knowledge, does not then entitle him so to be carried or passed, with intent to deceive and defraud any person or corporation, shall be guilty of a misdemeanor.

Issuing false stock.

200. Every president, vice-president, director, cashier, treasurer, secretary or other officer, and every agent of any bank, insurance company, railroad company, manufacturing company, or of any other corporation, who shall willfully or designedly sign, with intent to issue, transfer, sell or pledge, or cause to be issued, transferred, sold or pledged, any false, fraudulent or simulated certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such corporation, or who shall willfully or designedly sign, with intent to issue, transfer, sell or pledge, or cause to be issued, transferred, sold or pledged, any certificate or other evidence of the ownership or transfer of any share or shares in such corporation, or any instrument purporting to be a certificate or other evidence of such ownership or transfer, the signing, issuing, transferring, selling or pledging of which, by such president, vice-president, director, cashier, treasurer, secretary or other officer or agent, shall not be authorized by the charter and by-laws of such corporation, and every such president, vice-president, director, cashier, treasurer, secretary or other officer or agent who shall willfully, designedly or fraudulently issue, transfer, sell or pledge any such certificate or other evidence, or any such instrument as aforesaid, with intent to prejudice, injure, damage or defraud any person, body politic or corporate, shall be guilty of a high misdemeanor.

False personation.

201. Any person who shall acknowledge, or procure to be acknowledged, any fine, common recovery, deed, recognizance, bail or judgment, in the name of any other person not privy or consenting to the same; and any person who shall, before any person authorized to take bail, represent or personate any other person, whereby the person so represented or personated may be liable to the payment of any sum of money for debt or damages, to be recovered in the same suit or action wherein such person is represented or personated, or in

any action, as if he had really acknowledged and entered into the said bail, shall be guilty of a high misdemeanor.

Promising employment with wrong intent.

202. Any person who shall obtain from another, with intent to cheat and defraud, any money or anything of value, upon a promise or agreement to procure or to endeavor to procure for such person employment or a loan of money or anything of value, shall be guilty of a misdemeanor.

Misrepresenting fruit trees, etc.

203. Any person who, selling fruit trees or fruit briers, shall misrepresent the name or nature of said fruit trees or fruit briers, shall be guilty of a misdemeanor.

False registration of animals.

204. Any person who shall, by any false statement or pretense as to the pedigree or breeding of any domestic animal, obtain registration or transfer of registration of any animal in the herd register or other register of any club, association, society or company for improving the breed of cattle, horses, sheep, swine or other domestic animals; or who shall knowingly or designedly, with intent to defraud, give a false pedigree of any animal, shall be guilty of a misdemeanor.

Removal of property by mortgagor

205. Any mortgagor of personal property in possession of the same who, without the consent of the owner of the claim secured by mortgage, and with intent to defraud, removes any of the property mortgaged out of county where it was situated at the time it was mortgaged, or secretes, destroys, sells or exchanges the same without such consent, shall be guilty of a misdemeanor.

Selling borrowed property, or hiring horse by deceit.

206. Any person who shall, with intent to cheat or defraud the owner thereof, sell, pledge, pawn or secrete any property which he has borrowed, hired, leased or purchased under an agreement in writing whereby the title of such property is not to pass until the agreement is fulfilled; or any person hiring or causing to be hired for his own use, any horse, mare, mule, wagon or other vehicle, or livery driving rig or outfit from any keeper of a livery-stable, who shall obtain or procure the same by means of any false token, deceit, fraud or misrepresentation, shall be guilty of a misdemeanor.

Conducting business of fire insurance without authority.

207. Any person who, within this state, shall, directly or indirectly, transact any fire insurance business, for or on behalf of any fire insurance company or association, not authorized by the laws of this state to do business within this state; or shall in any way, directly or

indirectly, seek or effect, or cause, procure or assist to be made or effected, or attempt to procure or effect, any fire insurance on property within this state, by or in behalf of any insurance company or association, or any company or person whatsoever, not authorized by the laws of this state and duly qualified thereunder to effect fire insurance on property within this state, or shall act as agent, surveyor, canvasser or other representative of or for any such company, association or person in or about any business not permitted by the laws of this state, shall be guilty of a misdemeanor.

Unlawful use of Grand Army badge.

208. Any person who shall willfully wear the badge of the Grand Army of the Republic, or who shall use or wear the same to obtain aid or assistance thereby within this state, unless he shall be entitled to use or wear the same under the rules, regulations or by-laws of a grand army post, duly and regularly organized, shall be guilty of a misdemeanor.

Unlawful use of Loyal Legion badge.

209. Any person who shall willfully wear the insignia or rosette of the military order of the Loyal Legion of the United States or use the same to obtain aid or assistance within this state, unless he shall be entitled to use or wear the same under the constitution and by-laws, rules and regulations of the military order of the Loyal Legion of the United States, shall be guilty of a misdemeanor.

Baled hay or straw.

210. No person in this state shall sell or offer for sale any baled hay or straw with more than ten pounds of wood to a bale weighing two hundred pounds or upwards, or more than five pounds of wood on bales weighing less than two hundred pounds, without having the gross weight of all hay and straw sold, or offered for sale, plainly marked on each bale, and no person shall sell or offer for sale such hay or straw so marked, which shall weigh less than such gross weight after deducting ten pounds from each bale for shrinkage; and any person offending against this section shall be guilty of a misdemeanor.

"Sterling silver" or "coin silver."

211. Any manufacturer or dealer who makes, sells or offers to sell, any article of merchandise marked with the words "sterling" or "sterling silver," or "coin" or "coin silver," or incased in any box, package, cover or other thing in or by which the said article is packed,

or otherwise prepared for sale, and having thereupon any engraving or printed label, stamp, imprint, mark or trademark, indicating that such article is silver, or sterling silver, or is coin or coin silver; or if the component parts of any such article are made of the same metal soldered together, or if such article be made of metal mounting, marked as aforesaid respectively, and applied or attached to leather, shell, ivory, pearl, glass, porcelain, pottery, steel or wood, or of interior works or movements and an exterior case or covering applied or attached thereto and marked as aforesaid respectively; unless nine hundred and twenty-five one-thousandths of all said component parts of the metal marked "sterling" or "sterling silver," is pure silver; or, if marked "coin" or "coin silver," unless nine hundred one-thousandths of all the component parts of the metal, metal mounting, case or covering marked respectively as aforesaid, and of which and with which the article is manufactured, is pure silver, shall be guilty of a misdemeanor.

Selling goods "not to be sold."

212. Any person who shall purchase, sell, dispose of or traffic in any property, goods or chattels which contain the words, "not to be sold," a description of which is filed and registered, according to law, in the offices of the county clerks of this state, without the consent of the owner or owners thereof, shall be guilty of a misdemeanor.

7. MISCELLANEOUS MISDEMEANORS.

Not to refuse burial by reason of color.

213. No cemetery corporation, association or company organized under any law of this state, owning or having control of any cemetery or place for the burial of the dead, shall refuse to permit the burial of any deceased person therein because of the color of such deceased person, and any cemetery corporation, association or company offending against this section shall be guilty of a misdemeanor.

Jumping on and off cars.

214. Any person who, not being a passenger or employe, who shall be found trespassing upon any railroad car or train of any railroad in this state, by jumping on or off any car or train, on its arrival, stay or departure,

at or from any station or depot of such railroad, or on the passage of any such car or train over any part of any such railroad, shall be guilty of a misdemeanor.

8. GENERAL PROVISIONS.

Misdemeanors.

215. Assaults, batteries, false imprisonments, affrays, riots, routs, unlawful assemblies, nuisances, cheats, deceits, and all other offenses of an indictable nature at common law, and not provided for in or by this or some other act of the legislature, shall be misdemeanors, and be punished accordingly.

Attempt to commit offenses.

216. Any person who shall attempt to commit any of the offenses mentioned in this act, or any offenses of an indictable nature at common law, though such offense be not actually committed, shall be guilty of a misdemeanor; *provided*, in no case of violation of this section of this act shall the punishment ever be greater than is provided in case of the actual commission of the crime or offense attempted.

Proviso

Penalty for high misdemeanor.

217. Any person found guilty of any crime which by this, or any other statute, is declared to be a high misdemeanor, and for which no penalty is fixed in the statute, shall be punished by a fine of not exceeding two thousand dollars, or by imprisonment, with or without hard labor, as the court may direct, for any term not exceeding seven years, or both.

Penalty for misdemeanor.

218. Any person found guilty of any crime which by this, or any other statute, is declared to be a misdemeanor, shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment, with or without hard labor, as the court may direct, for any term not exceeding three years, or both.

Convicted of second offense.

219. Any offender who shall have been sentenced to imprisonment in the state prison under the laws of this state, and who shall be convicted of a second offense of the like nature, may be sentence to imprisonment in the state prison for any period not exceeding double the time for which said offender might have been sentenced on the first offense.

Singular number, masculine gender.

220. Whenever, in describing or referring to any person, party, matter or thing, any word imparting the

singular number or masculine gender is used in this statute, the same shall be understood to include and shall apply to several person and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it be otherwise provided, or there be something in the subject or context repugnant to such construction; and the word "magistrate," as used in this act, shall be understood to include justices of the peace, police justices, judges of criminal courts in cities, recorders, and any other officer having the powers of a committing magistrate.

"Magistrate" defined.

221. Nothing in any of the sections of this act contained, nor any proceeding, conviction or judgment to be had or taken thereon against any person, under any of the said sections, shall prevent, lessen or impeach any remedy at law or in equity which any party aggrieved by any offense against any of the said sections might have had if this act had not been passed; but no conviction of any such offender shall be received in evidence in any action at law or in equity against him; and nothing in the said sections contained shall affect or prejudice any agreement entered into or security given by any trustee having for its object the restoration or repayment of any trust property misappropriated.

Remedy at law or in equity not affected by passage of this act.

222. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed; and no indictment or other criminal proceeding of any nature now pending shall abate by reason of the passage of this act, but all proceedings on any indictment now pending shall proceed under the provisions of this act; and no offense committed, or liability, penalty or forfeiture incurred previous to the time when this act shall take effect shall be discharged or affected by the passage of this act, but any such offense, and any indictment or prosecution for such offense, shall be instituted and proceeded with and such offense be punished in all respects as if this act had not been passed.

Repealer.

Pending proceedings not abated.

Previous liability not affected.

Approved June 14, 1898.

CHAPTER 236.

An Act to repeal sundry acts relative to crimes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Acts repealed.

1. From and after the passage and adoption of this act, the following acts and parts of acts be repealed:

(1.) "An act for the punishment of crimes," revision, approved March twenty-seventh, one thousand eight hundred and seventy-four;

(2.) "Supplement to 'An act concerning crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved April first, one thousand eight hundred and seventy-five;

(3.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, eighteen hundred and seventy-four," approved April ninth, one thousand eight hundred and seventy-five;

(4.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred seventy-four," approved April ninth, one thousand eight hundred and seventy-five;

(5.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, eighteen hundred and seventy-four," approved February seventh, one thousand eight hundred and seventy-six;

(6.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, eighteen hundred and seventy-four," approved March sixteenth, one thousand eight hundred and seventy-six;

(7.) "A supplement to the act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, eighteen hundred and seventy-four," approved March thirtieth, one thousand eight hundred and seventy-six;

(8.) "A supplement to the act entitled 'An act for the punishment of crimes,' approved March twenty-seventh,

eighteen hundred and seventy-four," approved April sixth, one thousand eight hundred and seventy-six;

(9.) "A supplement to 'An act for the punishment of crimes,' approved April sixteenth, eighteen hundred and forty-six," approved April twentieth, one thousand eight hundred and seventy-six;

(10.) "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March eighth, one thousand eight hundred and seventy-seven;

(11.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March eighth, one thousand eight hundred and seventy-seven;

(12.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh one thousand eight hundred and seventy-four," approved March ninth, one thousand eight hundred and seventy-seven;

(13.) "A supplement to an act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, eighteen hundred and seventy-four," approved February seventh, one thousand eight hundred and seventy-eight;

(14.) "Supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, eighteen hundred and seventy-four," approved March twenty-first, one thousand eight hundred and seventy-eight;

(15.) "An act to prevent the deposit of mud, earth, soil, ashes or refuse on the New Jersey shore of the Delaware river, and protect the docks and shipping interests therein," approved March twenty-seventh, one thousand eight hundred and seventy-eight;

(16.) "An act to suppress the sending of indecent communications," approved March twenty-ninth, one thousand eight hundred and seventy-eight;

(17.) "An act to prevent the pollution of the waters of any of the creeks, ponds or brooks of this state," approved March twenty-ninth, one thousand eight hundred and seventy-eight;

(18). "A supplement to the act entitled 'An act for the punishment of crimes' revision), approved March twenty-seventh, eighteen hundred and seventy-four," approved April third, one thousand eight hundred and seventy-eight;

(19.) "An act to prevent trespasses on railroad cars or trains," approved April fifth, one thousand eight hundred and seventy-eight;

(20.) "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, eighteen hundred and seventy-four," approved April fifth, one thousand eight hundred and seventy-eight;

(21.) "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved February nineteenth, one thousand eight hundred and seventy-nine;

(22.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March eleventh, one thousand eight hundred and seventy-nine;

(23.) "A supplement to an act entitled 'An act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March fourteenth, one thousand eight hundred and seventy-nine;

(24.) "A supplement to the 'Act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March fourteenth, one thousand eight hundred and seventy-nine;

(25.) "A supplement to the act entitled 'An act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March third, one thousand eight hundred and eighty;

(26.) "Supplement to an act entitled 'An act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March eleventh, one thousand eight hundred and eighty;

(27.) "Supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March twenty-first, one thousand eight hundred and eighty-one;

(28.) "Supplement to an act entitled 'An act to regulate the manufacture in the state of nitro-glycerine and its compounds,' approved March twenty-fourth, one thousand eight hundred and seventy-four," approved March twenty-fifth, one thousand eight hundred and eighty-one;

(29.) "A supplement to an act 'For the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March twenty-fifth, one thousand eight hundred and eighty-one;

(30.) "An act to prevent the manufacture and sale of adulterated lard," approved March twenty-fifth, one thousand eight hundred and eighty-one;

(31.) "An act to prevent gaming and the use of gaming implements by minors in places where alcoholic, vinous or malt liquors, or intoxicating drinks of any kind are sold," approved March twenty-fifth, one thousand eight hundred and eighty-one;

(32.) "An act to prevent vending, using or exploding of guns, pistols, toy pistols, or other firearms, to or by persons under the age of fifteen years in this state," approved February tenth, one thousand eight hundred and eighty-two;

(33.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March third, one thousand eight hundred and eighty-two;

(34.) "Supplement to an act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March fourteenth, one thousand eight hundred and eighty-two;

(35.) "Supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four, and to the supplements and amendments thereto," approved

March twenty-eighth, one thousand eight hundred and eighty-two;

(36.) "An act to regulate the sale of poisons," approved February twenty-third, one thousand eight hundred and eighty-three;

(37.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March seventh, one thousand eight hundred and eighty-three;

(38.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March twenty-third, one thousand eight hundred and eighty-three;

(39.) "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, eighteen hundred and seventy-four," approved March thirteenth, one thousand eight hundred and eighty-four;

(40.) "A further supplement to the act entitled 'An act for the punishment of crimes,' (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March nineteenth, one thousand eight hundred and eighty-four;

(41.) "An act for the better protection of life," approved April twenty-eighth, one thousand eight hundred and eighty-four;

(42.) "An amendment to 'An act to prevent vending, using or exploding of guns, pistols, toy pistols, or other firearms to or by persons under the age of fifteen years in this state,' " approved March second, one thousand eight hundred and eighty-five;

(43.) "A supplement to 'An act for the punishment of crimes,' (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March ninth, one thousand eight hundred and eighty-five;

(44.) "An act to protect children," approved March ninth, one thousand eight hundred and eighty-five;

(45.) "An act to prevent persons from unlawfully using or wearing the badge of the grand army of the

republic of this state," approved April twentieth, one thousand eight hundred and eighty-five;

(46.) "An act to protect persons buying fruit trees and fruit briers," passed March ninth, one thousand eight hundred and eighty-six;

(47.) "An act in relation to mendicant and vagrant children," approved March twenty-sixth, one thousand eight hundred and eighty-six;

(48.) "Supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, anno domini one thousand eight hundred and seventy-four," approved March twenty-sixth, one thousand eight hundred and eighty-six;

(49.) "An act to prevent the transportation of giant powder, dynamite or nitro glycerine on trains of cars carrying passengers in this state," approved April twelfth, one thousand eight hundred and eighty-six;

(50.) "An act to regulate the manufacture and storage of gun-powder, dynamite and other explosives," approved May eleventh, one thousand eight hundred and eighty-six;

(51.) "An act to prevent the transportation of dynamite and other explosives on the ponds and lakes of this state," approved March twenty-ninth, one thousand eight hundred and eighty-seven;

(52.) "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," passed March thirtieth, one thousand eight hundred and eighty-seven;

(53.) "An act to punish false pretenses in obtaining registration of cattle and other animals, and to punish giving false pedigrees," approved March thirtieth, one thousand eight hundred and eighty-seven;

(54.) "A supplement to 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved April eighth, one thousand eight hundred and seventy-seven;

(55.) "A further supplement to an act entitled 'An act for the punishment of crimes' (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved April twenty-eighth, one thousand eight hundred and seventy-seven;

(56.) "A supplement to an act entitled 'An act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved February sixth, one thousand eight hundred and eighty-eight;

(57.) "Supplement to 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March first, one thousand eight hundred and eighty-eight;

(58.) "A supplement to an act entitled 'An act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March twenty-second, one thousand eight hundred and eighty-eight;

(59.) "An act to prevent persons from unlawfully using or wearing the insignia or rosette of the military order of the loyal legion of the United States," approved March thirtieth, one thousand eight hundred and eighty-eight;

(60.) "A supplement to an act entitled 'An act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March thirtieth, one thousand eight hundred and eighty-eight;

(61.) "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved April twenty-fourth, one thousand eight hundred and eighty-eight;

(62.) "A further supplement to an act entitled 'An act for the punishment of crimes,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved April second, one thousand eight hundred and eighty-nine;

(63.) "A supplement to an act entitled 'A supplement to an act entitled "An act for the punishment of crimes," approved March twenty-seventh, one thousand eight hundred and seventy-four,' which said supplement was approved March third, anno domini one thousand eight hundred and eighty-two," approved March fourth, one thousand eight hundred and ninety;

(64.) "A supplement to 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one

thousand eight hundred and seventy-four," approved May nineteenth, one thousand eight hundred and ninety;

(65.) "A supplement to an act entitled 'A supplement to an act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement became a law during the present session of the legislature," approved May nineteenth, one thousand eight hundred and ninety;

(66.) "A supplement to an act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved June thirteenth, one thousand eight hundred and ninety;

(67.) "An act relating to depositing of refuse from chemical factories near residences," approved April second, one thousand eight hundred and ninety-one;

(68) "An act to amend an act entitled 'A further supplement to an act entitled "An act for the punishment of crimes," approved March twenty-seventh, one thousand eight hundred and seventy-four,' which supplement was approved June thirteenth, one thousand eight hundred and ninety," approved March twenty-third, one thousand eight hundred and ninety-two;

(69.) "Supplement to an act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," passed February twenty-seventh, one thousand eight hundred and ninety-three;

(70.) "A supplement to an act entitled 'An act for the punishment of crime' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March first, one thousand eight hundred and ninety-three;

(71.) "A further supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March tenth, one thousand eight hundred and ninety three;

(72.) "A further supplement to the act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and

seventy-four," approved March tenth, one thousand eight hundred and ninety-three;

(73.) "An act to amend chapter fifty-two of the laws, one thousand eight hundred and eighty, entitled 'A supplement to an act entitled "An act to prevent the willful pollution of the waters of any of the creeks, ponds or brooks of this state,"' (supplement revision), approved February twenty-seventh, one thousand eight hundred and eighty," approved March fourteenth, one thousand eight hundred and ninety-three;

(74.) "A further supplement to 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March fourteenth, one thousand eight hundred and ninety-three;

(75.) "An act entitled 'An act to prohibit the carrying of unlawful messages by telegraph, express companies and other common carriers,'" approved April twelfth, one thousand eight hundred and ninety-four;

(76.) "A supplement to an act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved April twenty-sixth, one thousand eight hundred and ninety-four;

(77.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved May fifteenth, one thousand eight hundred and ninty-four;

(78.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved May seventeenth, one thousand eight hundred and ninety-four;

(79.) "A supplement to an act entitled 'An act for the punishment of crimes,' (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved May seventeenth, one thousand eight hundred and ninety-four;

(80.) "A supplement to an act entitled 'An act for the punishment of crimes,' (Revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March twenty-second, one thousand

eight hundred and ninety-five, being chapter CCXCIII of the laws of one thousand eight hundred and ninety-five;

(81.) "A supplement to an act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March eleventh, one thousand eight hundred and ninety-six;

(82.) "A further supplement to the act entitled 'An act for the punishment of crimes,' approved March twenty-seventh, one thousand eight hundred and seventy-four," approved March thirty-first, one thousand eight hundred and ninety-seven;

(83.) "An act to punish persons who unlawfully obtain electric power," approved May eighteenth, one thousand eight hundred and ninety-seven;

(84.) "A supplement to an act entitled 'An act for the punishment of crimes' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," approved April second, one thousand eight hundred and eighty-four;

(85.) "An act to prevent a partner of a president or law judge of any county in this state from practicing in any of the courts in which the said judge shall sit or preside," approved April twenty-eighth, one thousand eight hundred and eighty-five.

Repeal not to revive acts formerly repealed.

2. The repeal of the above-stated acts and parts of acts shall not be construed to revive any act or any part of any act which may have been repealed by any of the acts hereby repealed; and no indictment or other criminal proceeding of any nature shall abate by reason of the repeal of said acts or parts of acts, but all proceedings on any indictments now pending, and every criminal proceeding of every nature shall proceed as if this act had not been passed.

Indictments not to abate.

Statutes repugnant continue repealed.

3. All statutes and parts of statutes which were repealed or abrogated by, or were repugnant to, any law hereby repealed, shall continue to be so repealed, and shall be deemed abrogated.

Not to apply to crimes committed previous to this enactment.

4. Nothing contained in this act shall apply to any crime or offense committed, or other act done at any time before the day when this act takes effect; such crime or offense shall be punished according to, and

such act governed by the provisions of law existing when it was done or committed in the same manner as if this act had not been passed.

No offense committed or liability incurred previously affected hereby, prior statute to apply.

5. No offense committed, and no liability, penalty or forfeiture incurred previous to the time when any statutory provisions shall be repealed by this act, shall be discharged or affected by the repeal of any statute under which such offense, liability, penalty or forfeiture was incurred; and indictments and prosecutions for such offenses, liabilities, penalties and forfeitures shall be instituted, and be proceeded with in all respects as if such prior statute had not been repealed.

Approved June 14, 1898.

CHAPTER 237.

An Act relating to courts having criminal jurisdiction and regulating proceedings in criminal cases (Revision of 1898).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

I. COURTS.

Quarter sessions, jurisdiction.

1. The judge for the time being of the inferior court of common pleas of any county in this state shall constitute a court of quarter sessions in and for such county; which court shall be a court of record, and shall have cognizance of all crimes and offenses which by law are or shall be of an indictable nature, or which have been done or perpetrated or shall hereafter be done or attempted in such county, and for that purpose shall have authority to inspect indictments taken or to be taken before them, to make and continue process thereupon, to hear and determine all such crimes and offenses as aforesaid, and to punish all persons convicted of the same, according to law; *provided*, that indictments for

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treason or murder, although the same be found in such court of quarter sessions, shall be tried in the supreme court or court of oyer and terminer, and not elsewhere; and for that purpose the said court of quarter sessions shall cause all such indictments to be delivered to the supreme court, or the court of oyer and terminer, to be held in such county.

Indictments sent to supreme court, etc.

2. All precepts, writs and process, issuing out of the court of quarter sessions, shall be signed by the clerk, and sealed with the seal of the said court, and shall be tested the day the same may be issued, and in the name of the judge of such court.

Of writs and processes.

3. The courts of oyer and terminer and of general jail delivery in and for each of the counties of this state, shall continue as and be deemed and taken to be one court as heretofore, but said court shall be hereafter called the court of oyer and terminer, which court shall possess, enjoy and exercise all the jurisdiction, powers and authority heretofore belonging to the said courts, or to either of said courts, respectively; and any justice for the time being of the supreme court, and the judge for the time being of the respective inferior courts of common pleas in and for the several counties of this state, shall, by virtue of this act and without any other commission, constitute the court of oyer and terminer in and for the said counties respectively; such justice of the supreme court shall be the presiding judge of said court, and no session of such court shall be held when such justice is not present, except as hereinafter provided; but, in the absence of the judge of the inferior court of common pleas, such justice of the supreme court, sitting alone, shall constitute and may hold said court of oyer and terminer; and in any county having three hundred thousand inhabitants, as shown by any state or federal census, in the absence of such justice of the supreme court, the judge of the inferior court of common pleas, sitting alone, shall constitute and may hold said court of oyer and terminer.

Courts of oyer and terminer and of general jail delivery, jurisdiction.

4. The said court of oyer and terminer shall be held in the respective counties of this state at the times of holding the circuit courts in the same, and at any other time that the chief justice or one of the justices of the supreme court shall think it necessary to appoint.

When held.

If supreme court judge absent, quarter sessions may organize grand jury.

5. If one of the justices of the supreme court shall not be present at the usual hour of opening the court of oyer and terminer, on the day appointed by law for holding such court, in any county of this state in which the judge of the inferior court of common pleas, sitting alone, can not, in the absence of such justice of the supreme court, hold said court, then the court of quarter sessions in and for any such county may proceed to organize the grand jury for such county, in the same manner as the court of oyer and terminer might do, if that court were in session; and all process returnable to, and all recognizances for the appearance of persons before the said court of oyer and terminer shall be as valid and effectual as if the said court had been opened and in session, and may be proceeded on according to law in the said court of quarter sessions; and all indictments pending in such county, and all indictments that may be found and presented by such grand jury, shall be as good and effectual as if the grand jury had been organized and sworn or affirmed before the court of oyer and terminer, and shall be tried or otherwise determined, either in the court of quarter sessions or the court of oyer and terminer, as by law the same ought to be tried and determined.

Indictments good.

Presentments, indictments, grand jury discharged, in absence of supreme court judge.

6. If one of the justices of the supreme court shall not be present at the court-house in any county of this state in which the judge of the inferior court of common pleas, sitting alone, can not, in the absence of the justice of the supreme court, hold the court of oyer and terminer on any day when the grand jury, sitting in and for said county, desires to present any indictment or make any presentment, or to be discharged, then the court of quarter sessions in and of any such county may receive such indictments or presentments as may be presented by said grand jury, and may also discharge the grand jury, the same as the court of oyer and terminer might do if said justice of the supreme court were personally present; and all indictments so received, which are not triable in the courts of quarter sessions, shall be delivered by said courts to the courts of oyer and terminer in their respective counties.

Oyer and terminer to have cognizance of all crimes.

7. The said court of oyer and terminer shall have cognizance of all crimes and offenses whatsoever, which,

by law, are or shall be of an indictable or presentable nature, and which have been or shall be committed, done or attempted within the counties respectively for which such court shall be held, and shall have authority to deliver the jails in such counties of the prisoners therein, whether or not indicted before the court of quarter sessions, doing in the premises what to justice doth or shall appertain according to the laws of this state.

Send indictments to sessions.

8. When any indictment or presentment, which the court of quarter sessions of the county is competent to try and determine, shall be found in the court of oyer and terminer in and for such county, it shall be lawful for such court at any time during their session if they think proper, to order the said indictment or presentment to be delivered to the clerk of the said court of quarter sessions, who is hereby directed to file the same, and also to make entry thereof in the minutes at the then or subsequent session; and after such affiling, the said court of quarter sessions shall have authority to issue process and proceed upon, and to hear and determine such indictment or presentment, in like manner as if the same had been originally found in the said court of quarter sessions.

Who shall try same.

Indictments sent from sessions may be remanded.

9. If any indictment or presentment found in the court of quarter sessions, to the trial and determination whereof the said court is competent, be transmitted to the court of oyer and terminer, then such court may, if they think proper, remand such indictment or presentment to the said court of quarter sessions, there to be proceeded upon in like manner as if the same had not been sent to the said court of oyer and terminer.

Clerk.

10. The clerk of the court of common pleas in each county shall be the clerk of the court of oyer and terminer and of the court of quarter sessions.

Grand and petit jurors.

11. The respective sheriffs of the several counties of this state shall cause to come before the said court of oyer and terminer, at the times and places of holding their said respective courts, twenty-four good and lawful men to serve as grand jurors, and so many good and lawful men to serve as petit jurors as shall be necessary, and without any precept being issued for that purpose.

Special sessions.

12. The judge for the time being of the inferior court of common pleas of each and every county of this state shall constitute a court of special sessions in and for such county, which court shall be a court of record and have and possess the jurisdiction and powers conferred by this act; the clerks of the respective counties shall be the clerks of said courts; and all precepts, writs and process issuing out of said court shall be signed by said clerk and sealed with the seal of said court, and be tested on the day the same may be issued and in the name of the judge of said court, and the sheriffs of the respective counties shall be the officer of the said court, and shall have and possess in all things pertaining to said courts and to the service of process therein the same power and authority as in the court of quarter sessions.

Clerk.

Officer.

Proceedings of special sessions.

13. Whenever any person shall be charged upon oath before any magistrate in any county of this state with any offense triable by law before the court of quarter sessions, and such person shall, in writing, signed by him, addressed to the prosecutor of the pleas of the county where said offense was committed, waive indictment and trial by jury and request to be tried immediately before said court of special sessions, it shall be the duty of said prosecutor to report such fact to the judge of said court of special sessions, and unless the judge of said court of special sessions shall think the public interests will be benefited by denying said request, the said court shall, with all due and reasonable speed, proceed to hold a session of said court of special sessions, and to try the person so charged and to determine and adjudge his guilt or innocence, and full power and authority so to do is hereby conferred upon said court; it shall be the duty of the prosecutor in person or by deputy to attend said trial and to prefer to said court an accusation in writing alleging the nature of the offense with which such person is charged and the time and place when and where the same was committed, to which accusation the person so charged shall plead; the proceedings for bringing such person before said court for trial, subpœnaing of witnesses, his plea and trial, shall be in conformity with law, and like proceedings in the court of

quarter sessions; if the person so tried be acquitted by said court he shall be forthwith discharged; if he shall plead guilty or be convicted, said court shall render and record against him such judgment of imprisonment or fine, or both, as would be lawful if said person had pleaded guilty or been convicted on indictment for a like offense in the court of quarter sessions.

Court of two justices of the peace abolished.

14. The court of two justices of the peace for the trial of petty larceny is hereby abolished, and no person hereafter charged with larceny shall be tried otherwise than before said court of special sessions or on indictment according to law; *provided*, that nothing in this section shall be construed to affect the jurisdiction of criminal or police courts having special statutory authority to try and determine petty larceny cases.

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Costs.

15. The costs of the proceedings of said court of special sessions shall be the same as in the court of quarter sessions, and shall be taxed and paid in like manner.

II. COMPLAINT, ARREST AND BAIL.

Conservators of the peace, duties and powers.

16. The judge of the court of quarter sessions and all magistrates duly appointed or elected and commissioned in and for the several counties of this state shall have power to cause to be kept all laws made or to be made for the conservation of the peace and for the good government of the citizens and inhabitants of this state, within the said counties respectively, according to the force, form and effect of the said laws, and to apprehend, and cause to come before them and imprison and punish all persons offending against said laws or any of them in the said respective counties, in such manner as, according to said laws, shall be right and proper, and to perform and execute all such matters, acts and things as by law appertain to their office, and are or shall be enjoined upon them, or be committed to their charge and execution.

Examination taken and sent up.

17. Every such judge and magistrate, before whom any person shall be brought for treason, misprision of treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery or forgery, shall, when in his judgment the ends of justice so require, before he commit

or send the accused to prison, take, in writing, the examination of the accused, and information of those who bring him, of the facts and circumstances thereof; which said examination and information shall be signed by such informant, and by the judge or magistrate before whom the same shall be taken; and also by the accused, if he shall be willing to sign the same; and the said judge or magistrate shall forthwith deliver or transmit the said examination and information to the clerk of the court, in which such accused is or ought to be tried for such offense; and every such judge or magistrate is hereby authorized and required to bind, by recognizance, with sufficient surety, all such persons as declare against the accused, to appear in the supreme court the term following, or at the next session of the court of oyer and terminer for the county where the offense was committed, or in such other court where the said offense is cognizable, then and there to give evidence, and certify the said recognizance and recognizances taken before them to said court, where such witnesses are bound to appear, on or before the first day of the term or session of the said court.

Recognizances.

Offenders escaping, or non-resident.

18. In case any person against whom a warrant shall be issued by any judge or magistrate of any county, upon complaint for any offense alleged to have been there committed or done, shall escape, go into, reside or be in any other county, out of the jurisdiction of the judge or magistrate granting such warrant as aforesaid, it shall and may be lawful for, and is hereby declared to be the duty of the judge of the court of quarter sessions or any magistrate of the county where such persons shall escape, go into, reside or be, upon proof being made upon oath or affirmation, of the handwriting of the judge or magistrate granting such warrant, to indorse his name on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant and to all other persons to whom such warrant was originally directed, to execute such warrant in such other county, and to apprehend and carry the accused before the judge or magistrate who indorsed such warrant, or some other judge or magistrate of the county where such warrant was indorsed; and in case the offense for which the accused shall be apprehended

shall be bailable, and the accused shall be willing and ready to give bail for his appearance at the next court of oyer and terminer, or of quarter sessions, to be held in and for the county where the offense was committed, such judge or magistrate of such other county before whom the accused shall be brought, shall and may take bail for the appearance of the accused at the next court of oyer and terminer or of quarter sessions, to be held in and for the county where such offense was committed, in the same manner as the said judge or any magistrate of said county might have done; and the judge or magistrate of such other county so taking bail shall deliver the recognizance of bail and all other proceedings relating to the accused and his alleged offense before him had to the constable or other person or persons so apprehending the accused, who is and are hereby required to deliver the same to the clerk of the court of oyer and terminer, or of the court of quarter sessions of the county where the accused is required to appear by virtue of such recognizance; and such recognizance and other proceedings shall be good and effectual in law; and in case the offense for which the accused shall be apprehended in any other county shall not be bailable, or the accused shall not give bail for his or her appearance at the next court of oyer and terminer or of quarter sessions, to be held in and for the county where the offense was committed, to the satisfaction of the judge or magistrate before whom the accused shall be brought in such other county, then the constable or other person so apprehending the accused shall carry and convey the accused before the judge of the court of quarter sessions or a magistrate of the county where such offense was committed, there to be dealt with according to law.

Bailed in another county.

If offense not bailable.

19. In all criminal complaints before a judge of the court of quarter sessions, or a magistrate, where, in his opinion, public justice shall require that process to arrest the alleged offender or offenders be executed immediately, and no constable can be had in time, it shall be lawful for said judge or magistrate, by writing under his hand and seal, to appoint some fit person, being a citizen of this state, to execute the same, who shall have the same authority in the premises, in all

Judge may appoint citizen to act as constable.

respects, as a constable would have, and be subject to the same liability.

Another justice may not admit to bail.

20. When any person charged with any criminal offense shall have been committed to jail, it shall not be lawful for any magistrate, other than he who shall have made such commitment, to admit such person to bail; but in any such case any judge of the court of oyer and terminer or court of quarter sessions may admit such person to bail, and the sheriff or clerk of the county wherein such commitment is made, upon the order, in writing, of any such judge, may admit such person to bail.

Judge of court of oyer and terminer may admit to bail.

Writs and processes may be sent into any county.

21. The courts of oyer and terminer and quarter sessions in this state, shall have authority to direct their writs and process into any or all the counties of this state, if necessary, to arrest and bring before them any person or persons against whom any indictment may be pending in the said courts respectively.

Sheriff may take defendants' recognizance.

22. The sheriff to whom any process is directed to arrest or take any defendant against whom any indictment is presented or to compel the attendance of any witness, shall be and he is hereby authorized, when so ordered by the court, to take the recognizance of the said defendant or witness (and his sureties if required), for the appearance of the said defendant or witness at the court in which the said process in returnable; which recognizance the said sheriff shall return with the said process, and it shall be filed by the clerk and be of the same force and effect, and in case of forfeiture, shall be prosecuted in the same manner as if the same had been taken by a magistrate of this state.

Bail taken except in certain cases.

23. All magistrates in and for every county of this state are hereby authorized to let to bail, unto the next court of quarter sessions or court of oyer and terminer, to be held in said county, all persons who are or may be arrested in their respective counties for any offense or crime therein done or attempted, except such as are or shall be charged with treason, murder, manslaughter, sodomy, rape, arson, burglary, robbery, or forgery, and no person or persons charged with the offenses or any of them so excepted as aforesaid shall be admitted to bail by any magistrate, except where now by law otherwise provided.

Quarter sessions to let to bail.

24. The court of quarter sessions, or the judge of said court at chambers, shall have powers to let to bail all persons who may be arrested or imprisoned for any crime by law triable before said court; and such proceedings shall be taken in all cases in which bail so taken shall be forfeited in said court as are now provided by law for forfeited recognizances in said court.

Bailing parties and witnesses.

25. Every judge of the court of quarter sessions and every magistrate who shall let any person to bail, shall forthwith certify, send or bring such recognizances of bail to the clerk of the court to which the said person shall be bound to appear; and every such judge or magistrate shall, when in his judgment the ends of justice so require, bind, by recognizance with surety, if need be, all such persons as can give testimony against the accused, to appear at the next court of quarter sessions or of oyer and terminer, as the case may require, to be held within the county where the trial thereof shall be had, and forthwith send such recognizance to the clerk of said court, and any such judge or magistrate may permit the payment into court of cash money in lieu of surety on the recognizance of any person bailed, and in case any such recognizor shall not appear according to the conditions of his recognizance, the money so paid into court in lieu of surety on said recognizance shall be forfeited and paid to the sheriff of the county in which such bail was taken, and be by him disposed of as if recovered on judgment and execution on a forfeited recognizance on which surety had been taken, and any judge of the court of oyer and terminer or court of quarter sessions may accept as surety on any recognizance of bail any competent person who may reside in this state, whether the real estate owned by such surety be located in the county in which such bail is taken or in any other county of this state; and in case said real estate is located in some other county than that in which such bail is taken, the clerk of the court in which such bail is taken shall forthwith make and certify a copy of such recognizance and send the same to the clerk of the county in which such real estate is located, and the said clerk shall record said certified copy of such recognizance in the same manner as if the same had been taken in

his county, and thereupon said recognizance shall constitute a lien upon said real estate and have the same force and effect as if taken in said county.

Witnesses to be bound to appear.

26. It shall be the duty of every judge or magistrate, who shall bind, by recognizance, to the proper court, all persons who can bear testimony touching any offense committed against this state, whether the offender be arrested, imprisoned, bailed, or not, when in their judgment the ends of justice so require, to take the examinations of such witnesses respecting the same; and the said recognizances and examinations to send to the clerk of such court as aforesaid.

Offender may be bailed for examination.

27. Every magistrate having power to examine and commit for trial offenders against the laws of this state, before whom any person is brought charged with any crime bailable before such magistrate, may take the recognizance of such person, with surety or sureties, if he requires the same, in a reasonable sum for his appearance before said magistrate for examination at a future time, not exceeding ten days.

In default, justice to certify recognizance to court.

28. If any person thus recognized shall not appear before such magistrate at the time appointed for the examination as set forth in the recognizance, it shall be the duty of the said magistrate to note such default on the said recognizance, and to certify said recognizance and default to the court of oyer and terminer or court of quarter sessions of the county where he is or hath been a magistrate as aforesaid, and the same shall thereupon become a record of the said court, and shall be forfeited and proceeded on in all respects as in the case of recognizances for the appearance of persons at said court wherein a default has been recorded.

Reward for offenders

29. It shall and may be lawful for the governor or person administering the government for the time being, to issue his proclamation for apprehending and securing any person or persons, known or unknown, charged, on oath or affirmation of one or more credible witness or witnesses, with having committed murder, burglary, or robbery, or other heinous crime, within this state, or for the apprehension of any person or persons charged with aiding, abetting or concealing any such person or persons, and in such proclamation to offer such reward as the said governor or person administering the

government may think proper, according to the nature and aggravation of the crime, not exceeding one thousand dollars for any one person; which reward shall be paid, on conviction of the party charged, to the person or persons entitled thereto, by the treasurer of the state, out of any public money in his hands unappropriated, on a warrant or certificate, signed by the governor or person administering the government for that purpose.

Detention of witnesses

30. No person shall be committed to or be detained in the jail of any county for securing his appearance as a witness against any person charged with a crime or misdemeanor, except in cases punishable by imprisonment in the state prison; nor shall persons so detained be kept in the same apartment with or be provided with the same fare as persons charged with or convicted of crime, but the boards of chosen freeholders for each county shall take care that they be comfortably lodged and provided for, and no further restricted of their liberty than is necessary for such detention.

III. INDICTMENTS AND PROCEEDINGS THEREON.

Clerical errors.

31. No indictment nor any process or return thereupon shall be quashed, on the motion of the defendant, or his counsel, for miswriting, misspelling, false or improper English, unless exception concerning the same be taken and made in the court where such trial shall be, by the offender or his counsel, before any evidence be given in open court upon such indictment; nor shall any such miswriting, misspelling, false or improper English, after conviction on such indictment, be any cause for stay or arrest of judgment thereupon, but, nevertheless, any judgment given upon such indictment shall and may be liable to be reversed upon a writ of error, in the same manner as if this section had not been passed.

Plea of misnomer.

32. No indictment shall be abated by reason of any dilatory plea or allegation of misnomer of the party offering such plea, but if the court shall be satisfied by affidavit or otherwise of the truth of such plea or allega-

tion, the court shall forthwith cause the indictment to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

Certain defects not to vitiate indictment.

33. No indictment for any offense shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of "against the form of the statutes," or vice versa, nor for that any person mentioned in the indictment is designated by a name of office or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offense was committed, in any case where time is not the essence of the offense, nor for stating the time imperfectly, nor for stating the offense to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury or spoil, in any case where the value or price, or the amount of damage, injury or spoil, is not of the essence of the offense.

Variance may be amended.

34. Whenever upon the trial of any indictment there shall appear to be any variance between the statement therein and the evidence offered in proof thereof, in the name of any county, city, township or other place mentioned or described in such indictment, or in the name or description of any person or body corporate therein mentioned or alleged to own any property, real or personal, which shall form the subject of any offense charged therein, or in the name or description of any person or body corporate therein, alleged to be injured, or intended to be injured, by the commission of such offense, or of any person whomsoever therein named or described, or in the ownership of any property, matter or thing named or described therein, it shall be lawful for the court before which trial shall be had, if it shall consider such variance not material to the merits of the case, and that

the defendant cannot be prejudiced thereby in his defense on such merits, to order such indictment to be amended according to the proof both in that part of the same where such variance occurs, and in every other part thereof which it may become necessary to amend, on such terms as to postponing the trial, to be had before the same or another jury, as such court shall think reasonable; and in case such trial shall be had on an issue from the supreme court the order for such amendment shall be endorsed on the postea and returned together with the record, and thereupon all papers or records of the court shall be amended accordingly, and in all other cases the order for the amendment shall be indorsed on or filed with such indictment among the records of the court; and in case any error in form shall exist in said indictment, or in the manner of describing the offense intended to be charged, like amendment shall be made, on like terms; *provided*, that in case any trial shall be postponed on such amendment, the obligation of all recognizances shall continue, as in case of postponement from day to day, or a new recognizance may be required, at the discretion of the court. Proviso.

35. Every verdict and judgment given after any amendment under any provision of this act shall be of the same force and effect as if the indictment had originally been in the same form in which it was after the amendment was made; and the record, if formally drawn up after any such amendment for any purpose whatsoever, shall be drawn up in said amended form without taking any notice of the fact of such amendment having been made. Judgment on amended indictment.

36. In any indictment for murder or manslaughter it shall not be necessary to set forth the manner in which, or the means by which the death of the deceased was caused, but it shall be sufficient in every indictment for murder to charge that the defendant did willfully, feloniously and of his malice aforethought, kill and murder the deceased; and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased. What sufficient in indictment for murder and manslaughter.

37. In every indictment for perjury or for unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously or corruptly taking, making, signing or subscribing What sufficient in indictment for perjury.

any oath, affirmation, declaration, affidavit, deposition, bill, answer or other writing, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, or other writing was taken, made, signed or subscribed, together with the proper averments to falsify the matter wherein the perjury is assigned, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding, either in law or in equity, and without setting forth the commission or authority of the court or person before whom such offense was committed.

Indictment for forgery, etc.

38. In any indictment for forging, uttering, stealing, embezzling, destroying or concealing, or for obtaining by false pretenses, any instrument of writing, it shall be sufficient to describe the same by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile thereof or otherwise describing the same or the value thereof.

In engraving plates.

39. In any indictment for engraving or making the whole or any part of any instrument, written matter, or thing whatsoever, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any such instrument, matter or thing whatsoever shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any such instrument, matter or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same shall be usually known, without setting out any copy or fac simile of the whole or any part of such instrument, matter or thing.

In other cases.

40. In all other cases, wherever it shall be necessary to make any averment in any indictment as to any instrument of writing, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

General intent alleged or proved.

41. It shall be sufficient, in any indictment for forging, uttering, offering, disposing of, or putting off any instrument of writing whatsoever, to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to be to defraud any particular person; and on the trial of any of the offenses in this section mentioned it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged, with an intent to defraud.

Not necessary to name party defrauded.

42. It shall be sufficient in any indictment for fraudulently obtaining or attempting to obtain any property by false token, counterfeit writing or other false pretenses, to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, money or valuable security; and on the trial of any such indictment it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

Guilty of attempt.

43. If on trial of any indictment it shall appear to the jury upon the evidence that the defendant did not complete the crime charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular crime charged in the said indictment; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the crime for which he was so tried.

Not liable to prosecution again.

Formal objection taken before jury is sworn.

44. Every objection to any indictment, for any defect of form or substance apparent on the face thereof, shall be taken, by demurrer or motion to quash such indictment, before the jury shall be sworn, and not afterwards; and every court before which any such objection shall be taken for any such defect, or before whom any person may be tried, may, if it be thought necessary, cause the indictment to be forthwith amended in any

particular by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared, or be postponed at the discretion of such court as hereinbefore provided in case of amendment for variance.

Plea of autrefois convict or acquit.

45. In any plea of autrefois convict or autrefois acquit it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted, as the case may be, of the said offense charged in the indictment.

On indictment for robbery, jury may convict of assault with intent to rob.

46. If, upon the trial of any person upon any indictment for robbery, it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for assaulting with intent to rob; and no person so tried, as is herein lastly mentioned, shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

Not liable to prosecution again.

Several acts of embezzlement may be joined.

47. It shall be lawful to charge in an indictment for embezzlement any number of distinct acts of embezzlement which may have been committed by the defendant against the same master or employer, within the space of six months from the first to the last of such acts; and in every such indictment where the offense shall relate to any money or any valuable security, it shall be sufficient to allege the embezzlement or fraudulent application or disposition, to be of money, without specifying any particular coin or valuable security, and such allegation so far as it regards the description of the property, shall be sustained if the defendant shall be proved to have embezzled or fraudulently applied or disposed of any amount, although the particular species of coin or valuable security, of which such amount was composed, shall not be proved; or if he shall be proved to have embezzled or fraudulently applied or disposed of any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin

or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to some other person, and such part shall have been returned accordingly.

As to election in case of different larcenies.

48. If upon the trial of any indictment for larceny it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed (except in cases in which the court shall so order) unless it shall appear that there were more than three takings, or that more than the space of six months elapsed between the first and the last of such takings; and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six months from the first to the last of such takings.

On joint indictment, separately receiving punishable.

49. If upon the trial of two or more persons indicted for jointly receiving any property it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Coin and bank notes described as money.

50. In every indictment in which it shall be necessary to make any averment as to any money or any note of the United States of America, or of any national or state bank or any other bank, or any postal currency, it shall be sufficient to describe such money or currency or note simply as money, without specifying any particular coin or bank note, treasury note of the United States or postal currency thereof; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank note, treasury note or postal currency, as aforesaid, although the particular species of coin of which such amount was composed, or the particular nature of such other notes, shall not be proved; and in cases of embezzlement and obtaining money, treasury notes or postal currency aforesaid, or bank notes, by false pretenses, such allegation shall be sustained as aforesaid by proof that the offender em-

bezzled or obtained any piece of coin, or any such treasury note or postal currency aforesaid, or any bank note, or any portion of the value thereof, although such piece of coin, treasury note, postal currency or bank note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

Subornation of perjury and like offenses.

51. In every indictment for subornation of perjury, or for corruptly bargaining or contracting with any person to commit willful and corrupt perjury, or for inciting, causing or procuring any person unlawfully, willfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer or other writing, whereupon such perjury or other offense aforesaid shall have been actually committed, it shall be sufficient to allege the offense of the person who actually committed such perjury or other offense in the manner hereinbefore mentioned, and then to allege that the defendant unlawfully, willfully and corruptly did cause and procure said person the said offense, in manner and form aforesaid, to do and commit; and whenever such perjury or other offense aforesaid shall not have been actually committed it shall be sufficient to set forth the substance of the offense charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of willful and corrupt perjury.

Existence of lottery, etc., need not be proved on trial.

52. It shall not be necessary, upon the trial of any indictment, to prove the existence of any lottery in which any ticket, share, or part of a ticket purports to have been issued, or the actual signing of any such ticket or share, nor that any ticket, share or interest was signed or issued by the authority of any manager, or of any person assuming to have authority as manager, or the existence of any lottery in which any number or numbers may be charged to have been issued; but in all cases proof of the sale, furnishing, bartering or procuring of any ticket, share or interest therein, or of any instrument purporting to be a ticket,

or part or share of any ticket, shall be conclusive evidence that such ticket, share or interest was signed and issued according to the purport thereof.

Trial of indictment.

53. Every indictment shall be tried the term or session in which issue is joined, or the term after, unless the court, for just cause, shall allow further time for the trial thereof; and if such indictment be not so tried as aforesaid, the defendant shall be discharged on his own recognizance.

When copy of indictment, etc., furnished prisoner.

54. Any person who shall be accused and indicted for treason, shall have a copy of the indictment, and a list of the jury and witnesses to be produced on the trial for proving the said indictment, mentioning the names and places of abode of such jurors and witnesses, delivered unto him at least three entire days before the trial; and in murder, misprision of treason, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, perjury or subornation of perjury, shall have such copy of the indictment and list of the jury, two entire days, at least, before the trial.

Application for new trial.

55. After conviction and sentence, the court before which such conviction was had, upon the application of the defendant for a new trial, shall have power, at any time during the term in which the judgment is entered, to open and vacate the same and grant a new trial, and discharge the defendant from custody upon bail, pending such new trial, or may, upon the application of the defendant, or on its own motion, open and vacate the judgment entered on any conviction and re-sentence the defendant, as right and justice may seem to require, and discharge the defendant from custody upon bail pending such re-sentence.

Assignment of counsel.

56. The court before which any person shall be tried upon indictment is hereby authorized and required to assign to such person, if he is not of ability to procure the same counsel, not exceeding two, and such counsel shall have free access to such person at all reasonable hours; and for services rendered by counsel so assigned, in cases of homicide, a reasonable compensation may be fixed and allowed by the judge of the court before which such trial shall be had, and the sum so fixed and allowed shall be paid by the collector of the county wherein such indictment is found, upon presentation of

Compensation.

the certificate of the judge of said court, fixing and allowing such compensation.

Who may be witness.

57. Upon the trial of any indictment, the defendant shall be admitted to testify, if he shall offer himself as a witness; and upon any such trial, the wife or the husband of the defendant, as the case may be, shall be admitted to testify in behalf of the defendant, if he or she shall offer himself or herself as a witness; and upon any such trial, a married woman shall be admitted to testify against her husband when she is the complainant against him, if she shall offer herself as a witness; no evidence shall be admitted or given against any person of any overt act of treason that is not expressly laid in the indictment; and upon the trial of any indictment for falsely making, altering, forging or counterfeiting, for uttering or publishing as true, any record, deed or other instrument or writing, no person named in such record, deed or other instrument or writing, or whose name or any part of whose name is or purports to be written or signed therein or thereto, shall on that account be deemed or taken to be an incompetent witness.

If defendant stands mute.

58. If any person be indicted for any offense whatever against this state, and shall, on being arraigned, or called to answer the matter charged in such indictment, stand mute, a jury shall forthwith be impaneled to try and say whether the person so standing mute standeth mute obstinately and on purpose, or by the providence and act of God; and if they return their verdict that such person standeth mute by the providence and act of God, the court shall thereupon cause him to be remanded to prison and shall not proceed against him until he shall have recovered therefrom; but if the jury shall return their verdict that the person so standing mute, standeth mute obstinately and on purpose, then the court shall cause to be entered upon the indictment against such person, the plea of not guilty, and also shall cause the like plea of not guilty to be entered where any person, indicted as aforesaid, shall refuse to plead or answer such indictment; and all such cases shall proceed upon the trial, in like manner, in all respects, as if he had voluntarily pleaded the same plea thereto.

Stricken or poisoned in one county, death in another.

59. Whenever any person shall be feloniously stricken or poisoned in one county and shall die of the same stroke or poisoning in another county, then an indictment thereof, found in the county where such person shall be feloniously stricken or poisoned, shall be as good and effectual in the law as if the stroke or poisoning had been given, committed or done, and the death had happened all in one and the same county where such indictment shall be found; and the judges of the court of oyer and terminer in the same county where such indictment shall be found, and the justices of the supreme court where such indictment shall be taken or removed before them, shall and may proceed upon the same in all points as they might or could do in case such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, had been committed and had happened all in one and the same county.

Stricken, poisoned and death at sea, or vice versa.

60. Where any person shall be feloniously stricken or poisoned upon the sea, or at any place out of the jurisdiction of this state, and shall die of the same stroke or poisoning within the jurisdiction of this state, or where any person shall be feloniously stricken or poisoned within the jurisdiction of this state, and shall die of such stroke or poisoning upon the sea, or at any place out of the jurisdiction of this state, in either of the said cases an indictment found in the county within the jurisdiction of this state in which such death, stroke or poisoning shall happen, shall be as good and effectual in the law, as well against the principal or principals in any such murder as against the accessory or accessories thereto, as if such felonious stroke or death thereby ensuing, or poisoning and death thereby ensuing, and the offense of such accessory or accessories had happened in the same county where such indictment shall be found; and that the judges of the court of oyer and terminer in the same county where such indictment shall be found, and also the justices of the supreme court, in case such indictment shall be taken or removed before them, shall and may proceed upon the same in all points, as well against the principal or principals in any such murder as the accessory or accessories thereto, as they might or could do in case

such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offense of such accessory or accessories had happened in the same county where such indictment shall be found; and that every such defendant, as well principal as accessory, shall answer upon their arraignments, and have the like defense, advantages and exceptions, and shall receive the like trial, judgment, order and execution, and suffer the same punishment as they ought to do if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offense of such accessory or accessories had happened in the same county where such indictment shall be found.

Summons against corporations, how issued and served.

61. When any indictment shall be found, or information filed by the attorney-general, against any corporation, city, borough or township, it shall and may be lawful for the attorney-general or prosecuting attorney for the state to cause a summons or notice to be directed to the said corporation, city, borough or township, in its corporate name, commanding or notifying the said corporation, city, borough or township to appear at the said court, to answer to such indictment or information, a copy of which summons or notice shall be served on the president, or other head officer of the said corporation, or clerk of said city, borough or township, or left at his dwelling-house or usual place of abode, at least six entire days before the time at which the said corporation, city, borough or township are by said summons or notice required to appear; and in case the president or other head officer of the corporation cannot be found in the county in which said indictment shall have been presented or information filed, to be served with a copy of said summons or notice as aforesaid, and has no dwelling-house or other usual place of abode within the said county, then a copy of said summons or notice may be served on the clerk, cashier, superintendent or secretary of the said corporation, if any there be in the said county in which the said indictment shall have been found or information filed, and if there be no clerk, cashier or secretary of said corporation found in said county, then on one of the directors of said corporation, or left at his usual place of abode six entire days before the commencement of the said

term to which the said summons or notice shall be returnable.

Proceedings after return "served," etc.

62. When the sheriff or other officer shall return such summons or notice "summoned" or "served," the said corporation, city, borough or township shall be considered as in court, and as appearing to said indictment or information; and the court shall order the clerk to enter an appearance for said corporation, city, borough or township, and indorse the plea of not guilty on said indictment or information, and further proceedings may then be had thereon, in the same manner as if the said corporation, city, borough or township had appeared and pleaded not guilty thereto; and if the said corporation, city, borough or township shall be convicted on said indictment or information, the said court may proceed to pass judgment thereon, and cause process of execution to be issued to the sheriff of the county against the goods and chattels or lands and tenements of the said corporation, city, borough or township, for the amount of the fine and costs which may be awarded against them, in the same manner as on a judgment in a civil action; and the said sheriff shall proceed to sell the goods and chattels or lands and tenements of the said corporation, city, borough or township on the said execution, in the same manner as on executions issued in a civil suit.

Process "not served."

63. In case the sheriff or other officer shall return such summons or notice "not summoned" or "not served," and an affidavit shall be made to the satisfaction of the court, that the same could not be served as heretofore mentioned in this act, or in case the sheriff or other officer shall make affidavit that he hath made diligent inquiry, and cannot ascertain the name of any president, secretary or director of said corporation, resident in the county in which the said indictment shall have been found or information filed, then the court shall make an order directing the said corporation to cause their appearance to be entered, and to plead to said indictment or information on or before the first day of the next term of the said court, a copy of which order shall, within twenty days, be inserted in such one of the public newspapers printed in this state, as the court may direct, for at least six weeks; and if the said

corporation shall not appear within the time limited by such order, or within such further time as the court shall appoint, then on proof made of the publication of such order, in manner aforesaid, the court being satisfied of the truth thereof, shall order the clerk to enter an appearance for said corporation, and indorse a plea of not guilty on said indictment or information, and thereupon further proceedings may be had on the said indictment or information, in the same manner as if the said corporation had appeared and pleaded not guilty thereto; and in case of conviction execution may be issued against said corporation, and proceedings had thereon, as in the preceding section mentioned.

Jointly indicted, may be tried separately.

64. When two or more persons are or shall be jointly indicted for the same offense, except for conspiracy, and such indictment, before the trial thereof, hath been or shall be removed into the supreme court of this state, by certiorari or otherwise, any one of the said persons, on application to said supreme court, upon affidavit that some one or more of said persons so jointly indicted with him, whom he shall name, is or are, as he is advised by his counsel, whom he shall also name, and verily believes, a material witness or witnesses for him on the trial of said indictment, and without whose testimony he cannot safely proceed to trial, shall, by order of said supreme court, be allowed a trial separate from the person or persons whom he shall so name as such material witness or witnesses.

Operation of nolle prosequi in conspiracy.

65. Neither the entry of a nolle prosequi as to one or more defendants, who may be jointly indicted with another or others for conspiracy, nor the discharge of such defendant or defendants, shall operate as a nolle prosequi, acquittal or discharge of such other defendant or defendants, but such indictment may be proceeded on as against him or them to trial and conviction; and this, whether the indictment charged his or their conspiracy as only with the defendant or defendants discharged, or as to whom a nolle prosequi may be entered as aforesaid or otherwise.

Imprisonment may be in county penitentiary.

66. Whenever any person under the age of twenty-one years shall be convicted in the courts of oyer and terminer, quarter sessions or special sessions of any offense punishable by imprisonment in the state prison,

the court in which such conviction was had may, in its discretion, adjudge that such person be confined at hard labor in the penitentiary of the county in which such conviction was had, if there be one, instead of in the state prison; and in case there be no penitentiary in said county the court may, in its discretion, adjudge that such person so convicted be confined at hard labor in the penitentiary of any other county in which there may be one, instead of in the state prison, and in such case the clerk of the court in which such sentence was pronounced shall, within five days thereafter, deliver to the sheriff of his county a certified copy of the taxed bill of costs, and of the sentence, and thereupon the said sheriff or his lawful deputy shall, within fifteen days, transport such person to the penitentiary to which he was sentenced, where he shall be safely kept until the expiration of his term of imprisonment; the sheriff shall be entitled to receive the same compensation per mile for transporting such person to said penitentiary as is allowed for transporting offenders to the state prison, which shall be paid by the treasurer of the state upon the certificate of the warden or other principal keeper of said penitentiary, and the expense of keeping such person in said penitentiary, not to exceed one dollar per week, shall be paid to said warden or other principal keeper for the benefit of the county in which such penitentiary is located, by the collector of the county in which such sentence was pronounced upon the rendering to him of a bill for the same.

Duty of sheriff.

Expense.

67. The sheriff and keeper of every jail, in any county of this state, shall be, and he is hereby authorized and commanded to receive all prisoners committed to his custody, by the authority of the United States, and to keep them safely, until discharged by the due course of the laws of the same; and if any sheriff or jail-keeper shall neglect or refuse to perform the services and duties required of him by this section, or shall offend in the premises, he shall be liable to the like penalties, forfeitures and actions, as if such prisoners had been committed under the authority of this state; *provided, always*, that every prisoner, who shall be committed for any offense, by the authority of the United States, shall be supported by the same during his confinement

Sheriff to receive prisoners committed by United States.

Proviso.

in said jail, and the sheriff shall, on or before the first days of April and October, semi-annually make out the names of all prisoners who, since the last settlement, shall have been committed to his custody, under the authority of the United States, and the time they shall have been respectively confined, with an account of the amount thereof, at fifty cents per month for the use and keeping of such jail, for every person so committed, together with an account of their subsistence, at the rate established by law for state prisoners, and transmit the same to the United States marshal for the proper district, for payment.

Bills transmitted semi-annually.

When sentenced to county jails.

68. Every person sentenced, under the laws of this state, to imprisonment for any time not exceeding six months, shall be confined in the common jail of the county where the conviction was had, or the county workhouse, or the county penitentiary, in the discretion of the court, and there safely kept until the term of his confinement shall expire and the fine and costs of prosecution be paid, or until he shall be discharged by due course of law, and every person so sentenced to the penitentiary shall be transferred to and confined in such penitentiary within ten days after such sentence; every person sentenced to hard labor or imprisonment for any time over six months shall be imprisoned in the state prison; *provided*, in any county wherein a penitentiary is located every person sentenced to hard labor and imprisonment for any time over six months, and not exceeding eighteen months, shall be imprisoned in the penitentiary located within the county wherein such conviction was had, instead of state prison, unless the person so convicted shall have served a term previously in the state prison; in which case the person so convicted may, in the discretion of the court, be imprisoned in the state prison.

Proviso.

When sentenced to state prison.

69. In all cases where the defendant, upon conviction, is sentenced by the court to hard labor and imprisonment for a term in the state prison, the clerk of the court in which such conviction was had shall, within five days after such sentence shall have been pronounced, furnish to the sheriff of the county a certified copy of the taxed bill of costs in such case, and the said sheriff or his lawful deputy shall, within fifteen days

after receiving such certified copy, transport to the state prison, and there deliver into the custody of the keeper of said prison the person so sentenced, together with all other persons so sentenced within the same period, together with a copy of the sentence of the court ordering such imprisonment, and of the taxed bill of costs of prosecution against such offender, certified under the hand and seal of the clerk of the court where such conviction was had, and said person so delivered to the keeper of said prison shall be safely kept therein until the time of his confinement shall have expired and the fine or fines and cost of prosecution be paid or remitted, or until he shall be otherwise discharged according to law; *provided,* at least forty-eight hours, exclusive of Sundays and legal holidays, shall have elapsed between the time of sentence and removal to the state prison, as aforesaid. Proviso.

Nolle prosequi, when entered.

70. The court in which any indictment is found, or to which any indictment is transferred, and in which such indictment is pending, may at any time after the second term after the term in which such indictment was found by rule of court direct that such indictment shall be brought on for trial on a specified day, and in case such indictment is not moved for trial on said day, the court may order the clerk of the court to enter a rule of nolle prosequi to such indictment, and when such rule is entered all proceedings under said indictment as against the defendant therein named shall be at an end as fully as if the defendant had been tried and acquitted thereon.

Where indictment for libel found.

71. No indictment for libel shall be found against any corporation, individual or copartnership, publishing any newspaper, magazine or periodical, within this state, or any editor, reporter, writer or other employee thereon, or correspondent thereof, for any matter, item or thing published in any such newspaper, unless such indictment be found by the grand jury of the county in which such publication is made, or in which the party alleged to have been libeled resides, at the time of the alleged libelous publication.

"Green goods."

72. Any letter, circular, writing or paper, offering or purporting to offer for sale, loan, gift or distribution, or

giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit coin, paper money, internal revenue stamp, postage stamp or token of value may be obtained or had, or concerning any similar scheme or device to defraud the public, whether such article, matter or thing is called "green articles," "queer coins," "paper goods," "queer," "articles," "bills," "business that is not legitimate," "spurious treasury notes," "United States goods," "green paper goods," "green articles," "cigars," "green segars," or by any other name, device or title of a similar character, shall be deemed presumptive proof of the fraudulent character of such scheme.

Peace officers.

73. No sheriff, or other person authorized to appoint special deputy sheriffs, constables, marshals, policemen or other peace officers in this state, to preserve the public peace and prevent or quell public disturbance, shall appoint as such any person who shall not be a qualified voter of this state.

Unlawful sale of liquor not to constitute disorderly house.

74. It shall not be lawful hereafter to indict any person or persons for the offense of maintaining a common law nuisance or keeping a disorderly house, where the offense sought to be punished consists wholly in the unlawful sale of spirituous, vinous, malt or brewed liquors; but in all such cases the indictment shall be in form for the sale of intoxicating liquors contrary to law, and on conviction of such unlawful sale of said liquors the person or persons so convicted shall be liable to the same punishment as that provided by law for the offense of maintaining a common-law nuisance or keeping a disorderly house.

IV. FOREIGN AND STRUCK JURIES.

Struck jury.

75. The supreme court, court of oyer and terminer and court of quarter sessions, respectively, or any judge thereof, may on motion in behalf of the state, or defendant in any indictment, order a jury to be struck for the trial thereof, and upon making said order the jury shall be struck, served and returned in the same manner

as in case of struck juries ordered in the trial of civil causes, except as herein otherwise provided.

Selection of.

76. When a rule for a struck jury shall be entered in any criminal case the court granting such rule may, on motion of the prosecutor, or of the defendant, or on its own motion, select from the persons qualified to serve as jurors in and for the county in which any indictment was found, whether the names of such persons appear on the sheriff's book of persons qualified to serve as jurors in and for such county or not, ninety-six names, with their places of abode, from which the prosecutor and the defendant shall each strike twenty-four names in the usual way, and the remaining forty-eight names shall be placed by the sheriff in the box in the presence of the court, and from the names so placed in the box, the jury shall be drawn in the usual way.

Jury may view lands or place.

77. The court in which the trial of any indictment is pending may at any time after the jury for the trial of the same is drawn, or at any time during the trial, order that the jury shall view any lands or place, if in the judgment of the court such view is necessary to enable the jury better to understand the evidence given in the cause, and such view shall thereupon be had in such manner as the court shall direct.

Court may order foreign jury.

78. The supreme court may, in its discretion, order trials by foreign juries in all criminal cases which may have been commenced in that court, or may be removed to that court from any other court, and whenever in their opinion a fair and impartial trial cannot be had before a jury of the proper county, may, upon motion in behalf of the state, or on the part of any defendant, order any indictment, found at any court of oyer and terminer, or at any court of quarter sessions, to be tried by a foreign jury in the court and county in which such indictment was found.

How venire directed and jurors selected.

79. Whenever a foreign jury shall be ordered, the order for a jury shall specify the number of jurors to be returned, and the venire shall be directed to the sheriff of the county from which such jury shall be taken, and shall be returnable to the circuit court in which the issue is triable; the jurors shall be selected in the same manner as the general panel of jurors is selected, and shall be such as are competent jurors for the county

Expense.

from which they are taken; and the expense of summoning and returning such jurors, and of their attendance at the court, shall be paid by the county within which such court shall be held.

V. CHALLENGES.

Number of challenges in cases of treason, murder, etc.

80. Every person who shall be indicted for treason, murder, misprision of treason, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, perjury or subornation of perjury, and shall plead the plea of not guilty to such indictment, shall be admitted peremptorily to challenge twenty of the jury, and no more; and if any person, indicted as aforesaid, after having voluntarily and duly pleaded as aforesaid, shall peremptorily challenge a greater number of the jury than twenty, the court shall disallow all such challenges over and above the said number of twenty; and the jury shall be charged and the trial shall proceed in like manner in all respects and the like judgment shall be given as would or ought to be had and given if the person so indicted as aforesaid, and having pleaded as aforesaid, had not peremptorily challenged a greater number of the jury than in and by this act he or she is admitted to challenge;

Proviso.

provided, this section shall not apply to struck or foreign juries.

In other cases.

81. Upon the trial of any indictment where twenty peremptory challenges are not allowed, the defendant or defendants and the attorney-general or the prosecutor of the pleas shall each be entitled to challenge peremptorily ten of the general panel of jurors summoned and returned by the sheriff or other officer; and upon the trial of any indictment in cases where the defendant is entitled to twenty peremptory challenges, the attorney-general or prosecutor of the pleas shall be entitled to challenge peremptorily, and without assigning any cause, twelve of the jurors returned for the trial of such indictment, and upon the trial of any indictment for which a struck or foreign jury shall be summoned and returned, five peremptory challenges each shall be allowed to the defendant and to the state; challenges in all cases may be made at any time before the jury is sworn; all chal-

lenges to the array or to individual jurors, for any cause whatever, shall be triable by the court.

Selection of panel.

82. In all cases where any defendant in any indictment is entitled to twenty peremptory challenges, and to have a list of the jury delivered to him previous to his trial, it shall be the duty of the sheriff or other proper officer to draw such list of forty-eight jurors, so to be served, from the box in the presence of the judge of the court of quarter sessions of the county, or in the presence of the clerk of said court, from the general panel of jurors that may have been drawn and summoned to attend as jurors at the term at which such defendant is to be tried; but if forty-eight jurors shall not have been so drawn and summoned, or if for any reason the number of jurors drawn or summoned shall be reduced below forty-eight, then the said sheriff or officer shall add to the number so drawn and summoned as many more persons of the body of his county, qualified to serve as jurors, as shall make up the number of forty-eight; the delivery by the sheriff or other proper officer of a list of the jury to the defendant entitled to the same, prior to the first day of the term at which such trial is to be had, shall be as good and effectual as if the same had been delivered to the defendant after the opening of the term; the defendant or his counsel may at any time in open court, except where the indictment is for treason or murder, waive the drawing or service, or both, of such list of jurors, and consent to be tried by a jury drawn in the ordinary way from the general panel.

Deficiency.

Talesmen.

83. When the special panel or list of jurors served on a defendant in any case in which the defendant shall be entitled to twenty peremptory challenges shall be exhausted from any cause before a jury for the trial of the indictment shall be obtained, talesmen shall be taken from the general panel of jurors returned, for the term at which such defendant is to be tried, if any remain; and if more talesmen should be required than the number of jurors remaining on the general panel, the sheriff or other proper officer shall forthwith summon from among the bystanders or others such additional number of persons qualified to serve as jurors as may be ordered by the court, and make return thereof immediately, and

place the names of the jurors so returned in the box and draw therefrom until the jury be completed; if the first order for talesmen shall prove insufficient, other and further orders may be made until the necessary number of jurors shall be obtained; the defendant shall not be entitled to the service of a list of the talesmen ordered, unless the court specially so direct, in which case the court shall fix the length of time the list of talesmen shall be so served, before the drawing of the jurors shall proceed.

VI. COSTS AND FINES.

Costs in criminal cases.

84. All bills of costs in criminal cases shall be taxed by the clerk of the court in which the judgment is had, in the manner provided by law; and the said clerk shall in no case allow on such taxation, either for himself or others, any item or charge for any service or proceedings, unless the same shall have been required by law, in the regular conduct of such case, and unless the same shall have been actually performed, and shall so appear upon the minutes or records of the court; and such clerk shall not allow any charge for more than one service, for taking and entering the recognizances of several persons who appear and enter into recognizance together at the same time, nor shall any charge be allowed for more than one process of subpœna for the appearance of all the witnesses in the same case, residing in the same county, at the same term.

Witnesses paid.

85. When a trial shall be concluded in any of the courts of this state, on any indictment, it shall be the duty of the sheriff of the county where the verdict shall be rendered, to pay the witnesses who shall have been sworn or affirmed to testify in behalf of the state, heir legal fees before they leave the court.

Sheriff to keep book of fines collected, pay same to collector and report to freeholders

86. The sheriff of each county shall keep a suitable, book, in which he shall enter or cause to be entered a true account of all costs, fines or forfeitures by him collected from all prisoners committed to his custody in the common jail, workhouse or penitentiary in his county, a monthly report of which, verified under oath, he shall furnish to the board of chosen freeholders of the county;

and all such costs, fines or forfeitures, other than on recognizances, collected and shown on his report, shall be paid over monthly by him to the county collector, except in cases where the forfeiture is required by law to be paid to the overseer of the poor, in which case the sheriff shall pay the forfeiture and costs to the magistrate before whom the conviction was had, and the same shall be paid over by the magistrate as required by law.

No costs if indictment quashed, etc.

87. If an indictment be quashed, or a verdict pass, or judgment be given for the defendant in any criminal proceeding, or any recognizor be discharged from his recognizance for want of prosecution, then no costs shall be awarded against such defendant or recognizor.

Costs on joint indictment.

88. If several persons are or shall be jointly indicted for one and the same offense, and shall be thereof convicted, the costs, except capias fees, shall amount to no more than on an indictment against one person only.

How fines and costs collected.

89. Whenever judgment shall be rendered upon any indictment in the supreme court, or any court of oyer and terminer, or court of quarter sessions, such proceedings may be had thereupon, for the purpose of obtaining satisfaction of the fine and costs, or costs adjudged, by writ or writs of fieri facias, in the like manner and to the same effect as in civil cases; but such execution or executions shall not have the effect to discharge the defendant or defendants from imprisonment, pursuant to the judgment of the court until such judgment shall be satisfied.

Defendant put at labor to pay costs.

90. When on any indictment, judgment shall be given in any of the courts of this state for fine or imprisonment and costs, or fine without costs, or costs without fine or imprisonment, it shall be lawful to place the defendant against whom such judgment shall be rendered at labor in any county jail or county penitentiary, until such fine and costs, or fine or costs, are paid by the proceeds of such labor or otherwise.

Writs of error stay execution.

91. That in case a writ of error shall be brought and allowed, upon any such judgment, it shall have the effect to stay proceedings upon the execution issued for any fine or costs, pending the prosecution of such writ of error.

Fees for transportation.

92. The several sheriffs, for transporting offenders to the state prison, shall be entitled to receive the following and no other compensation, to wit:

For each offender, twenty-three cents per mile;

How certified and paid.

Which sums shall be certified by the keeper of said prison, and said certificate shall be delivered to the treasurer of this state, who shall, upon the same and the order of said keeper and the warrant of the comptroller, pay said sheriff the amount so certified, out of any moneys in his hands not otherwise appropriated.

Payment of costs of prosecution.

93. The costs of conviction of every defendant sentenced to hard labor and imprisonment in the state prison, shall be paid by the county collector of the county in which the conviction is had, on a certificate of the taxed bill of costs signed by the clerk of the court in which the conviction is had and countersigned, as to the receipt of the prisoner, by the keeper of the state prison; *provided*, that if the county collector aforesaid is not satisfied as to the correctness of such taxed bill of costs, it shall be his duty to return the same to the court where such conviction was had, in order that the same may be re-examined and retaxed by said court, which it is hereby made the duty of said court to do.

Proviso.

Sheriff reimbursed.

94. In case a defendant shall be sentenced to pay a fine, or to imprisonment in the county jail, workhouse or penitentiary, or in case sentence is suspended, or a nolle prosequi or a discontinuance is entered, or there has been a non-conviction for any cause whatever, or in case of escape after conviction and before sentence, and the defendant is unable to pay the costs of prosecution, it shall be the duty of the county collector to pay the same to the sheriff of said county, on the bills of costs duly taxed being shown him; and for such sum or sums, so paid, it shall be the duty of the said county collector to take a receipt of the said sheriff; which sum or sums shall be allowed the said collector in the settlement of his accounts; and when on any indictment, information or accusation there is an acquittal, the sheriff shall pay the witnesses' and constables' fees; and on the production of a receipt therefor from said witnesses and constables, or upon the oath of the sheriff, the sum or sums so paid shall, on demand, be repaid to the said sheriff by the county collector from any

moneys in his hands belonging to the county, and be allowed to him in the settlement of his accounts.

Duty of prosecutor of pleas.

95. It shall be the duty of the prosecutor of the pleas for each county to use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws; and all necessary expenses incurred thereby certified to and approved under his hand, by a judge of the court of oyer and terminer or the judge of the court of quarter sessions for any county, shall be paid by the board of chosen freeholders thereof.

Sheriff to have commission, &c.

96. Every sheriff shall be entitled to retain out of all moneys collected or received by him on any forfeited recognizence, whether before or after execution, or from amercements, or from fines and costs, on conviction, on indictment or otherwise, whether such fines and costs are payable to the state treasurer or to the collector of the county where such conviction was had, five per centum for his services.

Costs, etc., recovered from convict's estate.

97. In all cases in which any offender shall be convicted of an offense for which he shall be sentenced to imprisonment in the state prison, and he shall have any estate, real or personal, the same shall be bound by the judgment against such offender from the time of the rendering thereof, and shall be liable for the payment of the fine (in case any fine be adjudged), and costs of prosecution and expenses of transporting such prisoner to the state prison; for the recovery of which it shall be the duty of the clerk of the court by whom such judgment was rendered or sentence pronounced, on the application of the attorney-general or prosecutor of the pleas, to transmit, under the seal of said court, a certified copy of the record of said judgment or sentence, and bill of costs, to the supreme court; whereupon it shall and may be lawful for the supreme court, on motion of the attorney-general, to award a writ of scire facias against such offender, to show cause why execution should not be awarded against him, in behalf of the state, for the fine, cost and expenses aforesaid, and to cause further proceedings to be had, as in cases of forfeited recognizances is by law allowed and directed; and in case the offender shall be imprisoned in the state prison, at the time of issuing the said scire facias, it shall be the duty of the said attorney-

Scire facias to issue.

general to cause a copy of the said scire facias to be served on the keeper of the state prison, at least ten days before the return thereof, whose duty it shall be forthwith to deliver the same to the prisoner; and in case such prisoner shall be unable to procure counsel, the court shall thereupon appoint counsel to appear on his behalf.

When collector to pay clerk and sheriff.

98. In all criminal cases upon indictment, on the acquittal of the defendant, the fees of the clerk and sheriff shall be paid by the county collector, upon the taxed bill of costs, certified to be correct by the prosecutor of the pleas, duly verified by the clerk and sheriff.

Fees for going beyond limits of county.

99. In all cases where any sheriff, coroner, constable or special deputy shall execute any bench warrant, state warrant, capias ad testificandum, or other compulsory process whatever, issued by any court of record or magistrate of this state, and in the execution thereof it shall become necessary for such officer to go beyond the limits of his county, the said officer shall receive by way of compensation for the service of such process, in addition to the fees now allowed by law in lieu of mileage, his traveling and other expenses necessarily incurred in such service, a particular statement of which expenses shall be made out and sworn to by such officer, and when certified to as reasonable by the prosecutor of the pleas of the county from which such process issued and approved by the court, shall be included in the taxed bill of costs and collected and paid as other fees in criminal cases.

VII. FUGITIVES FROM JUSTICE.

Consent of governor necessary.

100. It shall be unlawful to take, or cause or procure to be taken, or to aid or abet in taking any person or persons from out of this state, whether with or without the consent of such person or persons, for the purpose of answering any criminal charge that may have been preferred against such person or persons in any other state, except upon the warrant or mandate of the governor of this state.

Extradition.

101. If the governor shall be satisfied that the facts in the premises justify the granting of an application for extradition, he shall thereupon issue his warrant or mandate to the sheriffs, under-sheriffs, detectives or constables of the several counties of the state, directing said officers to cause the said person or persons to be apprehended and delivered into the custody of the officer or agent appointed by the governor of the state making such requisition to receive such person or persons.

Duty of officers.

102. On receiving said warrant or mandate from the governor as aforesaid, it shall be the duty of any sheriff or other said officer to whom it may be delivered to use all due diligence to cause said person or persons mentioned therein, if found in his county, to be arrested, if not already arrested, and to be delivered into the custody of the officer or agent aforesaid.

Receipt.

103. It shall then be lawful for such officer or agent aforesaid to take such person or persons out of this state, giving a receipt for the body or bodies of such person or persons to the said officer, who shall transmit the same to the prosecutor of the pleas of the county where such person or persons may be arrested, who shall forward the same to the secretary of state.

Duty of magistrates.

104. It shall be lawful for any magistrate, on satisfactory evidence under oath being presented to him that application has been made, or is about to be made by the authorities of any state to the governor of this state for the extradition of any person or persons within the jurisdiction of such magistrate to issue a warrant or warrants for the arrest of such person or persons and to commit such person or persons to the county jail, or to take bail for his or their appearance from day to day for a period not to exceed thirty days from the date of the arrest of said person or persons; *provided*, that any person or persons who may be so arrested and committed to the county jail shall not be detained or imprisoned for a longer period than thirty days.

Proviso.

Expenses of returning fugitives from justice paid by collector

105. In any case where a person charged in this state with any crime shall flee from justice and be found in another state, and the attorney-general or the prosecutor of the pleas for any county where such person is

so charged shall recommend to the governor or person administering the government of this state to demand the said fugitive, so that he may be brought into this state for trial, and the said fugitive shall, on the demand of the executive authority of this state, be delivered up for removal to this state, the expense of such removal being first ascertained to the satisfaction of the prosecutor of the pleas of the county where such person is so charged, and, being approved by a judge of the court of oyer and terminer of said county, shall be paid by the county collector of said county out of the funds of said county.

VIII. MAGISTRATES.

Magistrates to send bills of costs to prosecutor.

106. Every magistrate shall make a bill of particulars of the costs in each criminal case before him, and send up the same with the papers in the case to the clerk of the grand jury in his county, if there be such clerk, and if there be none, then to the prosecutor of the pleas in such county, and if an indictment be found in the case, said bill shall be handed by such clerk or prosecutor, as the case may be, to the county clerk, who shall review and correct the same, if necessary, and shall certify the correct amount to the county collector, who thereupon shall pay the amount so certified to the magistrate; and if no indictment be found in any case, and in the judgment of the prosecutor of the pleas the proceedings in such case were taken by the magistrate honestly, in good faith, and were calculated to promote the administration of justice, and the costs therein ought to be paid out of the county treasury and he shall so certify on the bill of particulars of costs in the case, said bill shall be paid by the county collector; *provided*, that no fees or costs shall be paid by the county collector for the services of any judge, justice or officer of any police or criminal court where such judge, justice or officer receives a salary.

Clerk to review and certify.

Collector to pay.

Proviso.

Fees to magistrates and constables.

107. The following and no other fees shall be allowed to magistrates and constables in this state, in criminal cases, and no fees shall be demanded from parties applying to magistrates or constables for their services, but such fees shall be paid out of the funds of the

county in which such services were rendered in the manner provided in the preceding section:

For drawing complaint and taking affidavit, fifty cents;

For issuing every warrant, forty cents;

For drawing commitment, forty cents;

For drawing every recognizance, forty cents;

For warrant to jailer to discharge prisoner, forty cents;

For issuing every subpœna, ten cents;

For taking examination in writing, when required by law, fifteen cents per folio;

For examination in a case where not required to be taken in writing, fifty cents;

For swearing every witness, ten cents;

For making and certifying bill of items of costs in every case, fifteen cents;

For drawing, certifying and sending to the judge of the proper court a copy of complaint and commitment, in a case where a boy under sixteen years of age is charged with crime, and he is considered a fit subject to be sent to the state reform school, one dollar;

In cases arising under the act relating to vice and immorality, magistrates and constables shall be entitled to the same fees as for like services in other criminal cases;

For making every decree or order required under the supplements to said act to be made by two justices, one dollar.

Constables' Fees in Criminal Cases.

For serving every warrant against one or more persons, for each person, eighty cents;

For serving every commitment, one dollar;

And the constables shall be entitled to mileage at the rate of four cents per mile (to be computed as hereinbefore provided) for the service of all warrants or commitments;

For serving every subpœna, where the distance is over one mile, thirty-five cents;

But where the distance is not over one mile, twenty cents;

For all services not enumerated in this act, justices and constables shall be entitled to receive fees as now or hereafter provided by law.

Bills of costs when conviction is had before justice of peace, payment, etc.

108. In case a person is convicted before a justice of the peace for any offense and sentenced to imprisonment, or to pay a fine and costs, and committed until fine and costs are paid, it shall be the duty of the justice before whom any such conviction is had, to make a bill of the particulars of the costs in such case, attached to the commitment, and also certify and send up a copy of said bill of particulars of costs, with the conviction in said case, to the county clerk, who shall review and correct the same, if necessary, and shall certify the correct amount to the county collector, who thereupon shall pay the amount so certified to the said justice.

Magistrate to keep docket.

109. It shall be the duty of every magistrate to keep a docket, in which he shall enter the name of every person against whom he may issue any warrant, the name and address of the complainant in each case, the names of witnesses in each case, with their respective addresses, the nature of the charge against the accused, and whenever bail is taken in any case, the name of the bondsman and his address; and each of said magistrates shall, within ten days before the opening of each term of the court of oyer and terminer, present all complaints, warrants, recognizances, and all other papers in every criminal case, when complaint has been made before him, to the prosecutor of the pleas of his county; *provided*, that this section shall not apply to any police justice or criminal court in any city of the first class in this state, except as to cases in which such police justices act as committing magistrates.

Proviso.

Search and seizure of improper publications, etc.

110. All magistrates are authorized, on complaint founded on information and belief, supported by oath or affirmation, to issue a warrant, directed to the sheriff of the county within which such complaint shall be made, or to any constable, or police officer within said county, directing him, them, or any of them, to search for, seize and take possession of any obscene and indecent books, papers, pictures, articles and things; and such magistrate shall transmit, inclosed and under seal, specimens thereof to the prosecutor of the pleas of such county, and shall deposit within the county jail of his

county, or such other secure place as to him shall seem meet, inclosed under seal, the remainder thereof, and, upon the conviction of the person or persons in whose possession the same were found, such magistrate shall forthwith destroy, or cause to be destroyed, the remainder thereof so seized as aforesaid and shall cause to be entered upon the records of his court the fact of such destruction.

IX. RECOGNIZANCES.

Sheriff, etc., to pay over money collected.

111. Every sheriff, prosecutor of the pleas or clerk of any court, who shall collect or receive any moneys on any forfeited recognizance, whether before or after execution, or from any amercement awarded by any court against any offender or offenders, shall pay over the same to the county collector of the county wherein such forfeiture was had or amercement awarded for the use of such county within ten days after collecting or receiving the same; and every sheriff, prosecutor of the pleas, or clerk of any county, who shall neglect or refuse to pay all such sums of money agreeably to the direction of this section, shall forfeit for every offense two hundred dollars, to be recovered by and in the name of any county collector to whom the same may be due, in any court of record where the same shall be cognizable, with costs of suit, and applied to and for the use of said county, and shall also be subject to an action of debt or trespass on the case, at the suit of the said county collector on behalf of said county, for recovery of the whole sum so by him received, with interest and cost of suit.

Penalty for neglect or refusal.

Recognizances, how prosecuted.

112. If any person hath been or shall be bound by recognizance to the state of New Jersey, or to the governor, for the use of the state, with condition for his appearance at the supreme court, or court of oyer and terminer, court of quarter sessions, or court of special sessions, to be held in and for any county within the state, and if such person hath not appeared, or shall not appear agreeably to the condition of such recognizance, then the court in which such recognizor may be bound to appear shall be empowered and directed, on motion of the attorney-general, prosecutor of the pleas or attorney

Scire facias to issue.

appointed by the court to prosecute the pleas in his absence, to award a writ of scire facias against such recognizor, to show cause why the recognizance should not be forfeited, judgment to be entered against the recognizor, and execution to issue thereon; and if such recognizor shall appear at the return of such writ, and not show or allege any matter sufficient to discharge him from his recognizance, or the said writ having been published as prescribed by law, shall make default,

Forfeiture and judgment.

thereupon the recognizance shall be forfeited, judgment final shall be given against the said recognizor as in case of debt, and execution shall issue thereon accordingly; and in every action, suit or writ of scire facias against every such recognizor, costs shall be awarded and allowed.

Judgments on forfeited recognizances.

113. The several courts of this state having jurisdiction of forfeited recognizances may render judgment for the whole of such penalty with interest, or, on application of the defendant, for any part thereof, according to the circumstance of the case and the situation of the party, and upon such terms and conditions as the court deems just and reasonable, and said courts are hereby empowered to cause such recognizances to be levied, moderated or remitted, and judgments entered thereon, to be satisfied according to their discretion; and all

Judgment a lien.

such judgments shall, from their entry, operate as a lien upon all the real and personal property of the defendants, and execution may issue to the sheriff of the proper county, as if on a judgment in the supreme or circuit court and like proceedings be had thereon to sale and satisfaction of such judgment.

When forfeit of recognizance may be returned.

114. If any recognizor, whose recognizance hath been or shall be forfeited and the amount thereof paid in the county treasury of said county in accordance with law, has appeared or shall appear before the proper court to answer unto the charge or indictment pending against him, after such recognizance shall have been declared forfeited, it shall and may be lawful for the court in which such forfeiture was had, in its discretion, to direct and order the return of the moneys so paid or to be paid upon said forfeited recognizance, and thereupon it shall be the duty of the county collector or treasurer of such county to repay the amount of such recognizance,

less the taxed costs on the proceedings to forfeit said recognizance, to the recognizor or recognizors, who shall have paid the same into the county treasury, provided application shall be made to said court within two years after such recognizance shall have been declared forfeited.

When state to pay costs.

115. In suits brought by the state of New Jersey upon forfeited recognizances, when the sheriff shall be unable to find property of the defendant whereof to make the amount of the judgment and costs of suit, the said costs shall be paid out of the treasury of this state.

Record of recognizors.

116. It shall be the duty of the clerk of every court before which any recognizance shall be entered into, to immediately record, in alphabetical order in a book to be provided for that purpose, the names of the persons entering into said recognizance, the amount thereof, and the date of the acknowledgment of the same; which book shall be kept in the clerk's office of the county in which said court shall be held, and be open for the inspection of all persons at all proper times.

Recognizances, "forfeited" and "discharged."

117. When any recognizance shall be forfeited, it shall be the duty of the clerk of the court in which the same shall be, to enter in the book provided for in the last preceding section, at the end of the record of such recognizance, the word "forfeited," together with the date of such forfeiture; and when any recognizance shall be discharged by order of the court or by reason of the judgment in any cause, to enter the word "discharged," together with the date of such discharge at the end of the record of such recognizance, and upon satisfactory proof before any court where any recognizance shall be taken that the conditions thereof have been fully complied with, it shall be the duty of the said court to order the clerk thereof to enter the same "discharged," in the book kept by the clerk for that purpose.

Duration of recognizances.

118. Every recognizance entered into before any court having criminal jurisdiction in this state, shall remain in full force and effect until the cause in which said recognizance shall be entered into shall be finally determined or the same discharged by order of the court.

Recognizances taken by judges.

119. In the several courts of oyer and terminer, quarter sessions, and special sessions, recognizances of bail

in criminal cases may be taken by the judge of any of said courts during any recess or after any adjournment of any of said courts; or said recognizances may be taken during such recess or after any such adjournment by the sheriff or clerk of said courts, upon the written order of any judge of either of said courts, and any recognizances so taken shall be held as binding as though taken in open court.

By sheriff or clerk.

When judgment canceled.

120. Where judgment shall have been entered upon a forfeited recognizance in a criminal case in any court, and it shall appear to the court that the bail has brought in the person accused or indicted and surrendered said person within a reasonable time and paid the costs of said judgment, said court shall have power, in its discretion, to order said judgment to be canceled of record.

Recognizances signed.

121. All recognizances entered into in criminal cases before any magistrate authorized to take the same shall be void unless signed by the recognizor or recognizors before the officer or officers taking the same.

When recognizances no longer a lien.

122. All recognizances of bail made or entered into, in or before any court, judge or magistrate having criminal jurisdiction, which have been or shall hereafter be forfeited, but upon which no writ of scire facias or other process to enforce or collect the same shall have been issued within a period of six years after the same shall have been entered into, shall no longer be a lien or charge upon or against any lands, tenements, hereditaments or real estate of which any surety named in any such recognizance was or shall have been seized at the time of his entering into such recognizance or at any time afterwards.

Execution against city, etc., unsatisfied.

123. When any execution, issued against any city, borough or township for the amount of any fine and costs, as provided in this act, shall be returned by the sheriff or other proper officer unsatisfied for want of goods and chattels, or for want of lands and tenements of the city, borough [or] township against which said execution issued, it shall be the duty of the clerk of the court out of which the same issued to make a copy thereof, with the indorsements thereon, and the return of the sheriff or other proper officer thereto, having added to the costs indorsed thereon one dollar, the fee of the said clerk for said copy, and a certificate thereof, and two

Fees to clerk and sheriff.

dollars, the fee of the sheriff for the services hereinafter required of him, and to certify the same under his hand and seal of office, and deliver the same to the sheriff or other proper officer.

County collector to make payment.

124. It shall be the duty of the sheriff or other proper officer, upon receiving such certified copy of the execution and return, to present the same to the county collector, who shall pay to the sheriff of said county or other proper officer the amount of the costs indorsed, together with the interest due thereon, taking the receipt of the sheriff or other proper officer thereupon, which certified copy and receipt shall be a sufficient voucher for the payment thereof, in the settlement of the accounts of the said collector.

Duty of board of assessors.

125. The said collector, having paid the said costs, shall thereupon charge the same, together with the amount of said fine, to the city, borough or township against which such execution was issued, adding thereto interest up to the twenty-second day of December next ensuing the next annual meeting of the board of assessors of said county, and shall lay the same before the said board of assessors at their next annual meeting, which sum shall be added to the proportion or quota of the tax next to be levied and collected in such city, borough or township; and shall be assessed, levied, collected and paid over in the same manner and under the same penalties as the said proportion or quota of tax is by law directed to be assessed, levied, collected and paid over.

Revival of judgments.

126. Judgments in any court of record, entered upon forfeited recognizances in criminal cases, may be revived by scire facias, or an action of debt may be brought thereon within six years next after the date of such judgment and not after, and the lien of any such judgment heretofore entered shall cease to be a lien after six years, notwithstanding the issuing of scire facias thereon, if no proceedings shall have been taken upon such scire facias within the past six years.

X. CAPITAL PUNISHMENT.

Manner of inflicting.

127. The manner of inflicting the punishment of death shall be by hanging the person convicted by the neck

until dead; and the said punishment shall be inflicted either in the prison where the convict shall be confined, or within an inclosed yard of such prison, if there be one, or within an inclosure erected for the purpose, adjoining such prison, at the discretion of the sheriff, whose duty it shall be to inflict the same; and the necessary expense attending an execution shall be ascertained by the board of chosen freeholders of the county in which the same shall take place, and be paid upon their order by the county collector.

Witnesses of execution.

128. In all cases in which judgment of death shall be given in any of the courts of this state against any person or persons, it shall be the duty of the court in which such judgment shall be given, immediately after giving such judgment, to appoint and designate in writing from among the persons liable to duty as grand jurors in the county in which such judgment is to be executed, twelve respectable persons, two of whom shall be physicians, whose duty it shall be to be present at the time and place of the execution of such judgment, and to attend upon and witness the same.

Their duty.

129. Each of the persons so appointed as aforesaid shall, before entering upon the duty required of them by such appointment, take an oath or affirmation before the clerk of the court making such appointment, faithfully to execute and perform the duty required of them by such appointment, and truly to report and make known in writing, under their hands to the court by which they were appointed, the time, place and manner of the execution of such judgment, and the names of all persons present thereat; and immediately after the execution of such judgment of death, the said several persons appointed to witness the same as aforesaid shall unite in a report in writing under their hands, to be addressed to the court by which they were appointed, in which shall be fully and particularly stated and set forth the time, place and manner of the execution of such judgment of death, and the names of all persons present thereat, which report shall on the same day be filed with the clerk of the court in which such judgment was given.

Special deputies.

130. It shall be lawful for the sheriff of the county in which such judgment is to be executed, not less than

ten days before the time fixed for the execution of such judgment, to appoint and designate from among the residents and citizens of such county who are liable to serve as jurors therein, twelve reputable persons to serve as special deputies of such sheriff at the time and place fixed for the execution of such judgment; but nothing herein contained shall prevent such sheriff from appointing as many deputies to serve on the day fixed for the execution of such judgment as may, in his opinion, be necessary to preserve the peace; *provided*, that only twelve deputies appointed and designated as hereinbefore provided shall be present at or witness the execution of such judgment of death; *and provided further*, that nothing herein contained shall prevent members of the family of the person or persons against whom judgment of death shall have been given, not exceeding three in number, or any ministers of the gospel, not exceeding two in number, all of whom shall be designated by such person or persons, from being present at and witnessing the execution of such judgment of death.

Proviso.

Proviso.

No others allowed present.

131. If any sheriff, under-sheriff, deputy sheriff or jailer shall procure, permit or suffer any other person or persons than those designated by law to be present at or witness the execution of any judgment of death, such sheriff, under-sheriff, deputy sheriff or jailer shall be liable to punishment as for contempt of the court in which such judgment of death was given.

Press representative present.

132. In cases where the death penalty is inflicted the sheriff shall admit to the execution the accredited representative of the associated press, and the accredited representative of any one other general newsgathering association, if there be such, and the accredited representatives of the local press of the county, not to exceed three in number, and the stenographer of the court of oyer and terminer may be present for the purpose of furnishing information to members of the press concerning the execution, and the sheriff may call in to assist him in such execution one or more persons without reference to their places of residence, not exceeding three; *provided*, he shall deem their skill useful to him in the proper carrying out of such execution.

Proviso.

Reprieve.

133. When a reprieve shall be granted by the governor or person administering the government, to any convict sentenced to the punishment of death, and such convict shall not be pardoned, it shall be the duty of the said governor or person administering the government to issue his warrant to the sheriff of the proper county, commanding him to execute the sentence at such time as shall be therein appointed and expressed, which warrant shall be transmitted to said sheriff at the expense of the state.

XI. JUDGMENT AND ERROR.

Writs of error.

134. Writs of error in all criminal cases shall be writs of right, and issue of course; but in criminal cases punishable with death, writs of error as writs of right shall be issued out of and returnable to the court of errors and appeals alone, and such writs shall be heard and determined at the term of said court next after the judgment of the court below unless for good reasons the court of errors and appeals shall continue the cause to any subsequent term; all other writs of error, not brought on for hearing at the term to which they are returnable, or on the opening day of the next term thereafter, shall be dismissed unless the appellate court shall continue the same after notice to the defendant in error, on motion in open court and for good cause shown.

Bill of exception.

135. If, on the trial of any indictment, any exception shall be taken to any decision of the court during the trial to the prejudice or injury of any defendant, it shall be the duty of the judge to settle a bill of such exceptions, and to sign and seal the said bill, to the end that the same be returned with a writ of error to the court having cognizance thereof; and the bill of exceptions taken in any case shall contain only so much of the evidence as may be necessary to present the questions of law upon which exceptions were taken at the trial, and it shall be the duty of the court or judge upon the settlement of the bill to strike out of the same all the evidence and other matters which shall not have been necessarily inserted.

Argument before appellate court.

136. The entire record of the proceedings had upon the trial of any criminal cause may be returned by the plaintiff in error therein with the writ of error, bringing up the bill of exceptions as signed and sealed in the cause; and on the argument such entire record shall be considered and adjudged by the appellate court; and if it appear from such record that the plaintiff in error on the trial below suffered manifest wrong or injury, either in the admission or rejection of testimony, whether objection was made thereto or not, or in the charge of the court, or in the denial of any matter by the court, which was a matter of discretion, whether a bill of exceptions was settled, signed and sealed thereto, or error assigned thereon, or not, the appellate court shall remedy such wrong or injury and give judgment accordingly, and order a new trial; *provided*, no judgment given upon any indictment shall be reversed for any imperfection, omission, defect in, or lack of form, or for any error except such as shall or may have prejudiced the defendant in maintaining his defense upon the merits.

Proviso.

Assignment of causes.

137. In all cases where the plaintiff in error shall elect to take up the entire record with his writ of error as herein provided, he shall specify the causes in the record relied upon for relief or reversal, and shall not be confined to his bill of exception, or required to assign error thereon, and he shall serve a copy of the causes so relied upon for relief or reversal upon the attorney-general or prosecutor of the pleas, representing the defendant in error, at least ten days before the first day of the term at which said cause shall be heard.

When judge dies without sealing bill of exceptions.

138. If exceptions shall have been taken on the trial of an indictment and the judge or judges of the court shall have died without having sealed the same, the cause shall be heard in the court to which the writ of error is returnable, upon such exceptions being stated and agreed to in writing by the attorney-general or prosecutor of the pleas on the one side, and the attorney of the defendant on the other; or if such attorneys cannot agree thereto, the said exceptions shall be settled and sealed on five days' notice by any justice of the supreme court, as the same shall be found by him to have been

in fact taken, and shall be returned with the writ of error.

Fees for record.

139. The fees to be paid for the entire record when the same is returned by the plaintiff in error shall not exceed the sum of eight cents per folio of one hundred words, and when requested in writing of the court it shall by said court be forthwith ordered for said plaintiff in error.

General exception.

140. Upon the trial of any indictment it shall be lawful to take a general exception to the charge of the court to the jury, without specifying any particular ground or grounds for such exception, and without specifying what portions of said charge are excepted to, and it shall be the duty of the judge to settle a bill of such exception, and to sign and seal the same, to the end that the same may be returned with a writ of error to the court having cognizance thereof.

Assignment of error.

141. It shall be lawful where such general exception has been taken to assign any error or errors of law upon any portion of the charge so excepted to.

Reversal.

142. If, upon the hearing of the cause upon a writ of error, it shall appear to the court that any error of law has been committed in any part of the charge so excepted to, to the prejudice or injury of any defendant, in maintaining his defense, it shall be the duty of the court having cognizance thereof, to reverse the judgment.

Admit to bail.

143. Pending the prosecution of a writ of error the court in which such judgment shall have been rendered shall admit the defendant to bail, when application is made for the same and proper and sufficient bail is offered; *provided*, this section shall not apply to capital cases.

Proviso.

Judgment on reversal rendered.

144. Whenever a final judgment in any criminal case shall be reversed upon a writ of error, on account of error in the sentence, the court in which such reversal was had may render such judgment therein as should have been rendered, or may remand the case for that purpose to the court before which the conviction was had.

When county to furnish printed testimony.

145. If any person convicted of murder in the first degree shall make application to the justice who presided at the trial, or, to the judge of the court of quarter sessions of the county in which such trial was had, showing that he is about to apply for a writ of error,

and is unable, by reason of poverty, to defray the expenses of printing the testimony for presentation to the court, upon the application for such writ, it shall be the duty of such justice or judge, being satisfied of the facts stated and of the sufficiency thereof, to certify the same to the county collector, who shall thereupon pay the necessary expense of printing such testimony, the amount thereof having first been approved by the justice or judge to whom such application was made.

XII. STENOGRAPHERS AND INTERPRETERS.

Judge may designate stenographer to attend.

146. It shall be lawful for the judge of the court of quarter sessions in any county, when in his judgment the administration of justice will be facilitated thereby, to designate the stenographer of the circuit court to attend, either in person or by proxy, in the court of quarter sessions, and in the court of special sessions of such county, or in any county of the first class said judge may appoint any competent stenographer, for which service the stenographer shall be entitled to receive such compensation as shall be fixed by said judge, not to exceed fifteen hundred dollars per annum.

Prosecutor or attorney for defendant may request stenographer.

147. The presiding judge of the court of oyer and terminer, or the judge of the court of quarter sessions, or court of special sessions, in and for the several counties of this state, shall, upon request of the prosecutor of the pleas, or the attorney of any defendant in any indictment in the said court of oyer and terminer or quarter sessions, or accusation of crime in the court of special sessions, call upon the stenographer of the circuit court to attend either in person or by proxy, upon any such trial in said court of oyer and terminer, quarter sessions or special sessions, and exactly and truly take notes and record verbatim all the evidence and proceedings of such trials, except the arguments of counsel, and, when requested, to make and furnish true reports thereof to the judge and to each party in said cause; *provided*, such request be made to said judge and filed with the clerk of such court at least one day previous to the day fixed for the trial.

Proviso.

Compensation.

148. The compensation of such stenographer shall not exceed ten dollars per day, which sum shall be deposited by the defendant with the clerk of said courts at the time of filing his request for a stenographer, and in the event of the conviction of such defendant said sum shall be paid by the clerk to the stenographer; but upon the acquittal of said defendant, said sum shall be returned by the clerk to said defendant, and in such case the compensation of such stenographer shall be paid by the county collector, upon the certificate of the trial judge.

Interpreter.

149. The judge of the court of quarter sessions may appoint an interpreter to attend the courts of oyer and terminer, quarter sessions or special sessions, whose duty shall be to interpret all the foreign languages, known to and understood by him, and in case any foreign language spoken in said courts is not known to and understood by said interpreter, then said interpreter shall, out of his regular salary, furnish to said courts a competent interpreter in said foreign language not known and understood by said regular interpreter.

Duties.

150. Said interpreter shall be in constant attendance upon said courts, and may be called upon at all times at chambers, and shall respond to all calls from said judges at all times and all places within the jurisdiction of said judges, not beyond the bounds of the county, to assist said courts in the interpretation of foreign languages.

Compensation.

151. Said interpreter shall receive as compensation for such service an annual salary of not less than four hundred dollars and not more than six hundred dollars, to be fixed by the judge appointing him, said salary to be paid by the county collector monthly, upon the certificate of said judge; *provided*, that in counties of the first class said interpreter shall receive, in lieu of other salary, five dollars per day for each day he shall be in attendance upon said courts, the same to be paid by the county collector upon the certificate of the clerk of said courts; and the judge of the court of quarter sessions in any county of the first class may appoint an interpreter skilled in the Italian language, whose duty it shall be to attend in person such courts and the sessions of the grand jury, and at chambers whenever requested so to do, and perform any duty required of him con-

Proviso.

nected with the business of said courts in the office of the prosecutor of the pleas, the sheriff and the clerk of said courts, in the interpretation of the Italian language; and said interpreter shall receive as compensation for his services an annual salary, to be fixed by the said judge, not to exceed eight hundred and forty dollars, to be paid by the county collector monthly, as above provided.

XIII. LIMITATIONS AND MISCELLANEOUS.

Limitation in criminal cases.

152. No person or persons shall be prosecuted, tried or punished for treason unless the indictment for the same shall be found within three years next after the treason shall be done or committed; nor shall any person be prosecuted, tried or punished for any offense not punishable with death, unless the indictment shall be found within two years from the time of committing the offense or incurring the fine or forfeiture; *provided*, any person holding or having held, or who may hereafter hold any public office or employment, either under this state, or any county, city, borough, town or township therein, whether elective or appointive, may be prosecuted, tried and punished for any forgery or embezzlement committed whilst in such office or employment, where the indictment has been or may be found within five years from the time of committing the offense aforesaid; *and provided further*, nothing herein contained shall extend to any person fleeing from justice.

Proviso.

Proviso.

No forfeiture of estate, etc.

153. No conviction or judgment for any offense against this state, shall make or work corruption of blood, disinherison of heirs, loss of dower, or forfeiture of estate;

The benefit of clergy is abolished and forever done away;

Appeal abolished.

The suit or action of appeal for murder, manslaughter, rape, arson, larceny, mayhem, or other offense or wrong whatsoever, is abolished and forever done away.

Persons committing abortion compelled to testify.

154. Any person who shall cause or attempt to cause the miscarriage of a pregnant woman, shall be a competent witness, and compellable to testify against any other person charged with so offending, but the testimony of such person given in any such case shall not be

used in any prosecution, civil or criminal, against such person so testifying.

Change of place of imprisonment.

155. Where any court having criminal jurisdiction in any county wherein a penitentiary or workhouse has been or shall hereafter be established shall sentence any person convicted of misdemeanor to imprisonment at hard labor in the state prison, it shall be lawful for such court to change the place of such imprisonment for all or any part of the term imposed to such penitentiary or workhouse.

Breaking jail, penalty

156. If any person, while serving out a sentence of imprisonment in the state prison, or in any county penitentiary, or in any county jail in this state, shall escape from such prison, penitentiary or jail and shall be recaptured, such person shall be required to serve out the whole of the term for which he was originally sentenced, without deducting any of the time he shall have been at large after so escaping; and it shall be the duty of the keeper or warden of such prison, penitentiary or jail to enter upon his record of prisoners the time of the escape of any such prisoner, and the time when he shall be returned to custody, and the entry so made shall be prima facie evidence of the time such prisoner has been absent from custody, in computing the remaining period for which he is to be confined in the prison, penitentiary or jail to which he was originally sentenced; and if any person be convicted of any offense against this state not punishable with death, it shall be lawful for the court before whom such conviction shall be had to order besides the punishment prescribed by law that such offender shall find surety to keep the peace, or be of good behavior, or both, in such sum, for such time, and in such number and sufficiency as said court shall judge proper.

Trial of treason.

157. All acts of treason against this state, which shall be committed or done upon the land, out of this state, or upon the sea, shall and may be inquired of, heard and determined in the supreme court of this state, by good and lawful men of the same county where the said court shall sit, in like manner and form, to all intents and purposes, as if the said treason had been committed or done within the same county.

158. The prosecutors of the pleas in the several counties having a population of over eighty thousand inhabitants may appoint suitable persons, not exceeding two in any county, to act as special officers for the detection, arrest, indictment and conviction of offenders against the law; such persons so appointed shall possess all the powers and rights and be subject to all the obligations of constables and police officers in any county of this state, and before such person shall enter upon his duties as said officer his appointment shall be approved by the judge of the court of quarter sessions of said county, and each person so appointed shall receive a per diem allowance and compensation not exceeding four dollars per day, to be fixed by said judge at the date of such approval; *provided*, that said per diem allowance and compensation shall be paid only for the time such officer shall be actually employed, which time shall be certified to the county collector by the said prosecutor.

County detectives.

Proviso.

159. It shall be lawful for the respective courts of oyer and terminer in the several counties to appoint a clerk for the grand jury in and for each county, under the seal of the court, who shall hold his office for the term of one year, unless sooner removed by the court, the salary to be fixed by the court, and be paid by the collector of the county monthly, upon the certificate of the prosecutor of the pleas, and in all counties having a population of two hundred thousand or more inhabitants such clerk shall also act as clerk to the prosecutor of the pleas of such county, and for such service as clerk of the grand jury and as clerk to the prosecutor of the pleas shall receive a salary of eighteen hundred dollars per annum, and no more, and said salary shall be payable monthly by the collector of the county.

Clerk to grand jury.

160. From the sentence of any person committed to the common jail or penitentiary of any county there may be remitted by the board of chosen freeholders of said county or by the committee on discharge of prisoners of such board, upon the recommendation of the sheriff or jail warden in whose custody such person may be, for good conduct, a term not exceeding one day for every six days of said sentence; and in case any such person shall be again convicted and sentenced to imprisonment

Remittance of sentence for good conduct.

in such county jail or penitentiary, such person shall, in addition to such new sentence, be required to serve out the number of days remitted to him on the previous term.

Discharge of prisoners by freeholders.

161. The board of chosen freeholders of the several counties, or the committee on discharge of prisoners of any such board, shall have power to remit fines and costs due to their respective counties, and to discharge from imprisonment in the county jail or penitentiary of such county any person committed or held therein, in default of the payment of such fines and costs; *provided*, that such action of said board or committee shall not take effect until the same is approved in writing by a judge of the court of oyer and terminer or quarter sessions of such county.

Proviso.

Labor of prisoners.

162. It shall be the duty of the sheriff, warden or keeper of every county jail or penitentiary, to put and keep at such work as they are able to perform, any and all persons detained in his custody for the non-payment of any fine or costs of conviction; such work to be directed and provided by the boards of chosen freeholders of the respective counties, and to be performed for the benefit thereof; any such person may be excused from such work, for good cause shown, by a judge of the court which may have imposed sentence on such person.

Record of prisoners.

163. The keeper of every jail or other penal or reformatory institution, supported by public moneys of any county or city or township, shall be required to keep a book, provided by the board of freeholders in the county wherein such institution shall be, in which he shall set forth the date of entry, date of discharge, the description, age, birthplace, and such other information as he may be able to obtain of the inmates committed to his care, and such book shall be exposed in a conspicuous place in said institution and be open to public inspection.

Separation of prisoners.

164. It shall be the duty of the sheriffs, jailers, wardens, keepers and other persons having charge and control of the jails, workhouses, penitentiaries and other places of confinement in this state to keep all persons under the age of eighteen years, who shall be detained in such jails, workhouses, penitentiaries and places of

confinement, for any purpose whatever, separate and apart from and so that no communication take place between them and other persons above such age confined therein on a charge or conviction of crime.

Freeholders must furnish separate quarters.

165. The boards of chosen freeholders of the several counties of this state shall so arrange the jails, workhouses, penitentiaries and places of confinement in their respective counties that all persons under the age of eighteen years, who shall be detained in such jails, workhouses, penitentiaries and places of confinement, for any purpose whatever, shall be kept separate and apart from and so that no communication take place between them and other persons above such age confined therein on a charge or conviction of crime; and in case it is impracticable to so arrange the buildings now used for such purposes, it shall be the duty of such boards of chosen freeholders, and they are hereby required to provide such places as shall be necessary to accomplish the purposes of this section.

Detention under seventeen years of age.

166. No magistrate in this state shall detain or cause to be detained, in any station-house, lock-up or other place of confinement, for a longer period than twenty-four hours after such person shall be first brought before him, any person under the age of seventeen years, unless there shall have been provided in such station-house, lock-up or place of confinement, means by which such persons under seventeen years of age may be detained separate and apart from persons above such age.

Employment of prisoners about jail, etc.

167. The sheriff, warden or keeper of the county jail or penitentiary in any county is hereby authorized to employ and set at labor any convicted person committed to his care and custody at any reasonable labor, such as cooking, cleaning, gardening, mechanical or other service necessary to be performed within the bounds of the court-house or county property.

Destruction of gaming tools.

168. Whenever any furniture or implements made or used for the playing of the game of faro, roulette, rouge et noir or any unlawful game, shall be seized or captured by the police, constabulary or other officers, it shall be the duty of the prosecutor of the pleas of the county where such seizure is made, to have the same destroyed or rendered useless for the uses and purposes aforesaid,

and it shall be unlawful to return the same to the person or persons owning the same, or to any person whatsoever.

In case of insanity.

169. If any person confined in any county jail, penitentiary, workhouse, or like county prison or institution of any county in this state, under any sentence of imprisonment, shall appear to be insane, the presiding judge of the court of oyer and terminer, or the judge of the court of quarter sessions of the county in which such place of imprisonment is situated, shall, upon information of the fact from the county physician of such county or from any other physician whose official duty it shall be to visit such place of imprisonment, or from his own knowledge or other satisfactory information, order to be instituted a careful inquiry into the case by at least three reputable physicians; and request the prosecutor of the pleas of the county to aid in the inquiry at his discretion; and if such judge shall think it necessary, he shall call a jury, and for this purpose he is hereby fully empowered to compel the attendance of jurors and also witnesses before such physicians to aid in the inquiry; and if it satisfactorily appear to such physicians, upon the verdict of such jury, in any case where a jury shall be called, or in any other case without the aid of such jury, that such person is insane, and such physicians, or a majority of them, shall certify in writing such fact to such judge, such judge may, if the report or certificate shall satisfy him, order such insane person, in safe custody, to be removed to the county insane asylum, if there be such asylum in such county, or to a state hospital for the insane, where he shall remain at the expense of the county until restored to his right mind; and then, if the term of imprisonment of such person shall not have expired, the superintendent or head official of such asylum or hospital shall inform the said judge and said prosecutor of the restoration of the mind of such person; whereupon he shall be remanded to the aforesaid jail, penitentiary, workhouse or prison, to serve out the unexpired portion of his term of imprisonment; and the said judge shall certify to and order to be paid to the persons entitled thereto, for the duties and services imposed by this section, such fees and sum or sums of money as to him

shall seem proper; and the same shall be paid by the county collector of such county.

When prisoners may be incarcerated in other county jails.

170. In all cases where the jail now used as a common jail or penitentiary, for the confinement of prisoners in any county, shall become insecure or inadequate to the needs of such county by reason of repairs, alterations or additions thereto being in progress, or by reason of a new jail for such county being in process of erection or construction, or for any other reason, the jails or penitentiaries of the counties adjoining to such county shall be and are hereby also constituted jails and penitentiaries for the confinement of prisoners of such counties as contain insecure or inadequate jails or penitentiaries, until such time as secure and adequate jails or penitentiaries shall be erected or constructed therein; and the courts of oyer and terminer, the courts of quarter sessions, the courts of special sessions, and all magistrates of such counties as contain such condemned, insecure or inadequate jails or penitentiaries may respectively, in their discretion, when they deem it necessary, direct and order any prisoner or prisoners under sentence or charged with any criminal offense, to be confined in the jail or penitentiary of any such adjoining county, and the keepers thereof are hereby required to receive and safely keep all such prisoners in the same manner as they are by law required to keep the prisoners of their respective counties, until he, she or they shall be demanded, under authority of law, by the proper officer or officers of the county from where they were committed, or be otherwise discharged by due course of law; and the keepers of the said jails or penitentiaries shall be entitled to demand and receive from the board of chosen freeholders of the county from which such prisoners shall be committed such fees as are or shall be allowed by law in such cases, and such compensation for the board and care of such prisoners as the board of chosen freeholders of the county wherein such prisoners are confined shall deem just and reasonable.

Compensation.

Parole.

171. The principal keeper and the board of inspectors of the New Jarsey state prison shall have power to establish rules and regulations under which any pris-

oner who is now, or hereafter may be, imprisoned under a sentence other than for murder in the first or second degree, manslaughter, sodomy, rape, arson, burglary or robbery, who may have served with commutation time allowed one-half of his sentence for the crime for which he was convicted, and who has not previously been convicted of a felony and served a term in a penal institution, may be allowed to go on parole outside of the buildings and inclosures, but to remain, while on parole, in the legal custody of the principal keeper and board and subject at any time to be taken back within the inclosure of said institution; and full power to enforce such rules and regulations, and to retake and reimprison any convict so upon parole, is hereby conferred upon said principal keeper and board of inspectors, whose written order, certified by its secretary, shall be a sufficient warrant for all officers named therein to authorize such officers to return to actual custody any conditionally released or paroled prisoner; and it is hereby made the duty of all officers to execute said order the same as ordinary criminal process; *provided*, that any prisoner violating the conditions of his parole or conditional release (by whatever name), as affixed by the principal keeper and board of inspectors, when, by a formal order, entered in the principal keeper and board of inspectors' proceedings, he is declared a delinquent, shall thereafter be treated as an escaped prisoner owing service to the state, and shall be liable, when arrested, to serve out the unexpired period of the maximum possible imprisonment, and the time from the date of his declared delinquency to the date of his arrest shall not be counted as any part or portion of time served; and any prisoner at large, upon parole or conditional release, committing a fresh crime, and, upon conviction thereof, being sentenced anew to the state prison or penitentiary, shall be subject to serve the second sentence after the first sentence is served or annulled, to commence from date of termination of his liabilities upon the first or former sentence; *provided, further*, that it shall be unlawful to parole any prisoner who may at this time be, or hereafter be, sentenced to the New Jersey state prison or penitentiary, unless he has been a citizen of the State of New Jersey for three years last prior to his conviction.

Proviso.

Proviso.

Insanity.

172. If any person confined in the state prison under sentence of imprisonment shall appear to be insane, the judge of the circuit court of the county in which the prison is situated shall, upon information of the fact from the physician of the prison, institute a careful investigation, call two reputable physicians, and other credible witnesses if necessary, invite the attorney-general to aid in the examination, and if he shall think it necessary call a jury, and for that purpose he is hereby fully empowered to compel the attendance of witnesses and jurymen; and if it be satisfactorily proved that said prisoner is insane said judge shall, in case the conviction of such prisoner was or shall be had in either of the counties of Atlantic, Cape May, Cumberland, Salem, Gloucester, Camden, Burlington, Mercer, Ocean, Monmouth, Hunterdon, Somerset or Middlesex, order his custody and removal to the state hospital for the insane at Trenton; and in case the conviction of such prisoner was or shall be had in any other county of this state, then said judge shall order the custody and removal of such prisoner to the state hospital for the insane at Morris Plains; and such prisoner shall remain at the expense of the state in the hospital to which he shall be removed as aforesaid until restored to his right mind, and then, if his term of imprisonment shall not have expired, the superintendent of such hospital shall inform the said judge and the attorney-general of his recovery, whereupon he shall be remanded to the prison to serve out the unexpired portion of his term of imprisonment.

Where removed.

Expense.

Court of pardons.

173. It shall be lawful for the court of pardons to grant to any convict now or hereafter undergoing imprisonment in any of the penal institutions of this state a license to be at large upon such security, terms, conditions and limitations, in all respects, as to the said court shall seem proper, which said terms, conditions and limitations shall be indorsed upon or annexed to such license; such convict shall continue to be legally in custody after the granting of such license, and shall be liable to be taken at any time and returned to the place of punishment to which he was originally sentenced, as hereinafter provided.

License.

174. Such license shall be signed by the governor or person administering the government, and attested by

the clerk of said court; a duly-certified copy thereof shall be deposited with the keeper of the prison or other penal institution in which such convict is confined, and shall be a sufficient warrant to the keeper for permitting such convict to go at large.

Revocation.

175. The court of pardons, or the governor, or person administering the government, when said court is not in session, shall have authority, at any time, in his or their discretion, to revoke any license granted under this act, and it shall be the duty of said court, or of the governor, or person administering the government, when the said court is not in session, to revoke any such license whenever it shall come to his or their knowledge that the person holding the same has violated any of the terms, conditions or limitations thereof, or any penal law of this state, or of any other state, or of the United States.

How made.

176. Such revocation shall be made by an order in writing, which shall state the reason therefor, and shall be signed by the governor, or person administering the government, and filed with the clerk of said court; upon the filing of such revocation, the governor, or person administering the government, shall issue his warrant for the arrest of the holder of such license, and his return to the place of confinement from which he was released thereunder; said warrant may be served by any person authorized to serve criminal process in any county in this state; the holder of such license when returned to the place of confinement from which he was released thereunder shall be detained therein according to the terms of his original sentence; and in computing the period of such confinement the time between his release upon such license and return to said place of confinement shall not be taken to be any part of the term of sentence; if the person for whose arrest such warrant is issued is confined in any prison or penal institution of this state, the officer to whom said warrant shall have been delivered, shall deliver the same to the warden or keeper of such institution or prison, and the said warden or keeper shall, upon the expiration of said present term of imprisonment in that institution, return said convict to the institution from which he was discharged on license, or if the discharge on

If in jail.

license was from the same institution, then he shall detain him therein according to the terms of his original sentence.

Sentenced to reformatory.

177. Upon and after the filing with the county clerks of the respective counties of the notice provided for in the twenty-first section of the act entitled "An act relating to a state reformatory," approved March twenty-eighth, one thousand eight hundred and ninety-five, it shall be lawful for the courts of this state, in their discretion, to sentence to the New Jersey state reformatory, instead of to state prison or a county penitentiary, on conviction of any criminal offense, all male criminals between the ages of sixteen and thirty years, not known to have been previously sentenced to a state prison or penitentiary in this or any other state or country.

Definition of terms.

178. In the construction of this act the word "indictment" shall be understood to include "inquisition," "presentment," "information" and "accusation of crime," as well as indictment, and also any "plea," "replication," or other pleading, and any nisi prius record; and the terms "finding of the indictment," shall be understood to include "the taking of an inquisition," and "the making a presentment;" and wherever in this act, in describing or referring to any person or party, matter or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and shall be applied to several persons and parties as well as to one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters or things as well as one matter or thing; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing whether real or personal, upon or with respect to which any offense may be committed; and the word "magistrate" shall be understood to include justices of the peace, police justices, recorders and any other person or officer having the power of a committing magistrate.

Repealer.

Exception.

179. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, but nothing in this act shall be construed to repeal or alter any acts or parts of acts, which by their terms are made applicable only to particular counties or other localities; and

no indictment or other criminal proceeding of any nature now pending, shall abate by reason of the passage of this act, but all proceedings on any indictments now pending shall proceed under the provisions of this act.

Approved June 14, 1898.

CHAPTER 238.

An Act to repeal sundry acts or parts of acts regulating proceedings in criminal cases and relating to criminal courts.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Acts repealed.

1. The several acts hereinafter stated and entitled as follows, to wit:

"An act regulating proceedings in criminal cases" (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four;

"Supplement to an act entitled 'An act regulating proceedings in criminal cases,' approved March twenty-seventh, one thousand eight hundred seventy four," which supplement was approved March eighth, one thousand eight hundred and seventy-seven;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March ninth, one thousand eight hundred and seventy-seven;

"An act to amend an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which act was approved March twelfth, one thousand eight hundred and seventy-eight;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' which supplement was approved March twelfth, one thousand eight hundred and seventy-eight";

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April fifth, one thousand eight hundred and seventy-eight;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved February sixth, one thousand eight hundred and seventy-nine;

"A supplement to an act regulating proceedings in criminal cases, (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March fourteenth, one thousand eight hundred and seventy-nine;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved February tenth, one thousand eight hundred and eighty;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March third, one thousand eight hundred and eighty;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March first, one thousand eight hundred and eighty-one;

"A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March ninth, one thousand eight hundred and eighty-one;

"A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' which supplement was approved March seventeenth, one thousand eight hundred and eighty-one;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' approved March twenty-

seventh, one thousand eight hundred and seventy-four," which supplement was approved March first, one thousand eight hundred and eighty-two;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March twenty-seventh, one thousand eight hundred and eighty-two;

"A supplement to an act entitled 'An act to regulate proceedings in criminal cases,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March eighth, one thousand eight hundred and eighty-three;

"A supplement to 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March twenty-second, one thousand eight hundred and eighty-three;

"A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March twenty-third, one thousand eight hundred and eighty-three;

"A supplement to an act regulating proceedings in criminal cases, (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April second, one thousand eight hundred and eighty-four;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March thirty-first, one thousand eight hundred and eighty-seven;

"A supplement to an act entitled 'A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' approved March seventeenth, one thousand eight hundred and eighty-one," which supplement was approved January thirty-first, one thousand eight hundred and eighty-eight;

"A supplement to 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March first, one thousand eight hundred and eighty-eight;

"An act to amend an act entitled 'An act regulating proceedings in criminal cases,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which act was approved March first, one thousand eight hundred and eighty-eight;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' approved March twenty-seventh, anno domini one thousand eight hundred and seventy-four," which supplement was approved March twenty-third, one thousand eight hundred and eighty-eight;

"An act amending 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which act was approved April twenty-third, one thousand eight hundred and eighty-eight;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved February sixth, one thousand eight hundred and eighty-nine;

"A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved May sixth, one thousand eight hundred and eighty-nine;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved May sixth, one thousand eight hundred and eighty-nine;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March fourth, one thousand eight hundred and ninety;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April fourth, one thousand eight hundred and ninety-one;

"An act to amend an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March ninth, one thousand eight hundred and ninety-two;

"A supplement to an act entitled 'An act regulating proceedings in criminal cases,'" approved March twenty-fourth, one thousand eight hundred and ninety-two;

"A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' approved February sixth, one thousand eight hundred and seventy-nine," which supplement was approved March twenty-fifth, one thousand eight hundred and ninety-two;

"A supplement to an act entitled 'A supplement to an act entitled "An act regulating proceedings in criminal cases," approved March twenty-seventh, one thousand eight hundred and seventy-four,' which supplement was approved February sixth, one thousand eight hundred and seventy-nine," which supplement was approved March sixteenth, one thousand eight hundred and ninety-three;

"A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March seventeenth, one thousand eight hundred and ninety-three;

"A supplement to an act entitled 'A further supplement to an act entitled "An act regulating proceedings in criminal cases," approved March ninth, one thousand eight hundred and eighty-one," which supplement was approved May ninth, one thousand eight hundred and ninety-four;

"A supplement to an act entitled 'An act to amend an act entitled "An act regulating proceedings in criminal cases," approved March twenty-seventh, one thousand

eight hundred and seventy-four,' which supplement was approved March first, one thousand eight hundred and eighty-eight," which supplement was approved May seventeenth, one thousand eight hundred and ninety-four;

"An act to amend an act approved March sixteenth, eighteen hundred and ninety-three, entitled 'A supplement to an act entitled "An act regulating proceedings in criminal cases," approved March twenty-seventh, one thousand eight hundred and seventy-four,' which supplement was approved February sixth, one thousand eight hundred and seventy-nine," which act was approved March twenty-second, one thousand eight hundred and ninety-five;

"An act for the confinement of prisoners under the authority of the United States, in the jails of this state," passed June sixth, one thousand seven hundred and ninety-nine;

"A supplement to an act entitled 'An act for the confinement of prisoners, under the authority of the United States, in the jails of this state,' approved June sixth, seventeen hundred and ninety-nine," which supplement was approved April eleventh, one thousand eight hundred and sixty-seven;

"An act concerning reprieves," approved April sixteenth, one thousand eight hundred and forty-six;

"An act relative to the payment of costs of conviction and the expense of transporting prisoners sentenced to imprisonment and hard labor," approved March thirty-first, one thousand eight hundred and eighty-two;

"An act concerning fugitives from justice," approved April first, one thousand eight hundred and ninety-nine;

"An act requiring, in counties wherein penitentiaries are located, the confinement of prisoners sentenced to over six and not exceeding eighteen months, in penitentiaries instead of state prison," approved May fifteenth, one thousand eight hundred and ninety-four;

"An act making it unlawful for justices of the peace to entertain complaints in certain cases, specifying when complaint shall be made, before recorders in certain cities, and giving them power to act thereon," approved April first, one thousand eight hundred and ninety-five;

"An act regulating proceedings on forfeited recognizances and appropriating the moneys arising from the same, and from fines and amercements," approved April fifteenth, one thousand eight hundred and forty-six;

"A supplement to an act entitled 'An act regulating proceedings on forfeited recognizances and appropriating the moneys arising from the same, and from fines and amercements,' (revision), approved April fifteenth, one thousand eight hundred and forty-six," which supplement was passed May fourth, one thousand eight hundred and eighty-six;

"Supplement to an act entitled 'An act regulating proceedings on forfeited recognizances, and appropriating the moneys arising from the same, and from fines and amercements,' approved April fifteenth, one thousand eight hundred and forty-six," which supplement was approved February twelfth, one thousand eight hundred and eighty-nine;

"A supplement to an act entitled 'An act regarding proceedings on forfeited recognizances and appropriating the moneys arising from the same, and from fines and amercements,' (revision), approved April fifteenth, one thousand eight hundred and forty-six," which supplement was approved March twenty-ninth, one thousand eight hundred and ninety-two;

"A further supplement to an act entitled 'A supplement to an act entitled "An act regarding proceedings on forfeited recognizances and appropriating the moneys arising from the same, and from fines and amercements," (revision), approved April fifteenth, one thousand eight hundred and forty-six,' which supplement was approved March twenty-ninth, one thousand eight hundred and ninety-two," which supplement was approved March twenty-second, one thousand eight hundred and ninety-five;

"An act relative to costs in proceedings on forfeited recognizances," approved March eleventh, one thousand eight hundred and ninety-three;

"An act respecting recognizances," approved April sixth, one thousand eight hundred and seventy-six;

"A supplement to an act entitled 'An act respecting recognizances,' approved April sixth, one thousand eight hundred and seventy-six," which supplement was

approved March ninth, one thousand eight hundred and seventy-seven;

"A supplement to an act entitled 'An act respecting recognizances,' approved April sixth, one thousand eight hundred and seventy-six," which supplement was approved April twenty-second, one thousand eight hundred and eighty-six;

"A supplement to an act entitled 'An act respecting recognizances,' approved April sixth, anno domini one thousand eight hundred and seventy-six," which supplement was passed March thirtieth, one thousand eight hundred and eighty-eight;

"An act concerning recognizances," approved April first, one thousand eight hundred and seventy-eight;

"A supplement to an act entitled 'An act concerning recognizances,' approved April first, one thousand eight hundred and seventy-eight," which supplement was approved April twelfth, one thousand eight hundred and eighty-six;

"An act relative to forfeited recognizances," approved March fourteenth, one thousand eight hundred and eighty-two;

"An act concerning recognizances in criminal cases," passed April fifteenth, one thousand eight hundred and eighty-four;

"An act to limit the duration of the lien of recognizances," passed February seventeenth, one thousand eight hundred and eighty-five;

"An act authorizing the presiding judges of the court of oyer and terminer, the court of special sessions, and the court of general quarter sessions of the peace in counties of the second class, to appoint an interpreter to said courts, and fixing the salary of the same," approved May third, one thousand eight hundred and eighty-nine;

"An act to compel the appearance of corporations to indictments and informations," approved April fifteenth, one thousand eight hundred and forty-six;

"An act respecting county jails," approved April twenty-first, one thousand eight hundred and seventy-six;

"A supplement to 'An act respecting jails,' approved April twenty-first, one thousand eight hundred and

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seventy-six," which supplement was approved March third, one thousand eight hundred and eighty;

"A supplement to an act entitled 'An act respecting county jails,' approved April twenty-first, one thousand eight hundred and seventy-six," which supplement was approved March twenty-ninth, one thousand eight hundred and seventy-eight

"An act amending 'An act respecting county jails,' approved April twenty-first, one thousand eight hundred and seventy-six," which act was approved March nineteenth, one thousand eight hundred and eighty-three;

"A supplement to an act entitled 'An act respecting county jails,' approved March eighth, one thousand eight hundred and seventy-seven," which supplement was approved May sixth, one thousand eight hundred and eighty-nine;

"An act respecting the confinement of prisoners under the age of sixteen years, detained in the jails, workhouses, penitentiaries and other places of confinement in the several counties of this state," approved March twenty-first, one thousand eight hundred and eighty-eight;

"An act to authorize the employment of prisoners in county jails in cooking and other work in and about the county buildings," approved May sixth, one thousand eight hundred and eighty-nine;

"An act providing for the transfer of insane criminals from the county prison to the state asylum for the insane," approved April eighth, one thousand eight hundred and eighty-seven;

"An act concerning insane prisoners in county jails, penitentiaries, workhouses and other places of confinement in this state," approved June tenth, one thousand eight hundred and ninety;

"An act authorizing courts and justices of the peace of any county to direct prisoners to be confined in the jails of the adjoining counties in certain cases," approved March twenty-second, one thousand eight hundred and ninety-four;

"A further supplement to an act entitled 'An act relative to the court of pardons,' approved January eighteenth, one thousand eight hundred and fifty-three,"

which supplement was approved April sixteenth, one thousand eight hundred and ninety-one;

"Supplement to an act for the limitation of actions, (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April twenty-seventh, one thousand eight hundred and eighty-six;

"An act for the parole or conditional release of prisoners confined in the New Jersey state prison," approved May thirteenth, one thousand eight hundred and eighty-nine;

"A further supplement to an act entitled 'An act concerning juries,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved February sixteenth, one thousand eight hundred and ninety-one;

"An act concerning clerks of grand juries," approved March ninth, one thousand eight hundred and seventy-seven;

"A supplement to an act entitled 'An act concerning clerks of grand juries,' approved March ninth, one thousand eight hundred and seventy-seven," which supplement was approved April first, one thousand eight hundred and eighty-seven;

"A supplement to an act entitled 'An act concerning clerks of grand juries,' approved March ninth, one thousand eight hundred and seventy-seven," which supplement was approved April eleventh, one thousand eight hundred and eighty-nine;

"A further act concerning juries, approved March twenty-seventh, eighteen hundred and seventy-four," which act was approved April fourth, one thousand eight hundred and seventy-eight;

"A supplement to an act entitled 'An act concerning clerks of grand juries,' approved March ninth, one thousand eight hundred and seventy-seven," which supplement was approved March thirteenth, one thousand eight hundred and ninety-three;

"An act respecting the appointment of clerks of grand juries in certain counties of this state," approved March thirty-first, one thousand eight hundred any eighty-two;

"An act to provide for the appointment of clerks for the grand jury in certain counties of this state," ap-

proved March twenty-third, one thousand eight hundred and eighty-eight;

"A further supplement to an act entitled 'An act regulating proceedings in criminal cases,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved May sixth, one thousand eight hundred and eighty-nine;

"An act in relation to the appointment and compensation of salaried interpreters in the criminal courts of this state in the counties of the second class," passed May sixteenth, one thousand eight hundred and ninety-one;

"An act respecting bills of costs in criminal cases," approved March tenth, one thousand eight hundred and ninety-three;

"An act to provide for the appointment of clerks for the grand jury in counties of the third class in this state," approved March twenty-third, one thousand eight hundred and ninety-six;

"Supplement to an act for the limitation of actions" (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved February fifteenth, one thousand eight hundred and eighty-six;

"A supplement to an act entitled 'An act concerning evidences' (revision), approved March twenty-seventh, anno domini one thousand eight hundred and seventy-four," which supplement was approved February fifth, one thousand eight hundred and eighty-one;

"A further supplement to an act entitled 'An act concerning evidence,' approved March twenty-seventh, anno domini eighteen hundred and seventy-four," which supplement was approved March third, one thousand eight hundred and eighty-one;

"A supplement to an act entitled 'An act to re-organize the courts of law,' approved February ninth, eighteen hundred and fifty-five," which supplement was approved March ninth, one thousand eight hundred and seventy-seven;

"An act to provide for holding the court of special quarter sessions, in counties where the same now may be held, by a less number of judges, in certain cases,"

approved April fifth, one thousand eight hundred and seventy-eight;

"A further supplement to an act entitled 'An act to re-organize the courts of law,' approved February ninth, eighteen hundred and fifty-five," which supplement was approved April fifth, one thousand eight hundred and seventy-eight;

"A further supplement to 'An act to re-organize the courts of law,' approved February ninth, one thousand eight hundred and fifty-five," which supplement was approved March fourteenth, one thousand eight hundred and seventy-nine;

"An act to facilitate judicial proceedings in counties of the second class," approved May first, one thousand eight hundred and ninety-four,"

be and the same are hereby repealed.

Section repealed.

2. Section forty-one of the act entitled "An act concerning juries," (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, is hereby repealed.

Section repealed.

3. Section seven and section eight of the act entitled "An act concerning evidence," (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four, are hereby repealed.

Section repealed.

4. Section one of the act entitled "A supplement to an act entitled 'An act for the government and regulation of the state prison,' passed April twenty-first, one thousand eight hundred and seventy-six," which supplement was approved March twenty-third, one thousand eight hundred and eighty-three, is hereby approved.

Repeal does not revive.

5. The repeal of the above state acts and parts of acts shall not be construed to revive any act or any part of an act which may have been repealed by any of the acts hereby repealed; and no indictment or other criminal proceeding of any nature shall abate by reason of the repeal of said acts or parts of acts, but all proceedings on any indictments now pending, and every criminal proceeding of every nature, shall proceed as if this act had not been passed.

Indictment not abated.

Approved June 14, 1898.

CHAPTER 239.

An Act concerning disorderly persons (Revision of 1898).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

I. WHO ARE DISORDERLY PERSONS.

Disorderly persons.

1. All paupers, who shall unlawfully return to the city or township from which they were legally removed, without a certificate from the city or township to which they belong, or who shall leave their places of legal settlement; and all persons who shall go about from door to door, or place themselves in streets, highways or passages, to beg, crave charity or collect alms, or who shall wander abroad and lodge in taverns, inns, beerhouses, outhouses, houses of entertainment, market-houses, barns or other places, or in the open air, and not give a good account of themselves, or who shall wander abroad, and beg or solicit charity, under pretense of being or having been soldiers, marines or seafaring men, or of loss by fire or other casualty, or by war, or other pretense or thing; and all persons who shall leave or threaten to leave their families to be maintained by the city, township or county, or to become chargeable thereto, or who, not having sufficient property or means for their subsistence or support, shall live idle, or not engage in some honest employment, or not provide for themselves or families; and all persons who shall use, or pretend to use, or have any skill in physiognomy, palmistry, or like crafty science, or who shall pretend to tell destinies or fortunes; and all runaway servants or apprentices, and all vagrants or vagabonds, common drunkards, common thieves, burglars or pickpockets, common night-walkers, and common

prostitutes, shall be deemed and adjudged to be disorderly persons.

Further description.

2. Any person who shall be apprehended, having upon him or her any pick-lock, key, crow, jack, bit or other implement with an intent to break and enter into any building; or shall have upon him or her any pistol, hanger, cutlass, bludgeon, or other offensive or dangerous weapon, with intent to assault any person; or shall be found in or near any dwelling-house, warehouse, stable, barn, coach-house, smoke-house, or in any place of public resort or assemblage for business, worship, amusement, or other lawful purposes, with an intent to steal any goods or chattels, shall be deemed and adjudged to be a disorderly person.

Loiterers, etc., disorderly persons.

3. Any person or persons who shall loiter or assemble on the streets, at the corners of the streets, or in the public places of any city, village, borough, or township of this state, being under the influence of intoxicating liquor, or who not being under such influence shall indulge in and utter loud and offensive or indecent language, or shall address or make audible and offensive remarks or comments upon any person passing along such streets or public places, or shall obstruct or interfere with any person or persons lawfully being in and upon such streets or public places, shall be deemed and adjudged to be a disorderly person.

Persons injuring or annoying schools disorderly.

4. Any person who shall enter the building or go upon the lands belonging to any public school district of this state, or used and occupied for school purposes by any public school in this state, and shall break, injure or deface such building or any part thereof, or the fences or outhouses belonging to or connected with such building or lands, or shall disturb the exercises of such public school, or molest or give annoyance to the children attending such school, or any teacher therein, shall be deemed and adjudged to be a disorderly person.

Disturbing quiet of libraries disorderly.

5. Any person who shall, by noisy or disorderly conduct in any public library or reading-room in this state, disturb or interrupt the quiet and good order of those who resort to and use said library or reading-room for reading or study, shall be deemed and adjudged to be a disorderly person.

Pick-pockets and thieves.

6. Any person who shall be arrested at any steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction-room, store or crowded thoroughfare, or other place of public resort or assemblage for business, worship, amusement, or other lawful purpose, in any city, town or county in this state, and shall be proven to the satisfaction of the magistrate before whom such person shall be brought, to be a common thief, burglar or pick-pocket, and to have been frequenting or attending such place or places for an unlawful purpose, shall be deemed and adjudged to be a disorderly person.

Carrying concealed weapons.

7. Any person who shall be apprehended in any city of this state, having concealed upon his or her person any offensive or dangerous weapon, shall be deemed and adjudged to be a disorderly person; *provided*, that this section shall not apply to sheriffs, under-sheriffs, deputy sheriffs, constables, policemen or other peace officers, nor to any person having a written permit from the police authorities of such city to carry such weapon.

Proviso.

Jumping on and off cars.

8. Any person who, not being a passenger or employee, shall be found trespassing upon any railroad car or train of any railroad in this state, by jumping on or off any car or train, on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of any such car or train over any part of such railroad, shall be deemed and adjudged a disorderly person.

II. TRAMPS.

Tramps adjudged disorderly persons.

9. All persons who shall come from any place without this state, or from any city, county, township, borough or place in this state, and have no legal settlement in the places in which they may be found, and live idly and without employment, and refuse to work for the usual and common wages given to other persons for like work in the place where they then are, or shall be found going about from door to door, or placing themselves in the streets, highways or roads to beg or gather alms, and can give no reasonable account of themselves or their business in such places, shall be deemed and adjudged to be disorderly persons.

Punishment.

10. If any person shall be found offending in any county, city, township, borough or district in this state against the next preceding section, it shall and may be lawful for any constable or police officer of such place, and he is hereby enjoined and required, on notice thereof given him by any of the inhabitants thereof, to apprehend and convey such person to a magistrate of such place, who shall examine such person, and may commit him or her, being thereof legally convicted before him by the oath or affirmation of one or more credible witnesses other than the officer making the arrest, to labor upon any county farm or upon the streets, roads and highways of any city, township or borough, or in any house of correction, poorhouse, workhouse or common jail, for a term not less than thirty days, nor exceeding six months; and shall forthwith commit him or her to the custody of the steward, keeper or superintendent of such county farm, house of correction, poorhouse, workhouse or common jail, or to the supervisor or overseer of highways, street commissioners or any other officer or officers having in charge the repairs of any street, road or highway, or overseers of the poor of the respective county, city, borough or township wherein such person shall be found, as in his judgment shall be deemed most expedient.

May be bound out.

11. Whenever, in the judgment of the custodian or custodians of persons committed under the preceding section of this act, suitable labor cannot be provided in the place to which such persons are committed, it shall be lawful upon their written order, briefly expressed, to bind out and keep any such person to labor in the service of any suitable person or persons, or corporation, by them selected for a term not exceeding his or her original commitment, as a substitute therefor, and may compel the performance of such labor for the term fixed.

To enable poor persons to return home.

12. If any person not being in the place in which he usually lives, or has his home, shall apply to any director, overseer, guardian or commissioner of the poor of any county, city, borough, township or district, stating that he is desirous to return to his home, but is poor and has not the means to do so, the said director, overseer, guardian or commissioner of the poor, may employ or let out such poor person to labor at some

suitable place, to be by them selected, and at such wages as shall seem to them just; and when in the opinion of said director, overseer, guardian or commissioner of the poor, such poor person shall have earned a sufficient sum, said director, overseer, guardian or commissioner of the poor shall, with the money so earned, and with such additions thereto from the treasury of the county, city, borough, township or district as they may think reasonable, cause such person to be returned to his home, whether in this state or elsewhere; *provided*, that the expense shall not exceed twenty dollars.

Proviso.

Discharge.

13. The custodian or custodians of such persons may, at discretion, discharge such persons at any time within the term of commitment upon not less than ten days' good behavior or upon satisfactory security that they shall not become a charge upon the public within one year from the date of said discharge.

Buildings for detention.

14. The boards of chosen freeholders of the several counties in the state shall have power, upon the recommendation of the court of common pleas of such several counties, to erect and maintain buildings and inclosures suitable for the detention of persons so convicted as aforesaid, and such buildings or enclosures shall be under the charge and superintendence of the sheriff of such county, or of the jail warden in such counties as have such officer.

Failure of officers to arrest

15. Any willful refusal to make such arrest, on the part of any constable or police officer, shall subject him to a penalty of ten dollars, to be collected as penalties are by law collectible, and shall be paid into the poor fund of the district in which the officer resides; *provided, however*, that the constable or police officer shall be entitled to the actual fare he may have to pay for himself and his prisoner or prisoners in taking them to the county jail, in addition to the fees hereinafter provided.

Proviso.

Workhouses.

16. All poorhouses, county farms, houses of correction and other places provided for the keeping of the poor, are hereby declared to be workhouses for the purposes of this act, and it is hereby made the duty of the custodians of such buildings to provide work for

such persons, and to compel them to work therein when able, not less than six hours per day.

III. DESERTION PROCEEDINGS.

Husband or father deserting family a disorderly person.

17. Any husband or father who deserts, or willfully refuses or neglects to provide for and maintain his wife or other family shall be deemed and adjudged a disorderly person, and whenever any overseer of the poor of the township or city within which any husband or father resides, or the overseer of the poor of the place of legal settlement of such husband or father, or the overseer of the poor of the township or city where the wife or other family reside at the time of desertion, believes that such person does desert or willfully refuse or neglect to provide for and maintain his said family, and that by reason thereof such family may become chargeable to such township or city, it shall be his duty to make complaint thereof, under oath, before some magistrate in either the township or city where said disorderly person resides or the place of his legal settlement, or the place where his wife or other family reside.

Complaint by overseer of the poor.

Proceedings against.

18. Upon receiving such complaint against any husband or father provided for in the preceding section the magistrate before whom such complaint is made shall issue his warrant, directed to any constable of the county or police officer of the township or city wherein such complaint is made, for the immediate apprehension of the person so complained of and for bringing him before such magistrate, upon the return of which warrant said magistrate shall cause such person to enter into a bond to said overseer, in any sum not exceeding five hundred dollars, with good security, conditioned for his appearance before said magistrate at a time therein named, to answer said complaint, and to abide all orders, judgments and decrees that may be made against him touching said complaint; and in default of such person entering into such bond and giving such security said magistrate shall commit him to the county jail, to await the investigation of said complaint.

Bound over or committed to jail.

Magistrate to hear complaint.

19. At the time of appearance mentioned in said bond, or times appointed for such investigation, the magistrate

shall proceed to hear the witnesses produced to substantiate and rebut the said complaint, and shall decide whether such person is guilty or not guilty thereof; if he decides such person guilty, he shall adjudge him to be a disorderly person, and in lieu of the penalties prescribed in this act for disorderly persons, such magistrate may make an order requiring such person to pay such sum weekly to said overseer, for the support and maintenance of his family as to said magistrate may seem proper; but if such person acknowledges himself guilty, then said magistrate may forthwith make such adjudication and order.

Order for support.

Trial by jury may be demanded.

20. At any time previous to the hearing of the complaint, in the last two sections mentioned, either party may demand a trial by jury, whereupon said magistrate shall issue a venire facias, to summon a jury of twelve men competent as jurymen to try said complaint, and to decide whether the person complained of as aforesaid be guilty or not guilty, and such venire shall be issued and returned, and such jury shall be impaneled and sworn, and such complaint tried as in courts for the trial of small causes; and in case said jury decide such person guilty, then said magistrate shall proceed as though he had decided such person guilty, if no jury had been demanded.

Appeal taken.

21. Either party, upon paying all costs incurred, and by filing with said magistrate within five days after trial before him a written notice of his intention to appeal from the decision of said magistrate or jury, may appeal to the court of quarter sessions of the county wherein such trial was had, and may there demand a trial by jury, and said court shall proceed to try the case and to make such adjudication and order thereon as is herein provided, in case of such trial before said magistrate; and any order made by said court shall be held to commence to run from the date of the trial before said magistrate; such appeal shall not operate as a stay to any order of support and maintenance made by the magistrate before whom such case was tried, and such case on appeal may be brought to trial on ten days' notice to the other side, or as soon thereafter as the court of quarter sessions can hear the same.

Trial by jury in quarter sessions.

Appeal not a stay for support

Subpœna issued.

22. Any magistrate before whom any such complaint as aforesaid shall be made, is authorized to issue writs of subpœna, and to grant adjournments; and the juryman and witnesses shall receive such pay, and be subject to such fines and punishments, and the magistrate, constables and police officers shall receive such fees for their service as are allowed for like services in courts for the trial of small causes; the overseer shall be entitled to the sum of one dollar for his fees, both in the court below and on appeal; and the magistrate shall be entitled to the like sum for making the adjudication and order, the losing party to pay all costs of suit.

Costs, fines.

Fees to overseer and magistrate.

Order in force one year.

23. All orders made against any such husband or father under the provisions of this act shall continue in force for the term of one year from the time when the payments therein directed commence to run; but such order shall not be a bar to a subsequent complaint after the expiration of said term, and upon all trials both the wife of the person complained of and himself may be witnesses.

Witnesses

Appeal bond.

24. Where any order last aforesaid shall be made in pursuance of this act, the person against whom the same is made shall be required to execute a bond with good security to the overseer of the poor of the township or city, to stand to and obey such order and such other orders as may be made in case an appeal be taken, and in default thereof the accused shall be committed to the county jail until such bond shall be given; *provided*, that the magistrate before such appeal be taken, or such court of quarter sessions thereafter, upon being satisfied that further imprisonment will fail to produce support for the family aforesaid of the accused, or security therefor, may discharge the accused from further imprisonment; but no such discharge shall be granted until the accused shall have first paid all previous costs; *and provided further*, that in case the bond be given as required by the eighteenth section hereof that no further bond shall be necessary, but the same shall bind the security for the faithful obedience of the accused to all orders and decrees made in pursuance of this act.

Committed to jail.

Proviso.

Proviso.

When wife or family is a public charge.

25. Where any husband or father who deserts or willfully refuses or neglects to provide for and maintain

his wife or other family, and his said wife or other family shall be a public charge in any poorhouse of this state, then proceedings may be had and taken for the better relief of the board of chosen freeholders or other authority or authorities having the direction and government of such poorhouse, upon application of the director or any member of the poorhouse committee of said board of chosen freeholders, or any officer or keeper of any such poorhouse, in the same manner as by this act may be had for the relief of any township or city in which any such wife or other family might become chargeable.

Issue of warrant when husband or father reside out of county.

26. If any such husband or father shall be or reside in any other county of this state than that in which said warrant shall be issued, the magistrate issuing the same shall, in writing thereupon, direct the sum in which any bond shall be taken of the party so charged, and it shall be the duty of the person serving the same to carry it to some magistrate of the county wherein such person resides or can be found; the magistrate to whom the same shall be presented, on proof being made to him of the handwriting of the magistrate who issued such warrant, shall indorse his name thereon, with an authority to arrest such person in the county where the magistrate so indorsing shall reside, which shall be a sufficient authority to execute such warrant in the county where it shall be indorsed.

To be arrested.

Party to give bond for appearance.

27. The party so charged, being apprehended, shall be taken before the magistrate who indorsed said warrant, or some other magistrate of the same county, who may take from such person a bond to the state of New Jersey, with good and sufficient surety or sureties, to be approved by said magistrate, in the sum so directed on said warrant, conditioned for his appearance before said magistrate who issued said warrant, at a time therein to be named, to answer said complaint and to abide all orders, judgments and decrees that may be made against him touching said complaint.

In case of default.

28. In default of such person giving such bond, with surety or sureties to the satisfaction of the magistrate before whom he shall be brought, then the officer having the warrant shall take such person before the magistrate who issued said warrant; but if such bond is given

as aforesaid, the magistrate taking the same shall discharge the person so apprehended from arrest, shall indorse on the warrant a certificate to that effect, and deliver the warrant, with the bond taken by him, to the officer who brought said warrant, who shall deliver said warrant and said bond to the magistrate who issued said warrant, who shall proceed thereon in the same manner as if such bond had been taken by him.

Husband or father committed to jail for desertion to be kept at hard labor.

29. Any husband or father who deserts or willfully refuses or neglects to provide for and maintain his wife or other family, and who shall, in consequence thereof, be adjudged a disorderly person and be committed to the workhouse or county jail of the county, as provided by this act, shall be put and kept at hard labor by the board of chosen freeholders of the county, in the same manner as other prisoners committed to such jail or workhouse are put and kept at hard labor.

Arrested and taken before magistrate on Sunday.

30. It shall be lawful for any constable or police officer having a warrant issued for the apprehension of any husband or father as hereinbefore mentioned, to arrest such person on the first day of the week, commonly called Sunday; and it shall be lawful for said constable or police officer to convey such person so arrested before the magistrate issuing the warrant, on the first day of the week, commonly called Sunday, whereupon all proceedings taken and had before such magistrate shall be as valid and legal as if had on any other day, and if a bond be given, it shall be of the same force and effect as if given on any other day.

IV. REMEDIES AGAINST PERSONS SUPPLYING DRINK TO CONVICTED DISORDERLY PERSONS.

Liquor not sold to habitual drunkards.

31. Whenever any person, according to the provisions of this act, shall be convicted of being a common drunkard, or of deserting or willfully refusing or neglecting to provide for or maintain his family, and it shall appear to the satisfaction of the magistrate before whom such conviction was had that the cause of such neglect is the habitual excessive use of intoxicating liquor by said convict, it shall be the duty of said magistrate to make an order, directed to the overseer of the poor of the town-

Warning to dealers.

ship in which said conviction shall be made, warning all persons selling intoxicating liquor to desist from selling any intoxicating liquor to said convict, and it shall be the duty of said overseer within five days after the receipt by him of said order to serve a copy of said order upon all dealers of intoxicating liquor from whom said convict would be able to procure such liquor, and also to post up in three of the most public places in said township a copy of said order, and to make and preserve a record of the time and places when and where said copies were posted, and of the time and persons when and on whom said copies were served.

Furnishing liquor to habitual drunkards disorderly.

32. If any inkeeper, distiller, grocer or other person shall sell, furnish or supply any intoxicating liquor to any habitual drunkard or to any person for him or her, and take in exchange or pledge therefor any article of wearing apparel belonging to the wife or children of the said habitual drunkard, or any article of fuel, or any article of provision or household goods for the comfort and sustenance of the said habitual drunkard or his or her family, or any other goods or chattels belonging to said habitual drunkard and necessary for the comfort and support of said habitual drunkard or his or her family, such innkeeper, distiller, grocer or other person shall be deemed and adjudged to be a disorderly person.

Penalty for selling liquor to convicted disorderly person.

33. Any innkeeper, distiller, grocer or other person who, having had notice of any order of any magistrate, made pursuant to this act, shall sell or in any manner furnish or supply any intoxicating liquor to any person convicted under this act as a disorderly person, or knowingly to any member of the family of said convict, or to any person for him, or who shall knowingly and willingly allow any intoxicating liquor sold or furnished by him to be drank in and upon his premises by such convict, shall be deemed guilty of an offense, and shall for every such offense forfeit and pay the sum of ten dollars, to be sued for and recovered in an action of debt, with costs of suit, before any magistrate in and for the county in which

How recovered.

said offense is committed; the said suit to be brought by the overseer of the poor of the township in which the person convicted shall at the time of his conviction reside, and in the corporate name of said township; and

To whom paid.

the penalty so recovered shall go to the use of said town-

ship, except when the convict has a family residing in said township, then in that case one-half of said penalty shall go to the township and the other half to the family of said convict.

When suit commenced.

34. The overseer of the poor, when applied to for such purpose, by one or more credible person or persons giving information sufficient to warrant the commencement of a prosecution under this act, shall forthwith commence such action, and said overseer shall be entitled to receive as his compensation for each action brought under this act and successfully prosecuted to a judgment, four dollars, and for each copy made by him of the order of said magistrate, five cents, and for serving and posting the copies of said order, a reasonable compensation, all to be allowed and paid by the township committee of said township, from funds of the township not otherwise appropriated; and the magistrate for making the order to the overseer of the poor shall be allowed fifty cents, to be paid by the township committee from funds of the township not otherwise appropriated; and in cases under the thirty-second section of this act where, upon conviction, the magistrate may in his discretion commit the offender to the common jail, he shall have the right of trial by jury.

Fees.

Execution against body and goods.

35. On a judgment obtained for any penalty under the thirty-third section of this act, an execution may be issued against the body as well as the goods and chattels of the defendant, and for the want of goods and chattels whereupon to levy, to make the amount of the said penalty and costs, the body of the defendant may be committed to the common jail of the county, there to remain until the amount thereof is paid.

V. ARREST AND TRIAL.

Disorderly persons apprehended taken before justice and punished.

36. It shall be the duty of every constable or other police officer, and lawful for any other person to apprehend, without warrant or process, any disorderly person, and to take him or her before any magistrate of the county where apprehended; and it shall be the duty of the said magistrate to impose upon such disorderly person, when convicted before him by oath and affirma-

tion of one or more creditable witnesses, the penalties prescribed therefor in this act; *provided*, that this section shall not apply to the persons described in sections nine and seventeen of this act.

Proviso.

Magistrate to issue process.

37. It shall be the duty of every magistrate of the proper county to issue, on information, or his own view, his warrant or process to apprehend any disorderly person, within the intent and meaning of this act.

Proceedings filed with clerk.

38. It shall be the duty of all magistrates in this state, in all cases of summary convictions had before them, within ten days after each and every such conviction, to file the complaint, warrant and record of the proceedings and conviction of the offender in the office of the county clerk of their respective counties, there to be and remain of record; *provided*, that the provisions of this section shall not apply to criminal courts or police courts which are by law made courts of record.

Proviso.

Appeal from magistrate's decision.

39. It shall be lawful for the justice of the supreme court holding the circuit in each of the counties of this state, or the judge of the court of common pleas for such county, upon application made to him for that purpose by any person convicted as aforesaid, who may desire to have the legality of his conviction reviewed, to order the said complaint, warrant, proceedings and record of conviction to be forthwith brought before him, that the legality of such proceedings and conviction may be reviewed and determined; and if such proceedings and conviction shall thereupon be found to be illegal, forthwith to set aside the same and to order the discharge of said offender from custody.

Penalty.

40. In all cases where any person is convicted of having violated any of the provisions of this act, it shall be and may be lawful for the magistrate before whom such person was convicted, to sentence such person to the workhouse or common jail of the county in which such person may be convicted, for a period not to exceed ninety days, or to impose a fine not exceeding twenty-five dollars on such person; *provided*, the provisions of this section shall not apply to persons referred to in the ninth and seventeenth sections of this act.

Proviso.

41. After such person, in default of paying such fine, shall have been committed to said workhouse or jail, it shall be lawful for the magistrate to discharge such per-

son on receiving such fine or portion thereof as he may see fit; if the fine is not paid the person so fined shall be discharged from custody after serving twice the number of days that there are dollars of fine imposed; but the provisions of this section shall in no wise affect the proceedings against persons referred to in the seventeenth section of this act.

When no workhouse commitment to jail.

42. Wherever, under any law of this state, it may be required of, or may become the duty of any magistrate to commit any person for any offense to the workhouse of the county, there being no workhouse at that time in such county, then it shall be lawful for such magistrate to commit such person to the common jail of said county for such term and upon such conditions as are required where a workhouse may exist or has been established in any county.

Fees to magistrate and officers.

43. The fees of the magistrate and constables or police officers for arresting and committing disorderly persons under the provisions of this act, shall be twenty-five cents to the magistrate, and fifty cents to the constable or police officer making the arrest, and no more, and the sums herein stated shall be in full of all other fees and charges whatsoever.

In cities persons arrested taken before police court, etc.

44. In all cities in this state having police courts, criminal courts or a recorder's court, or in any city which may hereafter have such courts, or either of them, all persons arrested for any violation of the provisions of this act shall be taken for a hearing before such police court, criminal court or recorder's court, and in all such cities, no justice of the peace shall have power to hear, try or de ermine such cases, any law, custom or usage to the contrary notwithstanding; and where the police justice, judge of a criminal court or the recorder is paid a fixed salary out of the city treasury, all fees received by him for services under this act shall be paid into the city treasury; and where the arrests are made by any police officer of the city, receiving a fixed salary out of the city treasury, all fees to which he would be entitled for services under this act shall be paid into the city treasury; and all fines collected by any such salaried police justice or recorder under this act shall be paid into the city treasury once a month.

Fees paid into city treasury.

"Magistrate" defined

45. The word "magistrate," as used in this act, shall be deemed and understood to mean and include all justices of the peace, judges of city criminal courts, police justices, recorders and all other officers having the power of a committing magistrate; and the words "city or township," as used herein, shall be deemed and understood to mean and include any municipality having an overseer of the poor or other like officer.

"City or township"

Repealer.

Proceedings not to abate.

46. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and no proceeding now pending shall abate by reason of the passage of this act, but every such proceeding shall continue under the provisions of this act.

Approved June 14, 1898.

CHAPTER 240.

An Act to repeal sundry acts concerning disorderly persons.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Acts repealed.

1. The several acts hereinafter stated and entitled as follows, to wit:

"An act concerning disorderly persons" (revision), approved April ninth, one thousand eight hundred and seventy-five;

"A supplement to an act entitled 'An act concerning disorderly persons,' approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved March ninth, one thousand eight hundred and seventy-seven;

"A supplement to an act concerning disorderly persons, approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved January twenty-ninth, one thousand eight hundred and seventy-eight;

"A further supplement to an act concerning disorderly persons, approved April ninth, one thousand eight hun-

dred and seventy-five," which supplement was approved March twenty-first, one thousand eight hundred and seventy-eight;

"An act to amend an act entitled 'A supplement to an act entitled "An act concerning disorderly persons,"' approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved March ninth, one thousand eight hundred and seventy-seven, which supplement was approved March eleventh, one thousand eight hundred and eighty;

"A supplement to an act entitled 'An act concerning disorderly persons,' approved April nineteenth, one thousand eight hundred and seventy-five," which supplement was approved March seventeenth, one thousand eight hundred and eighty-two;

"A supplement to an act concerning disorderly persons" (revision), approved April ninth, one thousand eight hundred and seventy-five, which supplement was approved January thirty-first, one thousand eight hundred and eighty-four;

"A further supplement to an act entitled 'An act concerning disorderly persons,' approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved April twenty-fifth, one thousand eight hundred and eighty-four;

"A supplement to an act entitled 'An act concerning disorderly persons,' approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved April twentieth, one thousand eight hundred and eighty-five;

"A further supplement to an act entitled 'An act concerning disorderly persons,' approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved March twenty-ninth, one thousand eight hundred and eighty-eight;

"Supplement to an act entitled 'An act concerning disorderly persons,' approved April ninth, one thousand eight hundred and seventy-five," which supplement was approved March twenty-ninth, one thousand eight hundred and ninety-two;

"An act empowering justices of the peace to commit to the county jail in lieu of the workhouse in certain

cases," approved March ninth, one thousand eight hundred and seventy-seven;

"An act to prevent trespasses on railroad cars or trains," approved April ninth, one thousand eight hundred and seventy-eight;

"An act entitled 'An act to provide for the review by justices of the supreme court of this state of summary convictions by justices of the peace, police justices and recorders of cities in this state,'" approved February twenty-seventh, one thousand eight hundred and eighty;

"A supplement to an act entitled 'An act to provide for the review by the justices of the supreme court of this state of summary convictions by justices of the peace, police justices and recorders of cities in this state,' approved February twenty-seventh, one thousand eight hundred and eighty," which supplement was passed March thirty-first, one thousand eight hundred and ninety;

"An act to amend an act to prevent trespasses on railroad cars or trains, approved April fifth, one thousand eight hundred and seventy-eight," which supplement was approved March second, one thousand eight hundred and eighty-one;

"An act to enable justices of the peace, police justices recorders and other magistrates, before whom disorderly persons are tried, to fine and imprison such persons," approved May sixth, one thousand eight hundred and eighty-nine;

"An act to define and suppress tramps," approved April nineteenth, one thousand eight hundred and seventy-six;

"A supplement to an act entitled 'An act to define and suppress tramps,' approved April nineteenth, one thousand eight hundred and seventy-six," which supplement was approved March twenty-seventh, one thousand eight hundred and eighty-one;

"An act to amend an act entitled 'A supplement to an act entitled 'An act to define and suppress tramps," approved April nineteenth, one thousand eight hundred and seventy-six,' which supplemental act was approved March twenty-fourth, one thousand eight hundred and eighty-one," which act was approved March twenty-

second, one thousand eight hundred and ninety-five;" be and the same are hereby repealed.

Repeal not to revive or abate.

2. The repeal of the above stated acts shall not be construed to revive any act which may have been repealed by any of the acts hereby repealed, and no proceeding now pending under any of the acts hereby repealed shall abate by reason of the repeal of said acts, but every such proceeding shall proceed as if this act had not been passed.

Approved June 14, 1898.

CHAPTER 241.

An Act for the maintenance of bastard children (Revision of 1898).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

I. PROCEEDINGS TO APPREHEND PUTATIVE FATHER OF BASTARD.

Overseer of poor to apply to magistrate.

1. If any woman shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any township; or shall declare herself to be pregnant of a child likely to be born a bastard, and to become chargeable to any township, any overseer of the poor of the township where such woman may be, or of the township wherein the legal settlement of such woman may be, may apply to a magistrate of the same county wherein such woman may be, to make inquiry into the facts and circumstances of the case.

Examination of mother.

2. Such magistrate shall, by the examination of such woman on oath, and upon such other testimony as may be offered, ascertain the father of such bastard, or of such child likely to be born a bastard; and shall thereupon issue his warrant, directed to any constable or police officer of the county, commanding him forthwith

to apprehend such reputed father, and to bring him before such magistrate, for the purpose of having an adjudication respecting the filiation of such bastard, or of such child likely to be born a bastard.

Proceedings against father if out of county.

3. If the person charged as such reputed father shall be or reside in any other county of the state than that in which such warrant shall be issued, the magistrate issuing the same shall, in writing thereupon, direct the sum in which any bond shall be taken of the party so charged, and it shall be the duty of the person serving said warrant to carry it to some magistrate of the county wherein such person resides, or can be found; the magistrate to whom the same shall be presented, on proof being made to him of the handwriting of the magistrate who issued such warrant, shall indorse his name thereon, with an authority to arrest such person in the county where the magistrate so indorsing shall reside, which shall be a sufficient authority to the officer bringing such warrant in the county where it shall be indorsed so to do.

Bond taken by magistrate.

4. Upon the party so charged being apprehended, he shall be carried before the magistrate who indorsed the said warrant, or some other magistrate of the same county, who may take from such person a bond to the state of New Jersey, with good and sufficient surety or sureties in the sum so directed on the said warrant, for his appearance at a time therein stated before the magistrate who issued said warrant, and thereafter from time to time as said magistrate shall direct, and thereupon

Discharge.

the magistrate taking said bond shall discharge the person so apprehended from arrest, and shall indorse upon the warrant a certificate to that effect; he shall deliver the warrant, with the bond so taken by him, to the officer who brought such warrant; who shall deliver the same to the magistrate who granted the same; who shall proceed thereupon in the same manner as if such

If no bond taken before magistrate.

bond had been taken by him; and if no such bond be given, then the officer having the warrant shall take such person before the magistrate who originally issued the warrant.

II. EXAMINATION BEFORE MAGISTRATES.

Examination.

5. Upon the person so charged, appearing or being brought before the magistrate who issued the warrant for his apprehension, whether he was arrested in the same or any other county, the said magistrate, if the party charged does not demand a trial by jury, shall proceed, without unnecessary delay, to make examination of the matter; and shall examine the mother of such bastard, or the woman so pregnant as aforesaid, on oath, in the presence of the person so charged, touching the father of such child, and shall hear any proofs that may be offered in relation thereto; and, on application, the magistrate shall issue subpœnas to compel the attendance of witnesses before him, which shall have the same effect as if they were issued in the court for the trial of small causes.

Trial by jury, if demanded, before hearing.

6. If the person charged shall, before such examination is entered upon, deny that he is the father of such bastard child, or of such child likely to be born a bastard, and shall demand a trial by jury, it shall be the duty of said magistrate to issue a venire facias to any police officer or constable of said county to summon a jury of twelve men competent as jurymen, according to law, to be and appear before said magistate at such time and place as shall be expressed in such writ, to make a jury for the trial of such accusation made against said person, of being the father of such child; a return of which jurors shall be made, as in cases arising under the act for the trial of small causes, and as to any or all of whom the same right of challenge shall belong to both parties, that exist in civil cases at law; and said magistrate shall proceed to impanel and swear such jury, and swear the witnesses produced to establish and rebut such accusation, and the said accusation shall thereupon be tried, as in cases in courts of common law before such jury.

Adjournment.

May take bond for appearance.

7. If sufficient reasons are given therefor, the said magistrate may adjourn said hearing or trial for any time not exceeding six weeks, and if no bond has previously been given, said magistrate shall take a bond with sureties, if the same shall be tendered, from

the person so charged for his appearance at such time, before him, in the penalty hereinafter directed; if no bond be given, the said magistrate shall commit the said person charged to the jail of said county, there to remain until said day of adjournment.

Finding.

8. At the trial aforesaid, the said magistrate, or the said jury, in case a jury has been demanded, shall decide whether the person so charged is the father of such bastard, or of such child likely to be born a bastard; if the decision is that he is not the father of such bastard, or child likely to be born a bastard, he shall be forthwith discharged; but if the decision is that he is such father, the said magistrate shall make an order of filiation, in which he shall specify the sum to be paid weekly, or otherwise, by such putative father, for the support of such bastard, or of such child likely to be born a bastard, after the same shall be born; if the mother of such child be in indigent circumstances he shall determine the sum to be paid by such putative father for the sustenance of such mother during her confinement; he shall certify the reasonable expenses of apprehending the said father, and of the trial and order of filiation; and he shall reduce his proceedings to writing and subscribe the same.

If in his favor, discharged.

If against, order of filiation.

Payment of costs, give bond.

9. Such person so adjudged to be the reputed father shall, upon notice of such order, immediately pay the amount so certified for the costs of apprehending him, and of the trial and order of filiation; and shall also enter into bond to the state of New Jersey in such sum as such magistrate shall direct, with good and sufficient surety or sureties, to be approved by him, conditioned that such person will obey and comply with the said order of filiation so made against him, and will indemnify each and every of the townships of this state which may have incurred any costs or expense for the support of such bastard, or child likely to be born a bastard, or of its mother during her confinement, or from any proceedings arising therefrom.

When discharged or committed.

10. Upon such bond being executed to the satisfaction of said magistrate, he shall discharge such person from arrest; but if he refuses or neglects to execute such bond, or to pay the costs and charges so certified, he shall be committed by such magistrate to the com-

mon jail of the county, there to remain until he shall pay such costs and charges and execute such bond, or until discharged according to law.

Penalty of bonds.

11. The penalty of every bond which shall be taken for the appearance of any such reputed father, or for indemnifying the townships, shall, in all cases, be such a sum as shall insure a full indemnity to every township in the state for the expense that has been, or which may be, incurred by reason of supporting such bastard and its mother during her confinement and the costs of all proceedings connected therewith.

III. APPEAL TO SESSIONS.

Appeal.

12. Any person so charged as aforesaid, or any township, that may deem himself or itself aggrieved by the finding of the magistrate or of the jury, or order of any magistrate, may, within five days thereafter, upon written notice to such magistrate, appeal therefrom to the court of quarter sessions of the county wherein such trial was had, and such case may be brought to hearing before said court on ten days' notice to the other side, or as soon thereafter as said court can hear the same, and such appeal shall not operate as a stay to any order of filiation made by the magistrate before whom such case was tried.

Magistrate to send up papers.

13. In case of appeal the said magistrate shall send any bond which has been taken from the person charged, to the clerk of said court of quarter sessions, immediately after receiving said notice of appeal, together with the order of filiation and sustenance aforesaid and all the papers connected therewith.

Proceedings on appeal.

14. The said court to which such appeal shall be made shall have full cognizance of the case, and shall proceed to hear the allegation and proofs of the respective parties, the burthen of proof being upon the township as it was before said magistrate; if the mother of any bastard be dead, or is insane, or has left the state, the testimony given by her on her examination shall be received in the same manner as if she were present and testified to the same; the court shall have power to adjourn the hearing from time to time, on sufficient

If mother dead, etc.

Jury may be demanded.

cause shown; at the request of either party the case shall be tried before a jury in the same manner as before said magistrate; and no new bond for the appearance of the person so charged before said court shall be required of him, but the sureties on the bond given before the magistrate shall remain liable for his appearance before said court.

When discharged.

15. If on the trial of said appeal it is decided that the said person charged is not the father of such bastard or child likely to be born a bastard, he shall be forthwith discharged from his imprisonment, or if he has given a bond it shall be cancelled by order of the court; but if

If adverse.

the decision be against the party charged, the court shall proceed to examine the order of filiation or sustenance, and may reduce or increase the sum directed by such

Not quashed for defect of form.

order to be paid; but the same shall not be quashed for any defects in the form thereof, but may be amended by the court according to the facts and justice of the case.

Give bond for costs and expenses.

16. If the decision of such court is against the person so charged, he shall pay such costs and expenses as the court shall adjudge to be paid by him forthwith, and shall enter into a bond to the state of New Jersey in such amount as the court shall order, with approved surety or sureties, with a condition similar in substance with the condition set forth in section nine of this act;

Upon failure, sent to jail.

if he shall neglect or refuse to pay such costs and expenses and execute such bond, he shall be committed to the common jail of the county, there to remain until he shall pay the same and execute the bond aforesaid, or be discharged by said court in the manner hereinafter provided.

If forfeited, bond to appear.

17. If the person against whom such decision was rendered shall depart the said court without paying such costs and expenses or executing the bond in the next preceding section required, or without being discharged by the said court, his said bond, with condition to appear, before the magistrate who issued the warrant, shall be thereby deemed to be forfeited, and may be prosecuted as directed in the next section.

IV. BONDS AND SUITS THEREON, ETC.

Proceedings on breach to perform order of filiation.

18. When any bond shall be taken as hereinafter mentioned, and any breach shall happen in the condition thereof, the same may be prosecuted by the prosecutor of the pleas of the county in which proceedings were originally taken under this act, or by the counsel or attorney of any township at whose instance such proceedings were originally taken, which suit shall be in the name of the state of New Jersey, and judgment, if it passes against the defendants, shall be for the penalty thereof; in such actions the breaches shall be assigned as in actions brought on bonds with condition other than for the payment of money, and the same proceedings shall be had in all respects; it shall not be necessary to prove the actual payment of money by any township or overseer of the poor, but the neglect to pay any sum which shall have been ordered to be paid by any competent authority under this act, shall be deemed a breach of the conditions of such bond, and the amount of damages to be assessed in such case shall be the sum which was so ordered to be paid, and which was withheld up to the time of the commencement of such suit, with interest thereon; for any breaches of such bond which shall happen after the recovery of any damages or the commencement of any suit, a scire facias may issue, upon which the damages shall be assessed from time to time in manner aforesaid; and all moneys which shall be collected on such bond shall be paid to such township or townships as may have incurred or been put to expense in supporting said bastard or its mother during her confinement, or from costs therefrom arising; and the provisions of this section shall be applicable in all respects to all bonds heretofore taken, to perform any order of filiation, in the conditions of which bonds breaches may have happened or shall hereafter happen.

Breaches assigned.

What is breach.

Further breaches.

Application to all bonds.

Remedy to township where bastard legally settles.

19. If, after any order of filiation or sustenance shall have been made by force of this act, the said bastard or its said mother, or both, may be removed to the place of their legal settlement, the township wherein such legal settlement shall be, shall be entitled to the benefit

of said order of filiation and sustenance, and of the bond given in the proceedings connected therewith; and shall have the same remedies therein as the township at whose instance the original proceedings were taken.

V. GENERAL PROVISIONS.

Court may discharge father if indigent.

20. Whenever any person shall be committed to prison on conviction of being the father of a bastard, or a child likely to be born a bastard, it shall be the duty of the court of quarter sessions of the county in which such person is in jail, to inquire from time to time into the circumstances and ability of such father to procure sureties to be bound with him; and if the court shall at any time be satisfied that such father is wholly unable to support such child, or to contribute to its support, or to procure sureties, the said court may, in its discretion, order such father to be discharged from such imprisonment.

Mother compelled to disclose name of father.

21. In making the examination hereby authorized, or at the trial, the mother of such bastard or the woman pregnant with such child may be compelled to testify and disclose the name of the father of such bastard or child likely to be born a bastard, and in case of her refusal the said magistrate or said court of quarter sessions may, after she is sufficiently recovered from her confinement, commit her to the common jail of the county as and for a contempt of court.

Proceedings against property of absconding parents.

22. In case the putative father or the mother of any bastard child shall run out of the township or out of the county, and leave the said bastard child a charge upon the township where it was born or legally settled, although such putative father or mother have estate sufficient to support such child, and to discharge the township, it shall and may be lawful for the overseer of the poor of such township where any bastard child shall be born or settled, to apply to any magistrate in the county where the estate, real or personal, or any part thereof, of such putative father or the mother may be, and by warrant or warrants, under the hand and seal of said magistrate, who is hereby authorized and required to issue the same, to seize and take the goods and

chattels, and to let out and receive the annual rents and profits of the lands and tenements of such putative father or the mother, so absconding as aforesaid, for and towards the sustenance, bringing up, and education of such bastard child, so left as aforesaid; and as soon as the said seizure shall be allowed of and confirmed by the court of quarter sessions, it shall and may be lawful for the overseer of the poor of such township, from time to time, and as often as the case may require, to sell and dispose of so much of the said goods and chattels at public vendue, to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said court of quarter sessions, and to apply the money arising therefrom towards the sustenance, bringing up and education of such bastard child so left as aforesaid, and the said overseers of the poor shall be accountable to the court of quarter sessions for all such sum or sums of money as shall or may arise by every such sale or sales, or be by them received for the rents and profits of such lands or tenements.

Overseer accountable.

23. Whenever a bastard shall be born in any of the poorhouses of this state, or shall be removed thereto, before any proceedings have been had by virtue of this act, proceedings may be had and taken for the better relief of the board of chosen freeholders, or other authority or authorities having the direction and government of such poorhouse, upon the application of any officer of such poorhouse, or of the keeper thereof, in the same manner as by this act may be had and done for the relief of the township in which a bastard is born.

Bastard born in poor-house.

24. Jurymen and witnesses in attendance before said magistrate shall be subject to such fines and punishments for non-attendance, and other offenses, as are established by law in cases of actions before the inferior courts of common pleas; and jurymen shall receive such pay as is allowed to them for like services in the court for the trial of small causes, and witnesses in attendance shall receive such pay as is allowed to them by law in the inferior court of common pleas; and such magistrates and officers shall receive each such fees for their services as are allowed them for like services in courts for the trial of small causes, the losing party to pay all costs of the suit, as in ordinary

Fees.

cases at law; and when proceedings are removed to the court of quarter sessions the same fees and costs shall be allowed as in trials before the common pleas on appeals in civil cases.

"Township" defined.

25. The term "township," made use of in this act, shall be construed to comprehend city, town corporate, borough, village, precinct and ward respectively.

Warrant and arrest on Sunday.

26. It shall be lawful for any magistrate on the first day of the week (commonly called Sunday), on proper application and examination, to issue his warrant, or to indorse the warrant of any other magistrate, for the apprehension of any reputed father of a bastard child or a child likely to be born a bastard; and it shall be lawful for any constable or police officer having a warrant issued for the apprehension of any person so charged to arrest such person on the first day of the week (commonly called Sunday) or on any other day.

Taken before magistrate, and bond given on Sunday.

27. When any such person shall be so arrested it shall be lawful for the constable or police officer to carry such person on the same day before the magistrate issuing or indorsing the warrant, as the case may be, whereupon the usual proceedings as required by this act may be had; and any and all proceedings had and taken on the return of such warrant shall be as legal and valid as if had and taken on any other day of the week; and if a bond be given it shall be of the same force and effect as if given on any other day.

In cities, proceedings in police courts.

28. In all cities of this state having police courts, criminal courts or a recorder's court, all proceedings that are directed or authorized by this act, shall be had in such courts; and the justice or judge of said courts shall have full power to take action in the matter, and to hear, try and determine the case; and in such cities no justice of the peace shall hereafter have any jurisdiction over cases arising under this act.

Fees in cities.

29. Where the police justice, judge of a criminal court or recorder in any city is paid a fixed salary out of the city treasury, all fees received by him for his services under this act shall be paid into the city treasury; and when the arrest is made by any police officer of any city receiving a fixed salary out of the city treasury, all fees to which he would be entitled for services under this act shall be paid into the city treasury; such payment

into the city treasury of fees as received shall be made in such manner as the common council, or other governing body, of such city may direct.

"Magistrate" defined.

30. The word "magistrate," as used in this act, shall be deemed and understood to mean and include all justices of the peace, judges of city criminal courts, police justices, recorders and all other officers having the powers of a committing magistrate.

Repealer.

Proceedings not to abate.

31. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and no proceeding now pending shall abate by reason of the passage of this act, but every such proceeding shall continue under the provisions of this act.

Approved June 14, 1898.

CHAPTER 242.

An Act to repeal sundry acts providing for the maintenance of bastard children.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

Acts repealed.

1. The several acts hereinafter stated and entitled as follows, to wit:

"An act for the maintenance of bastard children," (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four;

"A supplement to an act entitled 'An act for the maintenance of bastard children,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved March ninth, one thousand eight hundred and seventy-seven;

"A supplement to an act entitled 'An act for the maintenance of bastard children,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved February eighth, one thousand eight hundred and eighty-three;

"A supplement to an act entitled 'An act for the maintenance of bastard children,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April twentieth, one thousand eight hundred and eighty-five;

"A supplement to an act entitled 'An act for the maintenance of bastard children,' approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved February twenty-fifth, one thousand eight hundred and eighty-eight;

"A supplement to an act entitled 'An act for the maintenance of bastard children,' approved March twenty-seventh, one thousand eight hundred and seventy-four, with supplements thereto," which supplement was approved May sixth, one thousand eight hundred and eighty-nine;

"A supplement to an act entitled 'An act for the maintenance of bastard children,' (revision), approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April sixteenth, one thousand eight hundred and ninety-one," be, and the same are hereby repealed.

Repeal not to revive or abate.

2. The repeal of the above stated acts shall not be construed to revive any act which may have been repealed by any of the acts hereby repealed, and no proceeding now pending under any of the acts hereby repealed shall abate by reason of the repeal of said acts, but every such proceeding shall proceed as if this act had not been passed.

Approved June 14, 1898.

PROCLAMATIONS.

(971)

PROCLAMATIONS BY THE GOVERNOR.

PROCLAMATION.

WHEREAS, By an act of the Legislature of New Jersey, entitled "An act to provide for submitting proposed amendments to the constitution of this State to the people thereof," approved May 25th, 1897, certain proposed amendments in the said act of the Legislature particularly recited and set forth, were submitted to the people at a special election held in the several townships, cities and municipalities of this State on the twenty-eighth day of September last past, as directed and provided by the said act;

AND WHEREAS, The Board of State Canvassers, convened by the Governor for the purpose of canvassing and estimating the votes given for and against each of said amendments, did, on the nineteenth day of October, A. D. eighteen hundred and ninety-seven, meet and canvass, and estimate the votes aforesaid, and did determine the result of the said election, in accordance with the provisions of aforesaid act, and did make and file, in the office of the Secretary of State, their certificate and determination by which it appears that two of the proposed amendments to the Constitution of this State, submitted to the people at the said special election, which said amendments are in the words following, to wit:

"Amend paragraph 2 of Section VII of Article IV, so as to read as follows:

2. No lottery shall be authorized by the legislature or otherwise in this state, and no ticket in any lottery shall be bought or sold within this state, nor shall pool-selling, book-making or gambling of any kind be

authorized or allowed within this state, nor shall any gambling device, practice or game of chance now prohibited by law be legalized, or the remedy, penalty or punishment now provided therefor be in any way diminished."

"Add the following to Section XII of Article V:

No person who shall have been nominated to the senate by the governor for any office of trust or profit under the government of this state and shall not have been confirmed before the recess of the legislature, shall be eligible for appointment to such office during the continuance of such recess"—

Have received in their favor a majority of all the votes cast in the State for and against the said proposed amendments respectively by the electors qualified to vote thereon under the Constitution.

Now, therefore, I, JOHN W. GRIGGS, Governor of the State of New Jersey, do hereby, as further provided in the said act, issue this my proclamation, declaring that the said two proposed amendments above set forth have been adopted, approved and ratified by the people, by a majority of the electors qualified to vote for members of the Legislature voting thereon, and that the same have become a part of the Constitution of this State.

Given under my hand and the great seal of the State of New Jersey, at [SEAL.] Trenton, this twenty-sixth day of October, in the year of our Lord eighteen hundred and ninety-seven.

JOHN W. GRIGGS,
Governor.

By the Governor.

GEORGE WURTS,
Secretary of State.

PROCLAMATION.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

In conformity with the custom, approved and followed by our forefathers through many generations, of devoting one special day in the year to public thanksgiving to Almighty God for the blessings with which He has blessed our land and people,

I, JOHN W. GRIGGS, Governor of the State of New Jersey, do hereby designate and set apart Thursday, the twenty-fifth day of November, instant, to be observed as a day of thanksgiving, on which day I do recommend that the people assemble in their usual places of public worship, and with a due sense of the Divine mercies, give thanks for the blessings of National freedom, of liberty, of prosperty, of peace, concord and happiness, wherewith a gracious Providence has blessed our State and Nation; and that with humble confession of shortcomings, prayer be made for a continuance of the Divine favor toward us.

Witness my hand and the great seal of the State of New Jersey, hereunto [SEAL.] affixed. Done at Trenton, this ninth day of November, in the year of our Lord one thousand eight hundred and ninety-seven.

JOHN W. GRIGGS,
Governor.

By the Governor.
Attest:
GEORGE WURTS,
Secretary of State.

PROCLAMATION.

WHEREAS, On the fourth day of May, one thousand eight hundred and ninety-seven, under "An act to repeal the charters of all corporations that have heretofore failed to pay state taxes imposed on them by law," approved March 26th, 1891, I did issue my proclamation on that date that the charters of certain corporations reported to the comptroller as in default in the payment of taxes imposed on them by law, were repealed and declared null and void;

AND WHEREAS, It is established to my satisfaction that the Mullica Hill and Woodstown Turnpike Company, one of the corporations named in said proclamation, has not refused or neglected to pay said tax within two consecutive years;

Now, therefore, in pursuance of section two of an act of the Legislature of this State, entitled "An act to amend an act concerning corporations, approved April seventh, one thousand eight hundred and seventy-five, which amendatory act was approved March twentieth, one thousand eight hundred and ninety-one," approved March 13th, A. D. 1893,

I, JOHN W. GRIGGS, Governor of the State of New Jersey, do hereby correct the mistake of including the said Mullica Hill and Woodstown Turnpike Company in said proclamation, and do make the same known by this, my proclamation, to be filed in the office of the Secretary of State.

In witness whereof I have hereunto set my hand and caused the great seal of the State to be hereunto affixed, at Trenton, this fourth day of January, in the year one thousand eight hundred and ninety-eight.

[SEAL.]

JOHN W. GRIGGS,
Governor.

By the Governor.
GEORGE WURTS,
Secretary of State.

PROCLAMATION.

WHEREAS, The Legislature of the State of New Jersey, by joint resolution approved February 25th, 1884, did authorize the Governor to designate a day in the month of April in each year for the planting of forest trees;

Now, therefore, I, FOSTER M. VOORHEES, President of the Senate, Acting Governor of the State of New Jersey, do hereby set apart Friday, the 29th day of April, 1898, as Arbor Day, and do recommend that that day be devoted by the people to the planting of forest trees and to appropriate exercises in the schools of the state.

In testimony whereof I have hereunto set my hand and caused the seal of the State to be hereunto affixed, at Trenton, this 8th day of March, 1898.

[SEAL.]

FOSTER M. VOORHEES,
President of the Senate, Acting Governor.

By the Governor.

GEORGE WURTS,
Secretary of State.

PROCLAMATION.

WHEREAS, The Comptroller did, on the second day of May, 1898, under the provisions of an act entitled "A further supplement to an act entitled 'An act to provide for the imposition of state taxes upon certain corporations and for the collection thereof,' approved April eighteenth, one thousand eight hundred and ninety-four," which act was approved April 21, 1896, report to the Governor a list of all corporations coming within said act;

AND WHEREAS, The following named corporations so reported had for two years next preceding such report

failed, neglected or refused to pay the state taxes which had been assessed against them for the year 1895, under the laws of the State of New Jersey, and made payable into the State Treasury;

AND WHEREAS, Under the provisions of said act the charters of said corporations are made void and all powers conferred by law upon such corporations declared inoperative and void, unless the Governor gives further time for payment;

AND WHEREAS, The Governor has not given further time to the corporations so reported and hereinafter named for the payment of such taxes, and the same are still unpaid;

Therefore, I, FOSTER M. VOORHEES, President of the Senate, Acting Governor of the State of New Jersey, in pursuance of said act of the Legislature, do hereby issue this proclamation under said act, that the charters of the following named corporations so reported and in default, to wit:

MISCELLANEOUS CORPORATIONS—UNPAID TAXES FOR THE YEAR 1895.

Abbey Pharmacy Company,
A. C. Brady Lumber Company,
Aceronian Mining Company,
Acme Lace and Shelf Paper Company,
A. C. Smith Watch Company,
Adirondack Water Power and Paper Company,
Ad. Lewis Company,
Aetna Warehouse and Cold Storage Company,
African Steamship Company,
A. F. Stone Company,
Albany Caramel Company,
A. Levis Company,
Alpha Milling Company,
Alpha Soap Company,
Alsite Aluminum Company,
Aluminum Solder Company,
American Association,
American Asphalt and Cement Company,
American Belting Company,

American Construction Company,
American Cotton Press Company,
American Cycle Trading Company,
American Decorating Company,
American Fare Collector Company,
American Ginning Company,
American Hemp and Flax Break Company,
American Laundry Company of Yonkers, N. Y.,
American Mutual Telephone Company,
American Ormonde Cycle Company,
American Philatelic Publishing Company,
American Progressive Investment Company,
American Ready Telephone Index Company,
American Salvage Company,
American Subway Company,
American Telephone Booth Company,
American Tree-Preserving Company,
American Vaccine Company,
Amies Pavement Company,
Andrews Manufacturing Company,
Anglo-American Iron and Metal Company,
Appleby Brothers Company,
Arcadian Farm and Land Company,
Argyle Manufacturing Company,
Arlington Cereal Company,
Art Engraving Company,
Artificial Fuel Company,
Ash Automatic Electric Switch Company,
Asphaltic Slate Roofing Company,
Atlantic Automatic Gas-Heating and Regulating Company.
Atlantic City Turn-Verein Improvement Company,
Atlantic Coast Brewing Company,
Atlantic Macaroni Company,
Atlantic Observation Wheel Company,
August Hammersen Brewing Company,
Automatic Can-Opening Attachment Company,
Automatic Distributing Advertising Company,
Automatic Electrical Specialty Company,
Automatic and Electric Scale Company,
Automatic Hatch Door Company,
Automatic Railroad Signal Company,
Automatic Water Tank Company,

Avalon Steamboat Company,
Baird Clock Company,
Ballou Engraving Machine Company,
Banning Electric Chemical Fire-Extinguisher Company,
Barnhart Furniture Company,
Bartram Hotel Company,
Bayonne Printing Company,
Bay State Distilling Company,
Bay State Wool Cleaning Company,
Beers Electrical Fan and Motor Company,
Bellinger Remedy Company,
Bentley Land Company,
Bergen Building and Improvement Company,
Bergen County Company,
Bermudez Asphalt Company,
Bernstein Common-Sense Fastener Company,
Bilharz Ore Process Company,
B. Labow's Mercantile Company,
Black Wonder Gold and Silver Mining Company,
Bloch Manufacturing Company,
Block Heat and Light Company,
Bluff Point Inclined Elevator Company,
Blum Novelty Manufacturing Company,
Boston Construction Company,
Boston Dip Mining Company,
Boyd-White Carpet Company,
Breccia Marble and Freestone Company,
Bridge Construction Company,
Brigantine, Beach Haven and Barnegat Transportation Company,
Brines-Chase Company,
Bristol Mining and Development Company,
Brooklyn Annex,
Brooklyn Electric Manufacturing Company,
Brooklyn Stone Company,
Brooklyn Warehouse and Dry Dock Company,
Brooks Typewriter Company,
Builders' Material and Supply Company,
Caledonia Mining Company,
Camden and Philadelphia Navigation Company,
Camden Post Printing and Publishing Company,
Canners' Supply Company,

Car Equipment Company,
Car Equipment Company of Philadelphia,
Carter Package Company,
Cayuga Lake Niagara Vineyard Company,
Cedar Valley Lime Company,
Cedros Mining and Smelting Company,
Central Indiana Land Improvement Company,
Central Jersey Traction Company,
Central Manufacturing Company,
Central Paint, Oil and Varnish Company,
Central Trust and Title Company,
C. E. Zane Company,
Chandler Engine Company,
Chappaqua Mineral Spring Company,
Chapin Randolph & Company,
Chelsea Beach Sewage and Electric Light and Power Company,
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Chesebro Inhaler Company,
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Cincinnati Rubber Company,
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Cleveland, Lorain and Wheeling Company,
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Clinton Illuminating and Water Company,
Cocos Island Plantation Company,
Coghan Company,
Colonia Clay Manufacturing Company,
Columbia Novelty Company,
Columbian Time Recorder Company,
Columbian Water Power and Manufacturing Company,
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Complete Electric Construction Company,
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Drey Cork Sole Company,
Duplex Hanger Company,
Eagle Rock Hotel Company,
East Hampton Spinning Company,
East Orange Improvement Company,
East Paterson Improvement Association,
East River Silk Company,
East Side Jewelry Exchange,
East Side Park Land Company,
Eastern Assurance Company,
Eastern Guardsman Publishing Company,
Eastern Metallurgical Company,
Eatontown and Long Branch Turnpike Company,
Ecuador Placer Mining Company,
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Eggert Pharmaceutical Company,
Egg Harbor City Water, Electric Light and Power Company of New Jersey,
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Kline, Mercy Hat Manufacturing Company,
Kushitunk Land Improvement Company,
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Lafone Company,
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McLean Engineering Company,
M. D. Stevens Imperoyal Flour Company,
Mechanical Amusement Company,
Medical Oxygen Compound Company,
Mercer Shoe Company,
Mercantile Union Company,
Merriewold Park Club of Sullivan County, N. Y.,
Mexican Hotel Construction Company,
Mexican Land and Railway Company,
M. Gally Universal Press Company,
Miller's Pennsylvanian Extract Company,
M. J. S. Liquid Surfacer Company,
Monroe County Springs Company,
Montauk Supply Company,
Mooney & Boland Detective Agency,
Moore Storage and Transfer Company,
Morristown Novelty Company,
Mountain Water Company,
Mount Ephraim Land and Improvement Company,

Muncie-Coles Electric Railway Equipment Company,
Municipal Fuel Improvement Company,
Mutual Register Company,
Mutual Telephone Exchange Construction Company,
Mutual Telephone Exchange Company of Great Barrington, Mass.
Myers Manufacturing Company,
National Bureau of News and Inquiries,
National Clearing Company,
National Drying Company,
National Gas and Electric Fixture Company,
National Hardware Specialty Company,
National Lubricator Manufacturing Company,
National Macaroni Company,
National Metallic Railway Tie Company,
National Onyx Mining, Milling and Improvement Company of Mexico,
National Stock and Grain Brokerage Company,
Neptune Electric Company,
Netherwood Hotel Company,
Newark Bath Company,
Newark Land and Improvement Company,
New Citizen Gold Mining Company,
New England Milling and Manufacturing Company,
New Era Construction, Gas and Fuel Company,
New Galena Smelting and Mining Company,
New Jersey Art Metal Company,
New Jersey and Delaware Electric Forging Company,
New Jersey Postal Telegraph and Telephone Company.
New Jersey Steam Heating Company,
New Jersey Supply Pipe Company,
New Jersey Veal and Mutton Company,
New Jersey Water Supply Company,
New Lisbon and Manahawkin Short Line Construction Company,
New Lisbon Park and Improvement Company of New Jersey,
New Rochelle Land and Improvement Company,
New York Aluminum Bearing Metal Company,
New York Auraphone Company,
New York and British Guiana Gold Mining Company,

New York and European Investment and Trust Company,
New York Introduction Company,
New York Label and Lithographic Manufacturing Company,
New York Medical and Surgical Dispensary of the City of New York,
New York and New Jersey Bridge Land Company,
New York and New Jersey Granite and Paving Company,
New York and Pennsylvania Oil and Gas Company,
New York, Pleasure Bay and Long Branch Steamboat Company,
New York Shirt Company,
Noah's Sunday Times Company,
Nocough Remedy Company,
Non X. L. Cutlery Company,
Normanock Association,
North American Advertising Company,
North Dakota Milling Association,
North Star Construction Company,
Novelty Envelope Company,
Nuevo Leon Mining and Milling Company,
Nunez Musical Instruction and Publishing Company,
Ocean Amusement Company,
O. E. Miller Hernia Treatment Company of New York,
Ohio Royal Arc Company,
Oriental and Occidental Tea Company of N. J.,
Osborne Produce Company,
Osborne Switch Company,
Osborn Hirdes Furniture Company,
Palm Garden Coal Club,
Paper Commission Company,
Passaic Art Casting Company,
Passaic County Iron Ore Company,
Patent Wrapper Company,
Paterson Bottling Company,
Patton Trading Company,
Pease Sad Iron and Fluter Company,
Pecos Company,
Penfield Publishing Company,
Penn Brick Company,

Penn Construction Company,
Pennsylvania Commission Company,
Pennsylvania and Ontario Coal Company,
People's Manufacturing Company,
Perfection Corset Company,
Perfection Excelsior Company,
Perfection Oil Purifier Company,
Perserverance Paper Company,
Philadelphia Bottling Company,
Philadelphia Construction Company,
Philadelphia Fuel Club,
Philadelphia Optical and Watch Company,
Philadelphia and Washington Gold Mining Company,
Plainfield Amusement Company,
Plainfield Produce Company,
Pneumatic and Electric Tool Company,
Poppowitsch Electric Company,
Portable Electric Light and Power Company,
Portable Electrical and Steam Garbage Reducing Company,
Por able Improvement Company,
Potable Water Company,
Pulverizer Company,
Quadruple Steam Pump Company,
Randall Advertising Company,
Rapid Parcel Delivery Company,
Reisenberg Manufacturing Company,
Reporter Printing and Publishing Company,
Review Company,
Richland Smyrna Rug Works,
Richmond and Potomac Construction Company,
Rising Sun Park Association,
Roaring Creek Construction Company,
Robbins Extracting Company,
Robbins Wool Treating Company of the United States of America,
Rockaway Electric Light Company,
Rockaway Water Company,
Rotary Bottler and Corker Company,
Routh Safety Fender Company,
Rutherford Land Company of Cape May,
Rutland Mill and Improvement Company,

San Sebastian Hotel Company,
Savoy Advertising-Vending Machine Company of New Jersey,
Scammon, Richards & Canfield Company,
Scenograph Company,
Schofield Automatic Power Company,
Seabright Fishing Association,
Sears-Kohl Company,
Sea Wax Manufacturing Company,
Sectional Horseshoe Manufacturing Company,
Security Register Company,
Shedlock Automatic Brake Company,
Sheridan Iron Company,
Skacycle Manufacturing Company,
Smith & Bare Company,
Snow and Ice Liquefying Company,
Social Historical Company,
Somerset Publishing Company,
Southern Bond and Investment Company,
Spanish and South American Love Electrical Traction Company,
Spencer-Brown-Weed Cigar Company,
Stafford Wolf Company,
Standard Electric Equipment Company,
Standard Extract Company,
Standard Wool Cleaning Company,
Star Tallow Company,
State Homestead Company of New Jersey,
State Manufacturing Company,
Sterling Emery Wheel Company,
Sterling Investment Company,
Sthevara Company,
Stillwater Creamery Association,
Stott Garden Implement Company,
St. John Manufacturing Company (Limited),
St. Louis Cigarette Manufacturing Company,
Summit Water Company,
Surprise Mining Company,
Swain County Timber Company,
Swayze Manufacturing Company,
Tate Mineral Water Company,
Tattersall's Fasig Company,
Taylor Paint and Oil Company,

Telegram Publishing Company,
Texas Real Estate Company,
Thomas Oliver Patent Shaft Coupling Company,
Three Rivers Abattoir and Stock Yards Company,
Thurston Steamship Annunciator Company,
Tiffany Horse Shoe Company,
Tillinghast Manufacturing Company,
Times Association,
Tottenville Water Company,
Tracy Irwin Company,
Treichler Water and Light Company,
Trenton Electrical Construction Company,
Trenton Plumbing Company,
Trenton Silver Ash Cure Company,
Trinidad American Asphalt Paving Company,
Trinidad Mastic Roofing Company,
Trustees Corporation,
Typewriter Attachments Company,
Union Braided Cord Company,
Union Cordage Company,
Union Table Oil-Cloth Company,
Union Writing-Machine Company,
United Automatic Telephone Company,
United Box and Paper Company,
United Piano Company of Philadelphia,
United States General Incinerating Company,
United States Horse and Cattle Show Society,
United States Metal Manufacturing Company,
United States Oil and Tallow Company,
United Wire Glass Company, General,
Universal Company,
Universal Fashion Company,
Universal Index Cleat Company,
University Company,
Utica Paper Mill Company,
Vacuum Steam-Heating Company,
Van Horn Furniture Company,
Vendome Rubber Company,
Verde Gold Mining Company,
Victor Vallette Company,
V. I. M. Shirt Company,
Virginia Onyx Company,
Virginia, Tennessee and Carolina Steel and Iron Company,

Vita Manufacturing Company,
W. A. Bingham & Company,
Wallabout Market Sheep Company,
Walter Armitage Varnish Company,
Washington Phosphate Company,
Water Tube Boiler Company,
Weeks Manufacturing Company,
Weinman and Company,
West Seattle Corporation,
Western Oil Company,
Westwood Improvement Company,
W. H. Hooker Company,
Wickstead Umbrella Company,
Wilcomb Knitting Company,
Wilcox Electric Company,
Wilifred E. Shuit (Incorporated),
William E. Parsons, Jr., Company,
Wireless Armature Dynamo and Motor Company,
Wm. Ransley Company,
Wm. Somers & Company,
Woodbine Manufacturing Company,
Wool Oil Refining Company,
Yokohama Importing Company,

are void, and all powers conferred by law upon such corporations, and each of them, are hereby declared inoperative and void.

And I direct that this proclamation shall be filed in the office of the secretary of state and be published for one week in the following newspapers, namely "The Jersey City Journal," of Jersey City; "The Newark News," of Newark; "The Freie Zeitung," of Newark; "The State Gazette," of Trenton; "The True American," of Trenton; "The Morning Call," of Paterson; "The Telegram," of Camden.

In witness whereof, I have hereunto set my hand and caused the great seal of the State to be affixed,
[L. S.] at Trenton, this thirty-first day of May, one thousand eight hundred and ninety-eight.

FOSTER M. VOORHEES,
President of the Senate, Acting Governor.

By the President of the Senate, Acting Governor:
GEORGE WURTS,
Secretary of State.

DECREE OF DISSOLUTION.

(993)

DECREE OF DISSOLUTION.

IN CHANCERY OF NEW JERSEY.

Between ELI W. BROADBENT, *Complainant,* *and* THE BROADBENT MANUFACTURING COMPANY, *Defendants.*	On Bill, etc. Decree of Distribution.

This matter being opened to the Court by Charles W. Parker, of counsel for Cortlandt Parker, Jr., receiver of the Broadbent Manufacturing Company, and it appearing that said receiver hath filed his report in this cause, which report has laid on file with the Sergeant-at-Arms, at Jersey City, in accordance with the directions heretofore given, and it appearing by affidavit of Cortlandt Parker, Jr., that notice of filing said report has been duly given to the stockholders and creditors of said corporation by mailing postal cards to such stockholders and creditors whose addresses could be ascertained, on the eleventh day of August, eighteen hundred and ninety-seven, and that by said notice the said creditors and stockholders were given notice that the court had fixed Tuesday, September seventh, eighteen hundred and ninety-seven, at ten o'clock A. M., as the time, and the Chancery Chambers, No. 1 Exchange Place, Jersey City, as the place for hearing any objections to the confirmation of said report, and the said matter having come up on said day before said court, and having been duly adjourned until Monday, the thir-

teenth day of September, eighteen hundred and ninety-seven, at the same time and place, and then coming on to be heard in the presence of Charles W. Parker, of counsel as aforesaid, no person appearing for the creditors and stockholders, and it appearing proper that said report should be confirmed,

It is, on this thirteenth day of September, eighteen hundred and ninety-seven, ordered, adjudged and decreed that the said report be and the same is in all things ratified and confirmed, and the accounts therein set forth are hereby ratified and confirmed, both as to charge and discharge.

And it further appearing that Eli W. Broadbent has a claim as general manager of said company for two months, between August seventeenth and October seventeenth, eighteen hundred and ninety six, for salary, of one hundred and sixty dollars, and that his claim has been duly assigned to Charles H. Fuller,

It is ordered that said claim be a preferred claim.

And it appearing that order to limit creditors has been duly taken in this cause, and advertisement thereof made, and notices thereof mailed to the creditors of said corporation,

It is ordered that all creditors who may not have heretofore proved their claims before said receiver be forever excluded from any dividend out of the moneys in said receiver's hands.

And it appearing that the clerk of this court has the sum of two hundred dollars deposited with him by said complainant as security for costs and expenses of said receivership, and that said complainant has been paid by said receiver said sum of two hundred dollars and has assigned his right thereto to said receiver,

It is ordered that said clerk do pay to said receiver on his personal receipt, and on surrendering to said clerk said assignment, the said sum of two hundred dollars so deposited with him.

And it appearing that said receiver, with the money so to be received from said clerk, has in hand the sum of two hundred and fifty-six dollars and seventy cents,

It is ordered that out of said sum the said receiver do receive the sum of forty-five dollars commissions, and also the sum of one dollar and seventy-five cents,

expenses of printing postal notices, and also his costs to be taxed, including a counsel fee to Charles W. Parker, his counsel, of twenty-five dollars; and that he pay to the solicitors of complainant their costs of this cause to be taxed; and that he pay any balance to said Charles H. Fuller, assignee of said preferred claim of Eli W. Broadbent, unless the Treasurer of this State show cause to the contrary upon service upon him of a duly-certified copy of this decree, such service to be made within three days herefrom, and such cause to be shown before this Court, at the Chancery Chambers in Jersey City, on or before the twenty-seventh day of September, instant, at ten o'clock in the forenoon; and that said receiver, in case of any surplus, distribute the same among the other creditors who have proved their claims, proportionately to their said claims.

And it is further ordered that said receiver, on making such payments, be discharged from his duties as such receiver.

And it appearing to the Court that the complainant bill has heretofore been duly taken as confessed as against the defendant corporation, The Broadbent Manufacturing Company, and that said company was incorporated under laws of this state, and no cause appearing to the contrary, it is further ordered, adjudged and decreed that said The Broadbent Manufacturing Company be and the same is hereby dissolved as a body corporate and the charter thereof is hereby declared forfeited and void; and it is further ordered that a copy of this decree be filed forthwith in the office of the Secretary of State of this State, as required by law.

ALEX. T. McGILL, *C.*

Respectfully advised,
H. C. PITNEY, *V. C.*

A true copy,
L. A. THOMPSON, *Clerk.*

Endorsed—"Filed Sep 21 1897 George Wurts Secretary of State."

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