



MAP OF ISLAND OF PORTO RICO, SHOWING STATE OF ROADS IN 1900.

rice rice, but *also the inner or yellow cuticle*, the latter process being accomplished by pestling in mortars, which is the most expensive of the various processes of milling rice.

(4) These milling processes are shown by the testimony to be (as stated in the opinion of the Board *in re* Jahn, G. A. 1067) as follows:

"(1) The 'screening,' or second threshing given the rough rice, or 'paddy,' designed to remove trash, stalks, and foreign particles. (2) The removal of the outer husk by the 'milling stones.' (3) The separation of the chaff and other substances by the 'screen blower' and 'chaff fan.' (4) The removal of the yellow cuticle of the grain by pestling in mortars, which is the most laborious and expensive of the several processes. (5) The separation of the rice bran from the rice grains by sifting, and the separation of the small and large grains of rice by the 'brush screen.' (6) Polishing, which is accomplished by a horizontal revolving drum, covered with leather and surrounded by a cylinder of wire gauze."

The collector assessed the merchandise for duty as "rice cleaned" at $1\frac{1}{2}$ cents per pound under paragraph 193 of the present tariff act; and the claim made by the importers is (1) that it is dutiable at eight-tenths of a cent per pound under said paragraph 193, as "uncleaned rice;" or (2) by similitude to "uncleaned rice," under said paragraph and section 4 of said act, or (3) at no more than 20 per cent. *ad valorem*, as a non-enumerated partly manufactured article under section 3 of said act.

We construe the alternative phrase, "or rice free of the outer hull and still having the inner cuticle on," as used in said paragraph 193, to be intended as a *legislative definition* of "uncleaned rice," just as in the same paragraph we find the words, "paddy, or rice having the outer hull on," where the alternative words are manifestly intended as a definition of the word "paddy." This construction is justified, we think, by the entire history of the contention in these rice cases, as will be seen from the opinion of the Board *in re* Jahn (G. A. 1067, *supra*) and the testimony taken by the Ways and Means Committee of the Fifty-third Congress, first session (Tariff Hearings before the Committee of Ways and Means, 1893, pages 640 and 642).

The tariff laws are replete with alternative or explanatory definitions of this kind, which have been recognized as such by the courts.

Taking this view of the law, it is manifest that the rice in controversy is not "uncleaned rice," within the meaning of that phrase as used in paragraph 193 of the tariff act of 1894, because it is rice free of the outer hull, but not "*still having the inner cuticle on.*"

The protests, so far as claiming under paragraph 193, must, therefore, be overruled, unless the classification can be sustained under the similitude clause of section 4 of said act, which applies only to imported articles not enumerated in the present tariff act. "Rice cleaned," is enumerated, and so is "rice uncleaned." The article under consideration is strictly neither the one nor the other of these articles. Which of them does it most resemble "either in material, quality, texture, or the use to which it may be applied?" Resemblance in "texture" has no bearing on the case, and we, therefore, confine the inquiry to similarity in material, quality and use. The only lack of substantial resemblance in *material* and *quality* between the rice in question and cleaned rice is the presence of about 4 per cent. of rice polish or flour in the former article and its absence from the latter. The *use* of each is for food, the one being more merchantable than the other. This resemblance is so great that a court of competent jurisdiction, in the year 1888, decided that Patna, or Bengal rice, substantially of the same kind, was the clean rice of commerce. (*Pferdmenges vs. Jones*, Cir. Ct., N. D. La., 1888, Synopsis, Treasury Department, 9445). It is substantial resemblances only which are to be considered in determining the question of similitude under this section, as under the analogous section, 2499, of the Revised Statutes of the United States appearing in former tariff acts, which was often construed by the courts. (*Arthur vs. Fox*, 108 U. S. 125).

The differences in material and quality between the articles commercially known as "cleaned rice" and "uncleaned rice," as defined by the present tariff act, are marked, viz., the presence in the latter article of the *yellow inner cuticle*, which can be removed only by a very ex-

pensive process of manufacture by pestling in mortars, and which until removed renders all rice unfit for human food.

It is further provided in said section 4 as to the matter of similitude :

"That if any non-enumerated article equally resembles *two or more enumerated articles* on which different rates of duty are chargeable, there shall be levied on such non-enumerated articles the same rate of duty as is chargeable on the *article which it resembles, paying the highest rate of duty.*"

If it be conceded that the rice in question *equally* resembles the two articles of cleaned and uncleaned rice, the law would still require its classification by similitude as "cleaned rice," because that article pays a higher rate of duty than uncleaned rice. The statute by legislative command thus reverses in this instance the usual rule which would otherwise give the importer the benefit of the doubt favorable to the lower rate of duty.

It follows, from these views and the findings of fact above enumerated, that the protests must be all overruled and the collector's decision affirmed in each case, which is accordingly ordered.

NOTE.—The above case was appealed to the United States Circuit Court of New York city.

The decision of the Court was rendered December, 1896, sustaining the decision of the appraisers.

NEW ORLEANS BOARD OF TRADE, LIMITED.

FEBRUARY 1st, 1897.

Hon. NELSON DINGLEY, JR.,
Chairman Ways and Means Committee,
U. S. House of Representatives,
Washington, D. C.

DEAR SIR:

In reply to the statements of Mr. Gustave A. Jahn (representing the two rice millers of foreign rices), we would respectfully call your attention to possible fraud, in the following definition, viz:

"RICE FREE OF THE INNER CUTICLE AND STILL IN THE MEAL."

This rice has been the cause of several lawsuits, and it has been proved that the "rice in the meal" is clean, edible rice.

Having failed to enter this rice as uncleaned, they now seek a new definition. The possibility of fraud is so palpable, that the meal can be brushed off with a pocket handkerchief, and a polished rice produced; or, by washing a portion of cleaned rice and a portion of the "rice in the meal," the difference could not be distinguished.

The so-called "rice in the meal" is free from all foreign substances, and the meal is pure rice dust in an insignificant proportion.

Samples that have been analyzed in New York and here show only 65-100 of one per cent. meal.

This rice has been brought from a point where it has been freed from the remnants of straw that came from the grower, and the outer hull, and from the bran that is produced from the cuticle in the process of milling. In fact, all the non-edible parts of the rice grains have been removed. Therefore, is it not wholly fit for human food?

The most important, laborious, lengthy and expensive part of the milling process is the removal of the inner cuticle, a process through which this "rice in the meal" has passed. The final process of polishing or beautifying adds absolutely nothing to the fitness of the rice for food, requires but a few seconds, and can be applied, and has

ERNST & CO.,
NEW ORLEANS.

STATEMENT
— OF THE —
DELEGATIONS ON THE RICE INDUSTRY

— BEFORE THE —
COMMITTEE ON WAYS AND MEANS,
UNITED STATES HOUSE OF REPRESENTATIVES.

JANUARY 5th, 1897.

ALSO LETTER TO
Hon. NELSON DINGLEY, Jr.,
CHAIRMAN WAYS AND MEANS COMMITTEE, U. S. HOUSE
OF REPRESENTATIVES, WASHINGTON, D. C., FROM
BREEDLOVE SMITH, Esq., PRESIDENT
NEW ORLEANS BOARD OF TRADE, LTD.

FEBRUARY 1st, 1897.

Thomason, Print., 526 Natchez Street, N. O.

STATEMENT.

Mr. Chairman and Gentlemen of the Committee:

Our object in appearing here on behalf of American growers and millers of rice is to ask protection against the destruction which is threatened to our industries by foreign capital and foreign cheap labor.

If rice grown by Asiatic labor is allowed to be imported under rates of duty so low as to bring the imported article into competition with domestic rice, our American industry, which now totters, must perish, a valuable institution be lost, and the United States must become dependent upon foreign countries wholly for its supply of an article, which, though a luxury and not an article of prime necessity, nevertheless represents an annual consumption by our people of about 228,000,000 pounds, valued at \$6,840,000.

It is recorded in history, that Napoleon found that rice was essential to his army as the most convenient ration for a soldier to transport, the easiest cooked, and the most wholesome food. The general use of rice in hospitals shows that in a time of war what may now be only a luxury would then become a necessity. If meantime the domestic product has been allowed to perish, when a state of war forbids importations from the East, this country will be left without any supply.

We ask your Committee that, in framing a new tariff bill, not only the definitions in the present tariff law be retained, but that the rates on the different grades of rice should be fixed on a parity with each other according to values.

When the Wilson Committee was considering the tariff on rice, it was made clear to those gentlemen that the bill they reported, as far as the *parities* were concerned, was correct and consistent with itself. When that bill came before the Finance Committee of the Senate (where no hearings were had) the whole tariff on rice was changed.

Our Senators informed those interested in rice that the bill would go to a committee of conference, and that the rates as fixed by the House bill would be restored. As

there was no conference committee appointed, and as the House adopted the Senate bill, the rice farming interests were made to suffer, and they and those dependent upon them have been feeling it disastrously ever since.

What we ask for is that the duties shall be as follows, viz :
Cleaned rice, two (2) cents per pound.

Uncleaned rice, or rice free of the outer hull and still having the inner cuticle on, one and one-half ($1\frac{1}{2}$) cents per pound.

Broken rice, which will pass through a sieve known commercially as a number 12 wire sieve, one-fourth of one cent per pound; and

Paddy, or rice having the outer hull on, one cent per pound.

The only changes proposed from the existing tariff are that cleaned rice shall pay a duty of two cents instead of one and one-half cents per pound; that the article designated as "uncleaned rice" shall pay a duty of one and one-half cents, as against the existing low tariff rate of eight-tenths of one cent per pound, and that paddy shall pay a duty of one cent per pound instead of the present rate of three-fourths of one cent per pound.

It will be objected to our position, that in 1893, under a duty of 2 cents per pound on clean rice, the revenue collected was \$781,469.71 on an importation of 36,307,129 pounds, while in 1895 a revenue of \$1,202,324.68 was collected on a total importation of 79,467,908 pounds. The explanation is that a large deficit in the supply for consumption in this country was created by the almost total destruction of the rice crops of the Atlantic States of Georgia and the Carolinas by a cyclone of extraordinary violence in 1893 and by the loss of crop in Louisiana in 1894, the increased importation being due to the necessity of making up this deficit for consumption in the United States and not to the lowering of the duties. It will be seen that in the year ending June, 1896, the importations returned to the normal figures of 1893 and of 1894. A comparison of the years 1894 and 1896 would be a more just and proper test of the effect of the duty. It will be seen, that in 1894 the total revenue on all forms of rice under the higher duties was \$988,592.04, while in the year

ending June, 1896, under the lower duties, the revenues from all kinds of rice was \$810,843.81, showing a loss to the Government of \$177,738.23 in revenue between that collected under the higher and lower duty.

If "cleaned rice" is required to pay a duty of (2) two cents per pound, the relation of values of the imported article to the cost of production will be only in a measure restored to what pertained under the old tariff, while the duty of one and one-half cents per pound on "rice uncleaned" will approximately maintain the true parity, according to values of "cleaned rice" and "uncleaned rice," and at the same time give ample protection to the interest of the American miller.

It has been our sad experience, that the boldest, most active, and successful attacks upon the interests of the producers of rice in the legislation upon the tariff have come from two individuals in New York, who have erected machines of inexpensive character for polishing into "cleaned rice" the article which has been imported under the name of "uncleaned rice." Although this interest is confined, as far as known, to these two persons in New York and one other person owning a similar machine in San Francisco, employing about ten operatives, who appear as the American miller importing "uncleaned rice," yet the rate of duty as proposed on "uncleaned rice" will furnish these gentlemen a fair measure of protection.

For example, take the tariff which we propose:

The tariff on 100 pounds, foreign milled, cleaned rice	\$2 00
The tariff on 100 pounds uncleaned rice (on a 50-cent parity), add 20 cents for cost of milling in Louisiana and Carolina, would be for 100 pounds "uncleaned rice," milled here	1 70

giving a profit to the American miller of 30 cents per 100 pounds. A capacity of 100,000 pounds per diem for an average-sized mill would show a profit of \$300 per day, which ought to be ample protection to the importer and miller of "uncleaned rice."

The following figures show the very close approximation in value of the imported "cleaned rice" and the imported

"uncleaned rice" and how little justification there is for a disparity between them in the rates of duty imposed :

Comparative Import Values of "Cleaned" and "Uncleaned" Rice.

	Cleaned Rice.			Uncleaned Rice.		
		cents per pound.			cents per pound.	
1992-'3.....	2.09	"	"	2.10	"	"
1893-'4.....	1.78	"	"	1.94	"	"
1894.....	1.61	"	"	1.52	"	"
1895.....	1.64	"	"	1.45	"	"
1895.....	1.65	"	"	1.46	"	"
1896.....	1.50	"	"	1.22	"	"

Shall the almost infinitesimal interest of the polishers of imported "uncleaned rice" weigh against the larger interest of the domestic producers and manufacturers of rice and of the population dependent upon the rice industry in the United States?

It is estimated that in Louisiana there are 25 rice milling plants, representing invested capital not less than \$2,000,000, employing on an average 30 hands each, making 750 employés.

It is said that in Southwestern Louisiana rice production and milling are almost the sole industry, and that almost the entire population is dependent upon it.

There are in the rice district probably 200,000 acres in cultivation.

In 1892-1893 the production was 2,250,000 sacks of four bushels each.

There is probably 1,000,000 acres of land in Southwestern Louisiana suitable for rice culture and especially adapted to rice.

There are irrigating plants and canals in operation costing \$500,000.

The population dependent upon the rice industry in Louisiana is believed to be not less than 80,000 people.

In Georgia, South Carolina and North Carolina there are over 70,000 people whose support would be destroyed or desperately imperiled, if the industry is allowed to die.

The entire rice industry, since the emancipation of slaves, has, as we believe, been sustained by the protection given

to it in the tariff act imposing duties on importations of foreign rice.

In 1864, during the late war, rice, which can now be bought for $3\frac{1}{2}$ to $4\frac{1}{2}$ cents, sold in New York for $15\frac{1}{2}$ cents *gold*.

Whether the men, who framed the tariff act of 1865, saw the danger of permitting the domestic rice production to perish, or how far they were moved to protect the industry for the sake of the large body of emancipated slaves, who were absolutely dependent on it for their livelihood, we cannot say; but from whatever calculation their wisdom came, the entire capital which has been since invested in maintaining the industry has been invested on the faith of the continuance of its protection.

Now, as it was in 1865, unless it is protected against the competition of Asiatic labor by a high-tariff fence, strictly and sternly guarded at our custom houses, it must die.

The history of rice production in Georgia and the Carolinas has been one of constant retrograde, coincident with the constant decrease of protection by the lowering of the duties on rice and the evasions of the tariff law by importers of foreign rice.

The cost of producing rice is estimated to be about \$24 per acre; the average yield about 32 bushels; the average price not over \$20 per acre. The repairs necessary to be made annually in keeping the artificial structures of tide water or irrigated rice lands, such as heavy embankments along the edge of the rivers and embankments dividing the fields and cross-ditches, requiring constant cleaning; tanks or flumes across the banks for letting the irrigation water from the rice into the field or draining the water of the fields into the rivers, requiring constant repairs; cost of pumping plants to assist drainage, cost of threshing mills, and the like, constitute the heavy item of expense involved in the production of domestic rice.

Owing to the impossibility of the land-owners keeping the expenses of rice-planting within the income from sale of their products, plantation after plantation on the Atlantic seaboard has been abandoned.

With such conditions as surround the production of domestic rice, it is impossible to exist under the present

tariff of $1\frac{1}{2}$ cents per pound on cleaned rice and eight-tenths of one cent per pound on uncleaned rice.

In framing the rice duties, *ad valorem* rates should not be considered at all, as we know from consular reports made to our Government that the wages paid in China, Japan, India and other Eastern countries are from \$10 to \$12 per annum, and from six cents to ten cents per diem in silver, whereas a conservative estimate shows, that the labor employed in the production of domestic rice runs from \$180 to \$230 per annum, and from fifty cents to one dollar per diem in gold.

As compared with other protected industries, especially the manufacturing industries, the rice industry occupies the isolated position of being the only American industry which is exposed to competition with cheap Asiatic labor, without the aid of the superior intelligence of the American white labor and of our improved labor-saving machinery. The rice industry is compelled to rely on the labor of the African, and to be to a great extent without the help of machinery.

As to the importance of defining uncleaned rice as at present defined, your committee will note, that during the existence of the McKinley tariff, there was a great deal of controversy between the appraisers as to what constituted uncleaned rice.

In New Orleans, rice that was appraised as cleaned rice was imported into New York as uncleaned, even after the Wilson bill was put into effect, with uncleaned rice defined. Attempts were made to import rice with the hull and cuticle removed as "uncleaned rice."

The tariff being very plain, it was appraised as cleaned rice and the full duty exacted. However, the importers were not satisfied, and appealed to the United States courts in New York. A decision was rendered last month in favor of the appraiser in the United States courts.

Therefore, gentlemen, you will understand how necessary it is to retain the definition in the present tariff. It has relieved the appraisers of a great deal of worry, has prevented frauds, and the Government has received its just dues.

In conclusion, we call your attention to what the St. Louis platform has to say on this point of protection :

"We demand such an equitable tariff on foreign imports which come into competition with American products as will not only furnish adequate revenue for the necessary expenses of the Government, but will protect American labor from degradation to the wage level of other lands. We are not pledged to any particular schedules. The question of rates is a practical question, to be governed by the conditions of the time and of product. The ruling and uncompromising principle is the protection and development of American labor and industry."

Respectfully submitted,

JOHN SCREVEN,

*Representing the Board of Trade of Savannah,
Ga., and the Georgia Rice Association.*

THEODORE G. BARKER,

SAM'L G. STONEY,

President West Point Rice Mill Company of Charleston, S. C.

ISAAC BALL,

*Representing Charleston Chamber of Commerce
and Planters of South Carolina.*

FRED. G. ERNST,

EMILE DUPRE,

Representing the New Orleans Board of Trade, Louisiana.

CHAS. A. LOWRY,

MIRON ABBOTT,

C. L. CRIPPIN,

Planters of Southwest Louisiana.

GEO. G. BAUER,

Representing Lake Charles, La., Board of Trade.

APPENDIX.

(G. A. 3385.)

Patna rice.

Before the U. S. General Appraisers at New York, February 7, 1896.

In the matter of the protests, 89444 *a*, 90720 *a*, etc., of Dan Talmage's Sons, against the decision of the collector of customs at New York, as to the rate and amount of duties chargeable on certain merchandise, imported per *Mississippi*, *Europe*, *France*, *Mohawk*, and *Europe*, and entered March 22, March 30, April 12, May 1, and May 20, 1895.

Opinion by SOMMERVILLE, *General Appraiser*.

The merchandise covered by the protests is Patna or Bengal rice of the same description as that covered by Board decision *in re* Jahn (G. A. 1067), which was held to be dutiable under paragraph 261 of the tariff act of 1890 as "uncleaned rice." That decision was affirmed on appeal by the United States Circuit Court for the Southern District of New York (per Lacombe, J.), June 16, 1892 (opinion unpublished).

In a more recent decision (*in re* Wo Lung, G. A. 3041), similar merchandise, imported under the tariff act of 1894, was held by the Board of General Appraisers *not* to be dutiable as "uncleaned rice" within the meaning of that phrase, as found in paragraph 193 of the latter tariff act, either expressly or by similitude.

The hearing of these cases was given in order to reopen the whole question so as to afford importers of this merchandise an opportunity to be fully heard.

The evidence taken at the hearing establishes the following facts without serious controversy:

(1) The merchandise in question consists of the well-known article of commerce, Patna or Bengal rice, which was imported under the tariff act of 1894.

(2) It contains from three to five per cent. of "rice polish," otherwise known as rice dust, rice flour, or rice meal, and a small percentage of broken grains of rice, and prior to August 28, 1894, was known commercially as "uncleaned rice."

(3) Not only has the outer hull been removed from the

been applied at a cost not exceeding 1-32 of a cent per pound.

Please bear in mind that a mill required to bring the rice to the point of the "rice in the meal" will cost about \$18,000, whilst polishing is an instantaneous process requiring a simple piece of machinery worth about \$1000, which could be erected as an annex to any grocery establishment.

Mr. Jahn refers to his presence on the New Orleans Board of Trade in May, 1894, and offering 10,000 bags of Japan rice to mill at $\frac{1}{2}$ cent per pound, which offer, he says, was declined. The reason our millers did not accept Mr. Jahn's proposition was that there was "a string tied to it," as he insisted on final results being guaranteed; results that no business man would guarantee.

We also call your attention to the fact that, in 1892 and 1893, when uncleaned rice was undefined, and the "rice in the meal" was being imported into New York as uncleaned, and into New Orleans as cleaned, the approximate value of the "rice in the meal" was greater than cleaned polished rice. Therefore, there is no justification for disparity between them and the rates of duty imposed.

We reiterate, that under the present conditions seven-eighths of our rice farmers cannot exist, and ask your honorable committee to fix the duties on rice as requested by our committee who appeared before you on the 5th of January, namely:

Clean rice two (2) cents per pound.

Uncleaned rice, or rice free from the outer hull, and still having the inner cuticle on, one and one-half ($1\frac{1}{2}$) cents per pound.

Rice flour, rice meal, and broken rice which will pass through a sieve, known commercially as number twelve (12) wire sieve, one-fourth ($\frac{1}{4}$) cent per pound.

Paddy, or rice having the outer hull on, one (1) cent per pound.

Since the existence of this Board of Trade our committees have always appeared on the days fixed for tariff hearings (traveling hundreds of miles), but have never had the

pleasure of meeting the importers and millers of foreign rice, so as to give the Ways and Means Committees the benefit of hearing both sides at the same time, notwithstanding Washington is but a few hours travel from New York. They have always waited until our return home to make their demands, thereby placing your committee at a disadvantage.

Yours respectfully,

(Signed) BREEDLOVE SMITH,
President New Orleans Board of Trade, Limited.

See Page 573

him by the commission, which books and records shall be and remain the property of the State, subject at all times to examination by said commission or its agents or attorneys, and be delivered to such inspector's successor in office, or to the commission. For failure to comply with any provisions of this section such inspector shall be fined not less than twenty-five nor more than one hundred dollars.

5. Assignment of planting ground to riparian owners.—Any owner of land having a water front thereon suitable for planting oysters, who has not had as much as one-half acre of ground already assigned him on said front, or whose lease has terminated and is not to be renewed, may make application for planting ground to the inspector for the district in which the land lies, who shall assign to him such ground, wherever such owner may designate in front of his land, not exceeding in area one-half acre, and in measurement to be not less than one-fourth of an acre at its narrowest width, the same to be surveyed, platted, marked, assigned and recorded, in all respects, as provided for assignments to persons in the next succeeding section of this act. For assigning to riparian owners, the surveyor shall receive a fee of one dollar, and the inspector a fee of fifty cents. Such owner shall have the exclusive right to the use thereof for the purpose aforesaid, such assignment to pass with the land to any subsequent owner. If any portion of said water front be assigned to a riparian claimant, which at the time is occupied by others with oysters actually planted thereon, the person occupying the same shall have twelve months in which to remove such oysters: provided, this section, so far as the quantity of land to be assigned to and held by riparian owners is concerned, shall not apply to the counties of Richmond, Northampton, Northumberland and Westmoreland, but section six of chapter two hundred and fifty-four, acts eighteen hundred and eighty-three and eighteen hundred and eighty-four, shall continue in force as to the said counties, but nothing herein contained shall be construed as authorizing a rental of less than one dollar per acre for riparian owners in the above-named counties of the land assigned to them as such riparian owners: provided, that nothing in the said section which restores to riparian owners in said counties one-fourth of their respective water fronts, suitable for planting oysters, shall be so construed as to permit the owners of water fronts to compel occupants of said fronts to remove their oysters from any fourth of said shores, if the residue of said shore be already in his, the landowners', possession or be unoccupied.

6. Assignment of other planting ground; surveys; marking.—The residue of such water front in excess of what is already assigned or is reserved in the preceding section for the riparian owner, and the residue of the beds of the bays, rivers and creeks and shores of the sea other than natural oyster beds, rocks or shoals, as defined by law, may be occupied by any resident of the State for the purpose of planting or propagating oysters thereon. It shall be the duty of any such resident desiring to obtain a location for planting or propagating oysters in any portion of such water front and beds of the bays, rivers and creeks and shores of the sea, aforesaid, to apply to the inspector of the district in which such land lies to have the location ascertained, designated, surveyed and assigned, and sixty days after the posting of the copy required in section seven, the inspector shall notify the county surveyor, or such surveyor as

may be designated by the commission of fisheries, to proceed to survey said ground and make a plat of the same, and the ground shall be marked, at the cost of the applicant, at the time the survey is made, and at the direction of the surveyor, with suitable stakes, smooth and free from snags and spurs, and suitable stakes shall be kept by the lessee in their proper places at all times during the continuance of such lease so as to conform accurately to the survey. And should such stakes be removed, rot down, or be carried away, the lessee shall replace them in their proper places, and if he fails so to do within thirty days after being notified by the inspector of the district in which the ground lies, said lessee shall have no claims against any person for trespassing on said ground in any way.

7. Applications for assignments; posting; assignments; recordation; assignments in Chesapeake bay; fee.—All applications for assignments of oyster grounds shall be in writing, and state as near as may be the number of acres applied for and definite location, with the name of one or more prominent points or objects adjacent to said ground. A copy of said application shall be posted by the inspector, for at least sixty days, at the courthouse of said county and at two or more prominent places in the vicinity of said ground. And the inspector shall assign the same to such applicant or applicants: provided, that where the planting of oysters or shells in any part of a navigable stream would tend to obstruct navigation by lessening the depth of water, such ground shall not be assigned for planting purposes, if, in the judgment of the commission of fisheries, it shall be unwise to do so. The said survey and plat, as soon as practicable after completion, and after said ground shall have been assigned to said applicant, shall be filed by the inspector in the clerk's office in his county, there to be forthwith recorded in a well-bound and substantial book and indexed in the name of the assignee, and thereupon at once a written memorandum thereof shall be posted by the clerk at the front door of the courthouse, stating the name of the assignee, the date of the recordation, the number of acres assigned, and the general location of the grounds: provided, that except in Chesapeake bay no such assignment shall exceed two hundred and fifty acres. For planting ground in the Chesapeake bay in waters from fifteen feet or more in depth the application shall be made to the commission of fisheries, which shall have the right to accept or reject any such application as it may deem best for the public interest; but the number of acres, if such an assignment be made, shall not exceed five thousand to any one applicant, and the annual rental therefor shall be such amount per acre as the commission may fix upon, but in no case less than twenty-five cents per acre. And any such applicant, other than riparian owners, shall pay to the inspector for his service a fee of one dollar, and shall also pay the annual rental for the said grounds at the rate of one dollar per acre per annum, except as provided for Chesapeake bay and for bathing grounds, due on the first day of September of each year after the date of the assignment, and payable on or before December first following. If not paid on or before December first, a five per centum fine shall be added, and the inspector shall proceed to levy for rental and fine. And any such applicant, other than those for riparian or bathing grounds, shall pay to the surveyor for his services fifty cents per acre, or fraction thereof, for five acres or less; twenty-five cents per acre for each acre more than five and

up to and including thirty acres; fifteen cents per acre for each acre more than thirty and up to and including fifty acres, and ten cents per acre for all over fifty acres, and one dollar for platting such survey on the county oyster chart; and the surveyor shall have the same privileges and rights as to the collection of his fees that the inspector has. The clerk shall receive the said survey and plat and record the same, and shall be paid by the assignee for his service the same fee he now receives for recording deeds or plats. After the same is recorded, the assignee is entitled to withdraw the original from the clerk's office. Each county shall furnish the clerk with necessary books for recording the same. The fees due the clerk for the recordation and filing of said surveys and plats shall be collected as his other fees are collected.

8. Inspectors to report assignment to secretary; surveyors to plat same on county charts.—Each inspector shall, immediately upon completing the assignment of any oyster-planting ground, notify the secretary of the commission of fisheries of the person to whom assigned, the waters where, and the number of acres contained in said assignment. Within sixty days after any such survey, the surveyor of said assignment shall plat the same upon any county chart that may be kept for the purpose in the clerk's office of the county in which said ground lies, showing the metes and bounds, courses and distances, with reference to fixed and permanent objects on the shore.

9. Rights of renters.—And no person shall be considered a lawful renter of oyster-planting grounds or bathing grounds unless and until he shall have complied with the requirements of this act and received from the inspector a receipt for the rent to the first of September following and shall also have paid all fees due inspector, surveyor and clerk of the county in which his plat may be recorded. When the above amounts are paid then so long as the rent is paid annually in advance the State will guarantee the absolute right to the renter to continue to use and occupy such grounds for the period of twenty years from the date of the assignment, subject only to the right of fishing in waters above the said bottom; but no person exercising such right of fishing shall use any device which is fixed to the bottom, or which, in any way, interferes with such renter's rights or damages such bottom, or the oysters planted thereon, and if said applicant shall hold such grounds for the full period of twenty years and at the expiration thereof shall desire to continue to hold the same and to renew such lease, then, provided such ground is still open to lease under the then existing law, such applicant shall have prior right over all applicants for reassignment of the ground, subject to any such laws or regulations as the general assembly may enact or prescribe and to such rental as may be then fixed by law; the interest in such grounds shall be construed to be a chattel real and at the death of the renter pass into the hands of the personal representatives for the benefit of creditors and heirs of the decedent. Should any lessee of oyster-planting grounds or bathing grounds have his grounds, or any portion thereof, resurveyed or reassigned, such resurvey or reassignment, in part or in whole, shall not be construed to be a new assignment of such grounds, but shall be deemed to be a continuation of the original assignment, subject to all the limitations and conditions under which such grounds were originally assigned.

A person in possession of any oyster-planting ground who has not had it assigned to him shall have no preference as to having the same assigned to him, but such ground shall be open to the first applicant.

Subrenting or assignment.—If any person should subrent or assign his rights in oyster-planting ground, it shall be only to a resident of this State, after notifying the inspector of his intention, and then the subrenting or assigning shall be in writing, and said writing shall describe accurately the ground subrented, or assigned, and be recorded in the clerk's office of the county as the original survey and plat were recorded and under the same conditions. The subrenter, or assignee, shall have all the rights and privileges of the original renter, for the unexpired term of the original lease, unless he be a non-resident citizen of the State, in which case any such assignment shall be void.

11. Rights of owner to creek, cove or inlet within lawful survey.—If any creek, cove or inlet within the jurisdiction of this Commonwealth makes into or runs through the lands of any person and is comprised within the limits of his lawful survey, such person or other lawful occupant shall have the exclusive right to use said creek, cove or inlet for sowing or planting oysters or other shellfish. This section shall not apply to the county of Mathews; but the third section of chapter two hundred and fifty-four, acts of eighteen hundred and eighty-three and eighteen hundred and eighty-four, shall continue in force in said county, except as to the waters of Milford Haven and Horn Harbor; said waters of said Milford Haven and Horn Harbor shall be subject in all respects to the provisions of section twenty-one hundred and thirty-seven of the Code of Virginia, as amended by acts heretofore passed.

12. Bathing grounds.—Any person desiring to obtain a location for bathing grounds shall apply to the oyster inspector of this district in which the grounds lies to have his location designated, surveyed and assigned for the purposes aforesaid, and for such grounds shall pay an annual rental of five dollars per acre. Any such application, surveying, assigning and marking shall conform to the law pertaining to oyster-planting grounds.

13. Right of planters to erect piers, et cetera.—Any person holding planting ground rented from the State is hereby authorized to erect thereon a pier, dock, watchhouse, or shuckinghouse for the purpose of handling, watching or shucking oysters: provided, however, that it shall not obstruct navigation nor otherwise injure the private rights of any person, and shall be subject to the laws of the State governing wharves, piers and docks: and provided further, that this act shall not apply to any ground lying in front of and adjacent to any city within the Commonwealth.

14. Natural rocks not to be used or staked off; penalty.—It shall not be lawful for any person to stake in or use for the purposes of propagating or planting oysters or shells any natural oyster bed, rock or shoal, as defined by law, or any bottom which has not been assigned to him according to law, or any clamming or crabbing ground which has been set aside as such; nor shall any person who may have occupied and staked off such natural bed, rock, or shoal, or clamming or crabbing ground, as defined by law, or any bottom which has not been assigned to him according to law, continue to occupy the same; and any person violating this provision shall be fined not less than fifty nor more than one thousand dollars for

each offense. Moreover, the inspector for that district or the commission of fisheries or its deputies, shall require any such person to remove all stakes, watchhouses or other obstructions from said natural beds, rocks or shoals; and if, after notice, such person refuses to remove such stakes or other obstructions, the same shall be removed by order of the commission of fisheries or by the inspector at the cost of the offender, who shall also be fined in addition for failure or refusal to remove such stakes, watchhouses or other obstructions, not less than ten nor more than one hundred dollars.

15. Resurveys of planting grounds.—When, by any resurvey of oyster-planting grounds or survey made to re-establish the lines of the State survey of natural oyster beds, rocks or shoals which shall hereafter be made under the direction of the commission of fisheries, it shall appear that any holder, without his own default, and by mistake of any officer of the State, has had assigned to him and included in the plat of his assignment any portion of the natural oyster beds, rocks or shoals as defined by law, and it shall further appear that such holder has oysters or shells planted on the said ground, then, before the stakes shall be removed from said ground or the same opened to the public, the said holder shall be allowed a reasonable time, the length of which is to be determined by the commission of fisheries, in their discretion (and duly advertised), within which to remove his planted oysters or shells from the said ground, and any person other than the said holder, his agents or employees, going upon the said ground and taking oysters or shells therefrom before the expiration of the time allowed said holder, shall be deemed guilty of larceny thereof and shall be punished as provided by this act for the larceny of oysters.

16. Inspector not to assign natural rock or clam bed; penalty.—Any inspector who shall knowingly assign to any person any ground within the public survey of the natural oyster beds, rocks or shoals, or clam bed that has been set aside by the commission, shall be fined not less than one hundred nor more than five hundred dollars, and any such assignment shall be void.

17. Injuring, removing or displacing boundary marks; penalty.—Any person who shall wilfully injure, remove or displace any boundary oyster stakes, range monument, signal, beacon, boundstone, post, or buoy, or any part, appurtenance or enclosure thereof, erected, constructed or set by the commission of fisheries, or by their order, on the land or water of this State, or upon the lawful beds of any lessee, for the purpose of designating, locating, surveying or mapping any shellfish grounds, shall be fined not less than twenty-five nor more than five hundred dollars, or confined in jail not less than ten nor more than ninety days, either or both.

18. Riparian rights in Elizabeth river.—Nothing in this act shall be so construed as to affect in any way the riparian rights of any owner or owners of land on the east side of the Elizabeth river lying south of the north line of the property of the Lambert's Point Water-Front Company, or to affect any rights under the present jurisdiction of the board of harbor commissioners of the port of Norfolk and Portsmouth.

19. Stealing oysters; how punished.—If any person take, steal or carry away, without permission of the owner, oysters imbedded or planted,

oysters deposited by any person making up a cargo for market, or shells planted for formation of oyster beds, he shall be deemed guilty of the larceny thereof and upon conviction be confined in jail not less than three nor more than six months, and fined not less than twenty-five nor more than one hundred dollars, for each offense. But if the offense shall be committed in the night time he shall be confined not less than six months nor more than one year, and fined not less than one hundred nor more than one thousand dollars for each offense.

20. Use of rakes or scrapes; penalty.—It shall be unlawful for any person to use or employ rakes or scrapes or other like devices for the purpose of taking or catching oysters, crabs, clams or shells from the natural oyster rocks, beds or shoals on the eastern or ocean side of Accomac and Northampton counties at any time. Any person violating this provision shall be fined not less than ten nor more than fifty dollars for each offense, and be confined in jail until such fine is paid, but not to exceed thirty days.

21. License and taxes of oyster barrelers, shuckers and packers.—Every person, firm or corporation engaged in the business of shucking or packing oysters in this State shall pay a license tax for the privilege of transacting such business, to be graduated by the amount of oysters barreled, shucked or packed by him during the period for which his license is granted. Every person engaged in buying oysters for marketing in barrels shall pay a yearly license tax, beginning September first of each year, to be graduated as follows: For any number of barrels under one hundred bought and marketed, two dollars; for one hundred barrels and over, up to two hundred and fifty, four dollars; for two hundred and fifty barrels and over, up to five hundred, five dollars; five hundred barrels and over, seven dollars. To ascertain the amount of oysters shucked or packed, it shall be the duty of such person, firm, or corporation, on the first day of April of each year, or within ten days thereafter, to make report in writing, under oath, to the oyster inspector for the district for which he was licensed, showing the amount of oysters actually shucked or packed by him during the next preceding twelve months. Each inspector shall report every oyster packer who shall fail to comply with the requirements of this section. Any person, firm or corporation violating the provisions of this section, or making a false report, shall pay a fine of not less than thirty dollars nor more than one thousand dollars for each offense. For every license to a person, firm or corporation engaged in the business of shucking or packing oysters the license taxes shall be graduated as follows: (1) For any number of gallons under one thousand, a tax of one dollar and fifty cents; (2) for one thousand gallons or over, up to ten thousand, a tax of five dollars; (3) for ten thousand gallons or over, up to twenty-five thousand, a tax of ten dollars; (4) for twenty-five thousand gallons or over, up to fifty thousand, a tax of twenty dollars; (5) for fifty thousand gallons or over, up to one hundred thousand, a tax of thirty dollars; (6) for one hundred thousand gallons or over, up to two hundred thousand, a tax of fifty dollars; (7) for two hundred thousand gallons or over, a tax of one hundred dollars. The sum imposed under and by virtue of this section shall be in lieu of all taxes for State purposes on the capital actually employed in said business. The word "capital" shall include moneys and credits actively used

in carrying on the business, including goods, wares and merchandise on hand, and all solvent bonds, demands, and claims made and contracted in the business during the preceding year; but real estate shall not be held to be capital, but shall be assessed and taxed as other specific property. All other property held by such person, firm or corporation shall be listed and taxed as other property. The sum required by this section to be paid when the license is taken out shall be collected in the same manner that the amounts required to be paid for other licenses under the oyster laws of the State are collected, and shall be accounted for as part of the oyster fund. For every license issued under this section the applicant shall pay to the oyster inspector a fee of fifty cents.

22. Taking oysters from natural rocks; closed season; penalty.—Hereafter it shall not be lawful for any person to take or catch oysters from any of the natural oyster beds, rocks or shoals in any of the waters of this Commonwealth, with tongs, or in any other way, from the first day of April to the fifteenth day of September of each year: provided, that in Broad bay, Long creek, Lickhorn bay, or in any of the tributaries thereof in the county of Princess Anne, the prohibited time shall be all the year, except the months of October and November. And if any person be found upon the natural rocks, beds or shoals of this Commonwealth during the prohibited season with tongs or other devices for taking or catching oysters, the same shall be prima facie evidence of the violation of this act by the person so found thereupon, unless such person possess a license to take or catch clams or crabs with such tongs or other device during such prohibited season. And it shall not be lawful for any person to use or employ patent tongs for the purpose of taking or catching oysters or shells from the natural rocks, beds or shoals of the State, at any time except during the months of October, November and December of each year, nor for any person to use patent tongs in the waters of the James, Nansemond, East or Piankatank rivers at any time. A person violating any provision of this section shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than one hundred dollars, and be confined in jail not less than ten days nor more than six months. This section shall not be construed as prohibiting the owner of planted oysters from working on or changing the location of said planted oysters, or from shipping the same to market at any time at the option of the owner.

23. License for boats taking oysters with tongs; numbers.—Any resident of this State having a boat to be used in taking or catching oysters with tongs from the natural rocks, beds or shoals, shall apply to the inspector of the district where he resides to have said boat registered. The inspector shall register said boat, and prescribe for it a number corresponding with the number of boats registered, which number for boat and number of district shall be displayed as hereinafter provided. For said registration annually the owner shall pay to the inspector for a boat using propeller, one dollar, and for a boat not using a propeller, fifty cents. Where patent tongs are to be used on any such boat the inspector shall register and number said boat as follows: The stamp or mark shall be P. T., and the number of boat registered, and under the name of the boat the number of his district. For example, "P. T. 1" shows that the boat is registered for patent tongs number one and registered in district number one in Accomac county. The numbers and

letters shall be not less than four inches each in length, and shall be stamped in black upon thin white board, which shall be furnished by the inspector to the applicant and fastened securely by said applicant on the starboard prow of his boat. Any person violating any provision of this section shall be fined not less than ten nor more than fifty dollars for each offense. For the purpose of registering boats, as aforesaid, the oyster portion of the State shall be kept laid off into districts by the commission of fisheries.

24. License of tongs; penalty.—Any resident of this State, who shall be qualified under this act and desires to take or catch oysters from the natural oyster beds, rocks, or shoals of the waters of the Commonwealth by hand or with ordinary or patent tongs, or any instrument allowed by law, other than a scrape or dredge, shall first apply in writing to the inspector of the district in which he resides for a license. The license taxes shall be as follows: (1) for each pair of patent tongs, five dollars; (2) for each person taking oysters by hand, or with ordinary tongs, two dollars. When such person shall have paid to the inspector the fees required of him, said inspector shall register such person, and shall issue to him a license which shall entitle him during the season for which such license shall be issued to take or catch oysters from the natural oyster rocks, beds, or shoals of the Commonwealth of Virginia, or within the jurisdiction thereof for the period during which he is not prohibited by law from working on any such natural oyster rocks, beds or shoals. Any oysterman, when required to do so by an inspector or other police officer, must show a license for every pair of oyster tongs in his possession while working on the natural rocks, beds, or shoals, and the having of more pairs of oyster tongs than licenses exhibited, as aforesaid, shall be prima facie evidence of violating the provisions of this section as to obtaining licenses. If any person is found oystering upon the natural oyster rocks, beds, or shoals, without having been so licensed, or after having his license revoked, or if he violates any provision of this section, such person shall be fined not less than twenty nor more than one hundred dollars.

25. Culling oysters.—All oysters taken from any natural rocks, beds or shoals, in the waters of this State shall be culled on their natural rocks, beds or shoals, as taken, and oysters whose shells measure less than three inches in length, measuring from hinge to mouth, and all shells, shall be included in said cullings and replaced upon said rocks, beds or shoals: provided, that oysters once passed from the culling board to the inside of the boat less than the size above prescribed, and all shells shall be considered as not having been culled as taken, according to the provisions of this act: provided, that when small oysters are adhering so closely to the shell of the marketable oysters as to render removal impossible without destroying the young oyster, then it shall not be necessary to remove it.

26. Buying or selling uncultured oysters; penalty; not to apply above Day's Point in James river.—And it shall be unlawful for any person to take, buy or sell oysters under the prescribed size, and shells so taken as aforesaid from the natural rocks, beds and shoals. Any person violating the provisions of this act, either by taking from the said rocks, beds or shoals, or by buying or selling oysters less than three inches in length, from the hinge to mouth, or shells, as hereinbefore mentioned, shall be

deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than ten nor more than one hundred dollars: provided, however, that so much of this section and the preceding section as prohibits the taking and catching of oysters whose shells measure less than three inches from hinge to mouth, shall not apply to James river above a line drawn from Day's Point, in the county of Isle of Wight, to Deep creek, in the county of Warwick, nor to the eastern side of Accomac and Northampton counties, nor to any rivers, creeks or other estuaries of the Potomac river. In the waters of this State entering into the Potomac the prohibited size shall be two and one-half inches. In addition to the penalty above prescribed, the license of any person found guilty of violating this section may, in the discretion of the commission of fisheries, be revoked by order of said commission, and such person shall not be again licensed to take or catch oysters in this State for a period of one year after the commission of such offense. The having at one time of more than one bushel of oysters and shells on the culling board, deck, washboard or other receptacle above the hold of the boat of any person oystering upon the natural rocks, beds or shoals, or the attempt of such person to escape or to throw oysters or shells overboard into the water, otherwise than in the ordinary process of culling, upon the approach of the oyster inspector or police boat, shall be prima facie evidence of the violation of this section. Any person offering oysters for sale or having the same in his possession which shall not have been culled as required by this section shall be deemed guilty of violating this law, and if upon trial he shall claim that such oysters are from private planting grounds, the burden of proving that fact shall be upon him. Such person may be tried in any court having jurisdiction under this act over the waters where he is arrested or apprehended, and if any such person shall resist in any way any inspector or other authorized person in making an examination of the oysters suspected, or upon being requested by such officer or other authorized person to be admitted into a boat or oyster house for the purpose of such inspection, shall refuse to so admit such officer or other authorized person, the party suspected shall be deemed prima facie guilty of violating this section.

27. Prohibiting drag-boxes, and so forth; penalty.—It shall be unlawful for any person to use, in collecting or taking oysters, clams or other shellfish from the natural oyster rocks, beds, or shoals of this Commonwealth, any "drag-box," tub, sack or other receptacle for oysters, clams, or other shellfish, so collected or taken, which in the use or moving of are dragged or drawn over the surface of the said natural rocks, beds or shoals, or to secrete in a bag, box, locker or other closed receptacle, any uncultured oysters or clams taken from the natural oyster rocks, beds or shoals of this Commonwealth. The possession by any person of a "drag-box" on the natural oyster rocks, beds, or shoals, or the having in his possession of any uncultured oysters or clams secreted as aforesaid, shall be prima facie evidence of the violation of this section. If found guilty of violating any provision of this section such person shall be fined not less than twenty nor more than one hundred dollars for each offense.

28. License of dredges; limitations; application for license; numbers; registration; penalty; forfeiture.—The commission of fisheries shall, if in its judgment the police force is sufficient to protect the grounds in which

dredging is hereinafter prohibited, authorize any resident of this State to take and catch oysters with dredges or scrapes in the Chesapeake bay; but this privilege shall not extend to Pocomoke sound, Hampton roads, Mobjack bay, or Tangier sound, or west of a line drawn from the lighthouse on Rappahannock spit to the lighthouse on Wolf Trap spit, or west of a line drawn from the lower end of Guinea marshes to York spit lighthouse, and thence to Back river lighthouse, or west of a line drawn through the Great Wicomico river lighthouse, thence to the east end of the east island of the Dameron's marshes; nor to any inlet, creek, or river, nor to the mouths thereof, except the river Potomac and the following rocks in Tangier sound, to-wit: Johnson's rock, Thoroughfare rock, Fox's Island rock and the California rock: provided, that for the purposes of this act the southern boundary of Pocomoke sound shall be a right line running through the southeast buoy on Watt's Island bar, it being buoy number three, and the outer buoy at the mouth of Chesconnessex creek: provided, that no dredging shall be permitted between the first day of April and the first day of November in any year. Any resident desiring to dredge or scrape for oysters in the waters where dredging is permitted shall make application in writing for such privilege to the inspector of the district in which he resides, which application shall be sworn to and shall plainly state the name of his vessel, the owner or owners thereof, the commander or person in charge and the length of vessel or gross tonnage at which it is rated. Such application shall further state the district in which the owner resides; that the applicant is a resident qualified under the requirements of this act; that no non-resident owns said vessel in whole or in part; and that it is not held with any intention or under any agreement to return it any subsequent time to a non-resident. Upon being satisfied of these facts the inspector shall register such vessel and issue to such applicant a license granting him the privilege of dredging or scraping for oysters within the prescribed limits and season, which shall be plainly set forth in the license; and the inspector shall also furnish him two numbers, twenty-two inches long, in black paint on canvas or domestic, which shall be placed by the master or owner on the side, as hereinafter described; the number on his mainsail to be placed above the balance reef; that in the center of the sail, half way between the gaff and said reef; that on the jib, above the bonnet in center of jib and on the side opposite that of the mainsail. For such registration the applicant shall pay to the inspector a fee of one dollar: provided, only vessels operated wholly by sail shall be used for purposes of dredging or scraping for oysters on the public grounds of this Commonwealth or under the jurisdiction thereof: provided, that the commission of fisheries shall be empowered to revoke or deny to any person a license for the period of twelve months for a violation of the cull law by any person dredging or scraping; or for dredging or scraping, or attempting to dredge or scrape, without a license; or for resisting any officer in the performance of his duties. Dredging or scraping in waters not prohibited by law, without having paid the tax and obtained the license provided for such purpose, shall be punishable by a fine of not less than twenty-five dollars nor more than two hundred dollars.

If any person take or catch oysters with a dredge or scrape, or instrument other than ordinary or patent oyster tongs or by hand, in any of the

public waters of the Commonwealth, except as provided in this act, he shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one year nor more than three years; or may be confined in jail not exceeding one year and fined not less than one hundred nor more than one thousand dollars, either or both, in the discretion of the jury. In any prosecution for the violation of this section against the master or commander of a vessel or any of his crew or any person on board thereof, proof that said vessel was equipped with crank, dredge or scrape shall be prima facie evidence of the violation of this section. Any vessel, boat or other craft, her tackle, apparel, anchors, cables, sails, rigging and appurtenances, and any dredge, scrape or other instrument used in violating any of the provisions of this section shall, together with the cargo of such vessel, boat or craft, be condemned as forfeited to the Commonwealth in proceedings as provided for the enforcement of forfeitures.

29. License tax.—Before any license shall be issued for dredging or scraping the applicant shall, in addition to the fee of one dollar for registering the boat, pay to the inspector a license tax for the dredging season, as follows: For boats thirty feet long and under, five dollars; over thirty feet and under five tons, seven dollars; for every gross ton of customhouse measurement, two dollars, estimating twenty-five bushels capacity to each ton of customhouse measurement. The captains or masters of such boats shall always have such license on board of their boats and exhibit the same whenever it shall be demanded by any duly authorized officer, and the refusal so to do shall be prima facie evidence that they are dredging or scraping without having a license therefor.

30. Dredging planting ground; limitations; revocation of privilege; marking ground; marking boats; penalty.—It shall be lawful for any resident of this State holding under legal assignment oyster-planting ground and having paid the rent therefor to dredge or scrape the same at any time, except on Sunday or at night: provided, such privilege of dredging or scraping such oyster grounds may be revoked in any case by the commission of fisheries, whenever, in its judgment, it may be proper or necessary to do so: provided further, that no person shall have or enjoy the privilege hereinbefore granted of dredging or scraping his said oyster-planting ground unless and until he shall have first properly designated and marked the oyster lines of his said planting ground by placing prominent and fixed buoys thereon by means of anchors or in any other manner sufficient to hold them in place; said buoys to be so many inches in diameter and to extend so far above water as the commission of fisheries may direct, and the same shall be kept up and maintained so as to distinctly mark said outer line or lines of said planting ground. Said buoys shall be painted white and shall have the initials of the person or firm whose property they are placed upon them near the top in black letters of not less than five inches in length. Such initials shall also be placed upon each side of the prow of any boat or craft used or employed in dredging or scraping said planting ground, if propelled by motor, or upon opposite sides of mainsail and jib, if operated by sail. Nor shall any person have, or enjoy, the privilege hereinbefore granted of dredging or scraping his said oyster-planting ground unless and until he enter into a bond before the clerk of the county in which he resides.

in the sum of five hundred dollars, payable as required in section one hundred and seventy-seven of the Code, upon condition not to violate the provisions of any laws pertaining to the dredging or scraping of planting ground: provided, however, that no person or firm so engaged in dredging or scraping shall employ in whole or in part any non-resident crew, unless by written permission of the commission of fisheries, or employ any boat or craft of any kind owned in whole or in part by any non-resident of this Commonwealth in the dredging or scraping of such oyster-planting ground; and no equipped dredge, scrape or other instrument of like nature shall be taken by any person into James river or its tributaries, Nanemond river or its tributaries, Rappahannock river or its tributaries, Pocomoke or Tangier sounds, or into the ocean side of Accomac or Northampton counties without first obtaining a written permission to do so from the commission of fisheries. Any person found guilty of dredging or scraping oyster-planting grounds in this State, except as provided for in this act, shall be fined not less than one hundred nor more than three hundred dollars for each offense.

31. Carrying seed oysters out of State, or buying for that purpose prohibited; penalties.—It shall be unlawful for any person to carry, or attempt to carry, or to buy for the purpose of carrying out of this State any oysters taken from the natural rocks, beds or shoals in the waters of this Commonwealth, whose shells measure less than three inches, or from estuaries of the Potomac river oysters whose shells measure less than two and one-half inches in length from hinge to mouth. Any person so offending shall, upon conviction thereof, be confined in the penitentiary for one year, or at the discretion of the jury, may be confined in jail not exceeding one year, and fined not exceeding five hundred dollars. Moreover, all boats and vessels, together with their tackle used in violating this section, and all oysters found thereon, shall be forfeited to the Commonwealth, in proceedings as provided for the enforcement of forfeitures. If any oyster inspector or other person shall knowingly aid and abet or shall collude with any person in the violation of this section, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not exceeding six months and fined not exceeding five hundred dollars.

32. License to buy or carry seed oysters from certain grounds; penalty.—It shall be unlawful for any person, without first having obtained a license therefor, as hereinafter provided, to buy or carry oysters to be planted in this State, whose shells measure less than three inches in length from hinge to mouth, from the eastern side of Accomac and Northampton counties, or from James river above a line drawn from Day's Point, in the county of Isle of Wight, to Deep creeke, in the county of Warwick. Any person desiring to buy or carry such oysters from said localities to be planted in this State, shall first obtain for each cargo a permit therefor from the oyster inspector for the district wherein such person resides, or from an officer of a police-boat for each boat or vessel to be so used, which permit shall state the name and tonnage (if registered in the custom-house) of the boat or vessel, the name of the owner and master thereof, and to what waters in this State it is intended to use such boat or vessel in carrying such oysters. Before such permit shall be granted, the owner or master of such boat or vessel shall make oath before

the inspector or officer of a police-boat that said boat or vessel will not be used for the purpose of carrying seed oysters measuring less than the size aforesaid out of this State, and that he will not sell such oysters to any other person for the purpose of carrying the same out of this State. The oaths so taken and subscribed, together with a memorandum of the permit issued, shall be returned by the inspector or officer of a police-boat to the secretary of the commission of fisheries, to be by him filed in his office. The owner or master of any boat or vessel found buying or carrying such seed oysters from the places aforesaid to any point in this State, without a permit therefor, shall be fined not less than fifty nor more than two hundred dollars.

33. Permit to carry oysters from certain grounds; penalty.—No person, without having a written permit from an oyster inspector, an oyster police officer, or from a member of the commission of fisheries, shall, at any time during the closed season, carry oysters out of James river above a line drawn from Pig Point, in the county of Nansemond, to Newport News Point, in the county of Warwick, whether said oysters be taken from natural rocks or planting grounds; nor shall any person take clams, or crabs in the waters of this State or oysters from either public or private grounds on Sunday or in the night time, between the hours of sunset and sunrise. Any person violating the provisions of this section shall be fined not less than twenty-five nor more than one hundred dollars.

34. Oyster measures; penalty.—It shall not be lawful at any time for any person to buy or sell oysters in this State in the shell by any other than one-half bushel or one bushel metallic measures, and such measures shall be iron circular tubs with straight sides and straight solid bottoms with holes in bottom, if desired, for draining, such holes to be no larger, however, than one inch in diameter. A half-bushel tub shall have the following dimensions (all measurements to be from inside to inside): Fifteen inches across the top, thirteen inches across the bottom, and seventeen inches diagonally from the inside chine to the top; and a bushel tub shall measure eighteen and one-half inches across the top, seventeen inches across the bottom, and twenty-one and one-half inches diagonally from the inside chine to the top. When oysters are bought or sold out of the shell it shall be by wine measure, according to the standard prescribed for such measure by section nineteen hundred and eleven of the Code of Virginia, eighteen hundred and eighty-seven. Any person violating any provision of this section shall be fined not less than twenty-five nor more than one hundred dollars for each offense. Moreover, if any inspector or other oyster official have reason to believe that measures not conforming to the above requirements are used on board any vessel or craft, or in any oyster house, he is hereby empowered to search for, seize and destroy such unlawful measures.

35. Citizen not to be interested with non-resident; penalty.—If any citizen of this State shall, for market or profit, be concerned or interested with any person not a resident thereof, in taking or catching crabs, clams, oysters, terrapin or other shellfish, in any of the waters of this State, or in planting oysters therein, or shall knowingly permit any person, not a resident of this State, to engage in any such business in his name for market or profit, he shall be fined not less than one hundred nor more than five hundred dollars for each offense.

36. Non-resident not to take or plant oysters, and so forth; nor own stock in fishing corporation; penalty, forfeiture; list of officers, directors and stockholders to be filed with State corporation commission.—If any person other than a resident of this State, as defined in this act, shall take or catch crabs, clams, oysters, terrapin or other shellfish in any of the waters of this State for market or profit, or rent any oyster-planting ground, or plant oysters in any of the waters of the State, or become a stockholder directly or indirectly interested in any corporation chartered for the purpose of engaging in the fish or shellfish business in the waters of this State for market or profit, or for the purpose of converting the same into oil, manure or fertilizer, he shall be fined not less than five hundred dollars nor more than two thousand dollars for each offense, and the interest in such stock of any non-resident holder thereof shall be null and void and be forfeited to the Commonwealth under the provisions relating to forfeiture. Every such non-resident holder of stock shall, upon notice so to do, by order of publication, ordered by the court having jurisdiction of the proceedings, surrender the certificate or certificates of stock so held by him to the sheriff of the court aforesaid, to be held by the said sheriff to be disposed of according to the provisions relating to forfeitures, and in the event he fails to do so upon such notice, the court aforesaid may compel the corporation which issued such certificate or certificates to issue in the name of the person so holding the original, a duplicate of such certificate or certificates of stock and surrender the same to the sheriff aforesaid. Such duplicate certificate or certificates of stock shall be disposed of according to the provisions provided for the disposal of property forfeited to the Commonwealth, and the said original certificate or certificates of stock shall be null and void in the hands of any person. Where the penalty is incurred by reason of the defendant being a non-resident, the burden of proof as to his residence shall be on him. And every such corporation chartered for the purpose aforesaid shall make and file in the office of the State corporation commission, at the time of its application for a charter, and every six months after the granting thereof during the term of its existence, a list of its officers, directors and stockholders, duly sworn to by its president and secretary; and, if such list is not so made and filed, the said corporation shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, to be imposed and judgment entered therefor by the said commission, and enforced by its process; and, at the option of said commission, its charter shall be revoked for its failure so to do.

37. Who deemed non-resident; proviso.—No person shall be deemed a resident of this State, within the meaning of this act, who is not a taxpayer in the State, and shall not have maintained his residence therein for one year and actually resided therein for the four months next preceding the time when he makes application for any privileges or licenses granted to residents under this act; or unless he be a bona fide purchaser of land in this State and has actually lived within this State for the four months next preceding the time when he makes application for any privileges or licenses granted to residents under this act: provided, no restriction as to residence in this section shall prevent any person from obtaining license when required for buying crabs, clams, oysters, terrapin or

other shellfish or for the shucking of oysters: provided further, that in dredging or scraping private planting grounds on permission of the commission the restriction as to residence in this section shall not prohibit the having of non-residents as crew for any boat used in the oyster, or other shellfish industry, of such boat be owned wholly by a resident or residents of Virginia, and also has for its master a resident as defined in this act.

38. Jurisdiction of justice and court.—Any proceeding under any section of this act may be in the county wherein, or in any county next adjacent to, the waters in which the offense was committed.

39. Surveying and re-surveying planting-grounds; and marking lines of geodetic survey.—The commission of fisheries is hereby authorized and empowered to select and appoint, on such terms as may be agreed upon, any surveyor, or surveyors, to survey, or resurvey, any oyster-planting grounds, either in his own or any other county, and to re-establish and permanently mark any line or lines of the Baylor geodetic survey, which, in the judgment of the commission of fisheries, it may be necessary to define; or an application may be made to the commission of fisheries by ten citizens of the county to have any line or lines of the Baylor geodetic survey re-established and permanently marked, provided a bond and security be given to the commission of fisheries that the applicants will pay all costs for surveying and marking: and provided further, that ten days' notice of such survey shall be given to all parties whose legal oyster tenures might be directly affected thereby; and if it should turn out that it was not necessary, in the opinion of the commission, to have said line or lines re-established, then all costs of the survey and marking shall be borne by the applicants; but if it shall appear that the Baylor geodetic survey had been encroached upon, then the cost shall be borne by the commission of fisheries and the bond given be void.

40. Commission to compel attendance of witnesses.—The commission of fisheries, in any matter before it for consideration, may compel the attendance of all needed witnesses by summons, rule, and attachments in like manner as a circuit court, save that said commission shall not have the power of imprisonment. And in taking evidence said commission or any member thereof shall have the power to administer oaths to witnesses.

41. Unlawful to threaten or hinder surveyor; rights of surveyor.—It shall be unlawful for any person or persons to threaten, resist, or in any manner interfere with a surveyor in the performance of the duties imposed upon him by the provisions of the law relating to oyster grounds. And in the performance of any such duties said surveyor shall have the right to enter upon the lands of any person or persons for that purpose.

42. Lawful for certain persons to take oysters, and so forth, and wild fowl for certain purposes.—It shall be lawful for the commission of fisheries, or any person or persons authorized by it to take oysters or other shellfish or wild water fowl in any way, at any time, and from any of the public waters of the Commonwealth, as they deem best for the purpose of propagation or distribution, in promoting the industry by way of experiment or exhibition.

43. Police fleet; fund to police certain waters.—The police fleet shall consist of the various boats now operated by the commission of fisheries, with such additions or changes as the commission may from time to time

make, either in accordance with special enactment of the legislature or by reason of the general powers conferred upon it by law. The commission of fisheries is hereby empowered and directed, in its discretion, to expend so much of the fund accruing under the provisions of this act, from the revenues collected on the eastern or ocean side of Accomac and Northampton counties, as may be necessary to police the waters on said eastern or ocean side of said counties.

44. Proceeds of forfeited vessels, and so forth; how disposed of.—Out of any money collected from the sale of any forfeited vessel or other property which was seized by the commanders and crews of the police vessels alone, the commission of fisheries may allow to such commanders and crews such sums as they may think proper, not exceeding one-fourth of the amount so paid in, which shall be in addition to their regular pay. The residue of any such money, and all fines imposed and collected for violations of any of the provisions of this act, whether by regular oyster officials or through procedures in courts or before justices of the peace, shall be paid over to the said oyster officials, and placed to the credit of the oyster fund: provided, however, that when an oyster inspector is directly instrumental in apprehending and bringing to trial an offender in his district against whom a fine is imposed and collected under this act, one-fourth of the fine shall go to the said inspector and three-fourths to the credit of the oyster fund.

45. Name of boats to be kept in plain view; penalty.—If the master or person in charge of any boat, registered for any purpose under this act, or licensed to engage in fisheries of any sort, fail to keep the name of such boat and number of license under which it is operated in plain view and in the positions prescribed, or, if he in any way conceal such name or number, he shall be fined not less than ten nor more than one hundred dollars.

46. May pay fine to officers.—The person liable for any fine for violation of this act may pay the officer directly instrumental in apprehending such person, such sum as may be agreed upon between such person and officer and all costs; and thereupon such person shall be discharged from all legal proceedings that may be instituted against him for such offense: provided, that the amount so agreed upon be not less than the minimum fine imposed for such offense, any such agreement to be in the nature of a compromise and not to be used as evidence in any proceeding for such violation.

47. Resistance to officer or authorized person by threats, and so forth; penalty.—Any person found guilty of resisting or impeding an officer or other person authorized to make arrests, seizures, examinations or other performances of duties under this act shall be fined not less than fifty nor more than five hundred dollars; and if any person, by threat, force or display of firearms or other weapon, resist or attempt to prevent arrests, seizures, examinations, or other performances of duties, by said officer or other person he shall, upon conviction thereof, be confined in jail not exceeding one month, and fined not less than one hundred nor more than one thousand dollars.

48. Who may make arrest or seize vessel.—Any member of the commission of fisheries, all inspectors and other officers in the service, shall have authority, with or without warrant, to arrest any person and seize

any vessel, boat, craft or other thing used in violating any of the provisions of this act, together with the cargo of such vessel, boat, or craft, and they shall have the same authority as constables have to summon the posse comitatus to aid them in making such arrest and seizure; and any vessel, boat, craft or other thing, together with the cargo so seized, when not forfeited to the Commonwealth in proper proceedings, may be held by the inspector or other official who made the seizure or in whose district the same was seized, until the accused has paid the penalty of his offense if upon trial he is found guilty, or has settled the amount agreed on without trial or has, upon trial, been acquitted, as the case may be.

49. Penalty for failure to perform duty.—for the failure of any officer or other person to perform any duty required of him by any provision of this act, or for the violation of any of its provisions for which no specific penalty is prescribed, such officer or person shall be fined not less than twenty-five nor more than one thousand dollars.

50. Payment of costs and expenses; court to approve.—All necessary costs and expenses that have accrued, or may accrue, in the execution of the oyster laws of this Commonwealth, where no provision is now made by law for the payment of the same, shall be paid by the auditor of public accounts when the circuit court of the county where the costs and expenses accrue shall certify the necessity and the reasonableness of the same, referring also to the law under which the certificate is made.

51. Right to build bulkhead or wharf to navigable waters; notice to lessee of planting ground.—All assignments or leases of oyster grounds under this act shall be subject to the rights vested in riparian claimants under section five of this act, and also to this proviso and condition—namely, that any landowner desiring to erect a bulkhead or wharf in front of his property to reach water of navigable depth or the channel of the stream, or for other purposes, and is not already a lessee or riparian holder of suitable bottoms for that purpose, such landowner shall have the right to give the lessee or other holder of oyster grounds in front of his property twelve months' notice of such intention, and upon the expiration of that time, the rights of the lessee or holder of so much of said oyster ground as shall be reasonably needed for the building of bulkhead or wharf, shall cease; but if such bulkhead or wharf be not commenced as specified in such notice within three months after such oyster grounds shall be vacated, then the former lessee or holder of such oyster grounds shall have the right to resume possession of such oyster grounds as he may have vacated in favor of such landowner, subject to the provisions of this chapter.

52. Definition of words in this act.—Whenever the words "commission" or "commissioner" occur in any provisions of this act, they shall be taken to mean commission of fisheries and commissioner of fisheries, respectively, and wherever the designation "board of fisheries" occurs in any statute it shall be taken to mean commission of fisheries.

2. Be it further enacted that all acts or parts of acts of the general assembly of Virginia, and any section or sections of the Code of Virginia, in conflict with any of the provisions of this act, be, and the same are hereby, repealed.

CHAP. 344.—An ACT to authorize the board of supervisors of Nansemond, Isle of Wight, Surry, Caroline, Spotsylvania, Stafford, Russell, Greensville, Highland, Scott, Lunenburg, Carroll, Lee, Amherst and Wythe counties, in their discretion, to impose a license tax on dogs, and to provide for the method for collecting same, and providing penalties and mode of enforcing same.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That the board of supervisors of the counties of Nansemond, Isle of Wight, Surry, Caroline, Spotsylvania, Stafford, Russell, Greensville, Highland, Scott, Lunenburg, Carroll, Lee, Amherst and Wythe may, in their discretion, by a majority vote of all the members of the said board at any regular or special meeting thereof, impose a license tax on dogs in such county, the amount of the tax not to exceed the amount now prescribed by law, such tax to be collected and disbursed, and the penalties for violation of such law in the counties of Nansemond, Isle of Wight, Surry, Caroline, Spotsylvania, Stafford, Russell, Greensville, Highland, Scott, Lunenburg, Carroll, Lee, Amherst and Wythe to be the same as is now prescribed by the general laws of the State.

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

CHAP. 345.—An ACT to amend and re-enact section 2494 of the Code of Virginia, as heretofore amended, in relation to liens on crops for advances to farmers.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That section twenty-four hundred and ninety-four of the Code of Virginia, as heretofore amended, be amended and re-enacted so as to read as follows:

§2494. Lien on crops for advance to farmers; nature of agreement thereof; where recorded.—If any person, other than a landlord, make advances, either in money or supplies, or other thing of value, to anyone who is engaged in, or is about to engage in, the cultivation of the soil, the person so making such advances shall be entitled to a lien on the crops which may be made or seeded during the year upon the lands in or about the cultivation of which the advances so made have been, or were intended to be, expended to the extent of such advances: provided, however, that an agreement in writing, signed by both parties, shall be entered into, in which shall be specified the amount advanced or in which a limit shall be fixed beyond which any advances made from time to time during the year shall not go, and the said agreement to be delivered to the clerk of the county in which the land lies, and by him docketed in a book to be kept by him for that special purpose; such agreement shall be docketed by said clerk in the same manner that judgments are now required by law to be docketed, and from the time they are so docketed shall have the same force and effect as if they were recorded in the deed book, and for such service said clerk shall receive a fee of twenty-five cents, which lien shall be valid as to purchasers without notice from and creditors of the party or parties obtaining such advance or advances only from the time when the said agreement shall have been delivered to the said clerk to be docketed as hereinbefore provided.

CHAP. 346.—An ACT to amend and re-enact sections 1164, 1168, 1169 and 1170 and 1171 of the Code of Virginia, and to add independent sections thereto, so as to provide for the examination of banks and other similar institutions in this State, and to make certain general provisions and for the conduct of the business of banking, and to provide penalties for the violation of the provisions hereof.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That sections eleven hundred and sixty-four, eleven hundred and sixty-eight, eleven hundred and sixty-nine and eleven hundred and seventy and eleven hundred and seventy-one of the Code of Virginia be amended and re-enacted, and that independent sections eleven hundred and sixty-nine-a and eleven hundred and sixty-nine-b be enacted so as to read as follows:

§1164. Limit of liability of borrowers; no loan to be made on stock until paid for.—The total liabilities of any person, partnership or corporation to any bank for money borrowed, including liabilities of the co-partnership, the liabilities of the several members thereof, except special partners, shall at no time exceed twenty-five per centum of the capital and permanent surplus of such bank, unless the same shall be authorized by a resolution of the board of directors, approved by a majority of said board, which resolution shall be recorded in the minutes thereof, and signed by the directors present and consenting thereto; but the discounting of bills of exchange, foreign and domestic, drawn in good faith against actual existing values by persons negotiating the same and the discounting of commercial or business paper, actually owned by the person negotiating the same, shall not be considered as money borrowed.

No loan shall be made by a bank or banking institution to a stockholder therein on the security of his shares of stock in such bank or banking institution until such shares are fully paid for in cash.

§1168. Surplus funds; dividends.—There shall be no dividend or profits of a higher rate than six per centum per annum on the capital stock paid in until the bank shall have a surplus or contingent fund arising from the profits of at least ten per centum of its capital, nor shall any dividend or profit be made by which such fund is reduced below the said ten per centum.

§1169. Statements to be rendered to the State corporation commission and published; State corporation commission to furnish forms; when to cause examination of bank.—Every joint stock company, and every bank and banking institution (including savings banks, saving societies, and savings institutions) now chartered, or that may hereafter be chartered, under the laws of the State of Virginia, and doing a banking business therein, shall make to the State corporation commission statements of its financial condition at such times identically as the national banks organized under the laws of the United State are required to make their statements to the controller of the currency; and also publish such statements in condensed form, as published by the said national banks in some newspaper printed in the county, city or town where such banking business is carried on, or where the principal office of the said company, bank, banking institution, savings bank, savings society, or savings institution is located; and if there be no such paper published in such county, city or town, then a newspaper published in the county, city or

town nearest thereto. The statement shall be made in accordance with forms prescribed by the State corporation commission, certified under oath by the president or cashier of the bank, and attested by at least three of its directors. It shall be the duty of the State corporation commission to call upon such companies, banks, banking institutions, savings banks, saving societies, and savings institutions chartered under the laws of Virginia for the statements hereinbefore mentioned, and at the time prescribed, and to have prepared such forms as may be necessary to carry out the provisions of this section. Whenever calls for statements are made by the State corporation commission, it shall forward to each company, bank, banking institution, savings bank, savings society, or savings institution heretofore or hereafter incorporated under the laws of this State, and doing business therein, two blank forms, one of which, after being properly filled out and certified as hereinbefore required, shall be returned by the State corporation commission within fifteen days next succeeding the date of such call, and the other, filled out in like manner, shall be filed in such bank, banking institution, savings bank, savings society or savings institution.

The State corporation commission shall, not less than once in each and every year, and at such other times as they may deem necessary, cause to be examined each and every bank, banking institution, savings bank, savings society, or savings institution in this State, chartered under the laws of Virginia, and shall cause to be examined every such institution, whether organized under the laws of the United States government or not, which has heretofore been, or may hereafter be, designated as a State depository. Said State corporation commission shall also, upon written application made to them by the board of directors or by the stockholders representing two-fifths of the amount of the capital stock of any such bank, banking institution, savings bank, savings society, or savings institution, doing business in this State, or whenever, in the judgment of the corporation commission it may be necessary to do so for the protection of the public or persons depositing or dealing with such joint stock company, bank, banking institution, savings bank, savings society, or savings institution, cause to be made a special examination into its condition. All expenses incident to such special examination shall be borne by the bank or institution so examined. In making such examinations as are required by this chapter, the directors, officers and employees of such joint stock company, bank, banking institution, savings bank, savings society, or savings institution, shall, upon the demand of the person or officer so designated to make such examination, give to such examiner full access to all of the money, books, papers, notes, bills and other evidences of debt due said institution, and shall also disclose fully and truly all indebtedness and liability thereof, and shall furnish him with all information which he may deem necessary to a full investigation into the affairs of said institution, and said examiner shall have the right to examine under oath any and all of the directors, officers, clerks and employees of such institution touching any matter or things, pertaining to said examination, and for that purpose shall have authority to administer such oaths to them. No previous notice of any examination shall be given to such institution or any of its directors, officers or employees.

If upon such examination the corporation commission shall ascertain that the banking laws of this State are not being fully observed, or that any irregularities are being practiced, or that its capital has been or is in danger of being impaired, it shall give immediate notice thereof to the officers and directors of such institution and demand that the same shall be promptly corrected, and upon their failure to do so within a reasonable time, not exceeding thirty days after such notice, may apply for the appointment of a receiver to take charge of the business affairs and assets of said institution and to wind up its affairs as hereinafter provided; and if upon such examination it shall appear to the said State corporation commission that any such joint stock company, bank, banking institution, savings bank, savings society or savings institution which is designated as a State depository, is insolvent or unable to meet its obligations and the legal demands upon it in the ordinary course of its business, the said corporation commission shall forthwith notify the auditor of public accounts and the treasurer of the Commonwealth, who shall discontinue further deposit therein of State funds and take such action as may be necessary to protect the deposits of the State therein; and in any case the said State corporation commission may, and it shall be its duty whenever in its judgment it is necessary for the protection of the interests of the State or of the depositors and creditors of any joint stock company, bank, banking institution, savings bank, savings society, or savings institution doing a banking business in this State, to apply to any court in this Commonwealth, having jurisdiction to appoint receivers of corporations, for the appointment of a receiver to take charge of the business affairs and assets and to wind up the affairs and business of any such joint stock company, bank, banking institution, savings bank, savings society, or savings institution so failing to comply with the requirements of the said State corporation commission as hereinbefore provided, or so found upon examination to be insolvent or unable to meet its obligations and the legal demands upon it in the ordinary course and conduct of its business, as aforesaid.

§1169a. Appointment of examiners and assistants.—The State corporation commission, for the purpose of carrying out the provisions of this chapter, may appoint one chief examiner, at a salary of not more than three thousand dollars per year, one assistant, and such clerks, stenographers and other assistants as in its judgment may be necessary for the discharge of the several duties imposed upon it by this chapter: provided, that the persons appointed for the examination of banks and other institutions shall be citizens of this State, experienced and skilled in the science of bookkeeping, and shall have had at least five years' service in some bank, and may fix the salaries of all such examiners, clerks, stenographers and other assistants: provided, that such salaries shall not be in excess of that paid to similar employees in the other State departments. All such examiners and clerks, before entering upon the duties of their offices, shall take the necessary oath before the State corporation commission as prescribed by the Constitution of this State, and such examiners shall give bond in the penalty of five thousand dollars, with surety, in some good solvent bonding company, to be approved by the State corporation commission, conditioned for the faithful performance

of their duties, and the premiums on such bonds shall be paid out of the fund created by this act.

§1169b. Fees for examination.—Every such bank, banking institution, savings bank, savings society, or saving institution shall pay for each annual examination provided by section one thousand and sixty-nine of the Code of Virginia fees as follows: For the examination of banks having a capital and surplus fund and undivided profits as shown by statement of financial condition made to State corporation commission next preceding June first of each year of one hundred thousand dollars or less, a fee of thirty-five dollars; for banks having total resources of more than one hundred thousand dollars and not over two hundred thousand dollars, a fee of fifty dollars; for banks having total resources of over two hundred thousand dollars and not more than three hundred thousand dollars, a fee of sixty dollars; for banks having total resources of more than three hundred thousand dollars and not more than four hundred thousand dollars, a fee of eighty dollars; for banks having total resources of more than four hundred thousand dollars and not exceeding five hundred thousand dollars, a fee of one hundred dollars; for banks having total resources of more than five hundred thousand dollars, a fee of one hundred and fifty-five dollars, and for every bank having one or more branches, shall be assessed fifteen dollars for each branch in addition to the foregoing fees, and in case the examination of any branch should require more than one day, the parent bank shall be assessed and pay at the rate of ten dollars for each additional day required for the examination of such branch: provided, that the maximum fee for any one branch shall be thirty-five dollars, which amount shall be assessed against each such bank by the State corporation commission on the first day of July of each and every year, and shall be paid into the State treasury to the credit of "banking fund—State corporation commission," on or before the thirty-first day of July following, to be used in carrying out the provisions of this act. All fees so assessed shall be a lien on the assets of the bank, and if not paid within thirty days from date of said notice may be recovered in any court of the county or city in which such bank or institution is located having original jurisdiction of civil cases, on motion of and in the name of the State corporation commission. It shall be the duty of the attorney for the Commonwealth of such county or city to represent said State corporation commission in such motion.

It shall be the duty of the State corporation commission to mail the assessment to each bank on or before July first of each year and certify a copy to the auditor of public accounts, and it shall be the duty of the auditor of public accounts to furnish the State corporation commission promptly with a list of the banks which fail to pay the assessments on or before July thirty-first.

All payments from the fund herein provided shall be upon the said banking fund, upon the order of the State corporation commission, attested by its clerk, nor shall there be any charge upon other funds of the State.

§1170. Penalty for violating certain provisions of the banking laws. Any such joint stock company, bank, banking institution, savings bank, savings society or savings institution failing to comply with the provisions

of the preceding section, one thousand and sixty-nine, for a period longer than thirty days, after being called upon by the State corporation commission for such statement, or to do such other act as is therein provided, shall be fined not less than one hundred nor more than one thousand dollars, and the State corporation commission shall give notice of such default in a newspaper published as provided in said section; any officer of any such joint stock company, bank, banking institution, savings bank, savings institution or savings society who shall refuse to give any examiner the information or refuse to be sworn as required by said section, shall be fined not less than twenty-five nor more than one hundred dollars for such offense, and any such officer who knowingly makes a false statement of the condition of any such bank or institution shall be deemed guilty of a felony, and upon conviction shall be fined not less than one hundred nor more than five thousand dollars, and be imprisoned in the penitentiary not less than one nor more than ten years.

All records, reports and information concerning any bank other than those required by law to be public shall be open only to such officers and employees of the State as may have occasion and authority to inspect them in the performance of their duties, and to any officer or duly authorized agent of such bank, and the imparting of such information by any employee or officer of the State may be sufficient cause for his removal from the position he occupies under the State government.

§1170a. Certified checks.—Whenever a check drawn certified to be good by any officer of such bank, the amount thereof shall be immediately charged against the account of the drawer.

§1170b. Checks of drunken persons.—It shall be lawful for any bank to refuse to pay any check, draft or order drawn upon it when the officers of such bank have reason to believe that the person signing or endorsing the instrument is so under the influence of liquor, or any drug, as to make it reasonably doubtful whether such person is or was at the time of signing or endorsing such check, draft or order capable of transacting business, and no action by any person whatsoever shall be had against such bank or its officers for refusing to pay such check.

§1170c. Deposits of deceased persons and persons under disabilities.—It shall be lawful for any bank to transfer any balance on deposit to the credit of any deceased person (after two weeks shall have elapsed from the date of his death), or of any person under disabilities, to the personal representative, guardian, curator or committee of such person upon a letter of qualification as such personal representative, guardian, curator or committee, issued by any court of competent jurisdiction of this State, and such letter shall be sufficient authority for such transfer, and such bank making such transfer shall no longer be liable for such deposit to any person whomsoever. The presentation of a duly certified letter of qualification as personal representative, guardian, curator or committee shall be conclusive proof of the jurisdiction of the court issuing same. When the balance in any bank to the credit of a deceased person, and upon whose estate there shall have been no qualification, shall not exceed one hundred dollars, it shall be lawful for such bank, after sixty days from the death of said person, to pay said balance to his next of kin, whose receipt therefor shall be a full discharge and acquittance to such bank from liability to all persons whomsoever on account of

such deposit. The death of a drawer of a check shall not, as to checks presented for payment before notice of the death of the drawer thereof is received by the bank or banker upon which such check was drawn, operate as a revocation of the authority of such bank or banker to pay the same. Such bank or banker shall retain for a period of two weeks after notice of the death of a depositor any moneys then standing upon its or his books to the credit of such depositor, and after paying thereout in the order of their presentment any checks which may be presented within said period of two weeks shall, upon demand, pay the residue to the persons entitled thereto in the manner prescribed by law. This section shall not apply to negotiable instruments other than checks payable at a bank or banker's.

§1170d. Deposits of minors.—Whenever any deposit shall be made in any bank by or in the name of any infant or minor the same shall be held for exclusive right and benefit of such minor free from the control of all persons whomsoever, except creditors, and shall be paid with interest, if any be due thereon, to the person in whose name the deposit shall have been made, and the check, order or receipt of such infant or minor shall be a good and sufficient release and discharge for such deposit to the bank.

§1170e. Banks coming under the provisions of this act.—The provisions of this act shall apply to and govern all chartered banks, including banks of deposit and discount, savings institutions, savings societies and trust companies, and any other corporations authorized to receive deposits or to do any branch of the banking business other than that of banks organized under the banking laws of the United States, which last mentioned banks are, however, expressly included within the provisions of this act touching the course and conduct of the business of banking and in so far generally as this State has the right to enact legislation in regard to such banks. The powers, privileges, duties and restrictions conferred and imposed upon any bank existing and doing business under the laws of this State are hereby abridged, enlarged or modified as each particular case may require to conform to the provisions of this act. Nothing in this act, however, shall be construed to change or affect any privilege or privileges granted by charter to any bank incorporated before the passage of this act, nor to affect the legality of any investment heretofore made or of transactions heretofore had pursuant to any provisions of law in force when such investments were made or transactions had.

The word "bank," wherever it shall appear in this act, shall include banks of deposit and discount, savings banks, savings societies, savings institutions and trust companies now chartered, or which may hereafter be chartered, and any other corporation now chartered to receive deposits or to do any kind of a banking business, as though each and every such institution was fully and accurately set out and mentioned.

§1170f. Who shall do a banking business.—No person, copartnership or corporation, except those corporations duly chartered and already conducting the business of banking under authority of the law of this State or of the United States, or which shall hereafter be incorporated under the provisions of this act, or authorized to do business under the banking laws of the United States, shall engage in the business of banking in this State after the first day of July, nineteen hundred and ten, except that

nothing in this act shall prevent any person or copartnership or corporation from lending money on real estate and personal security or collateral, or from guaranteeing the payment of bonds, notes, bills and other obligations, or from purchasing or selling all stocks and bonds. But this clause shall not apply to or affect any private banker or firm of private bankers who shall have been engaged in business on the first day of January, nineteen hundred and ten. No bank shall be incorporated in this State with authority to do a banking business outside of this State.

§1170g. Unlawful use of the term "bank," "banker" or "banking." No person, copartnership or corporation not lawfully engaged in the business of banking in this State and subject to the supervision of the State corporation commission by the provisions of this act or authorized to transact a banking business under the laws of the United States shall make use of any office sign, having thereon any artificial or corporate name or other words indicating that any place or office is the place or office of a bank, savings bank, trust company, bank or place of banking, nor shall any person, copartnership or corporation make use of or circulate any letterheads, billheads, blank notes, blank receipts, certificates, circulars or any written or printed paper whatever, having thereon any artificial or corporate name or word or words indicating that such business is the business of a bank, savings bank, trust company or banker or a place of banking; nor shall any person, copartnership or corporation use the word "bank," "savings bank," "banking," "banker," or "trust" or the plural of any such word or words in any business, or in connection with any other business than that of the business of banking as defined under this act. Any person or persons violating the provisions of this or the preceding section, either individually or as an interested party, in any copartnership or corporation, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in jail not more than six months, or by both fine and imprisonment. The State corporation commission shall have authority to examine the accounts, books and papers of any person, copartnership or corporation whom it has reason to suspect is doing a banking business within the intent of this act, in order to ascertain whether such person, copartnership, or corporation has violated, or is violating, any provision of this act, and the refusal to submit such accounts, books and papers shall be prima facie evidence of such violation: provided, that nothing in this act shall apply to any private banker, or firm of bankers, who shall have been engaged in business on the first day of January, nineteen hundred and ten.

§1170h. Acts repealed.—All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§1171. Any officer or employee of any bank, banking institution, savings bank, savings society, or savings institution who shall take and receive money from any depositor with the actual knowledge that the said bank, banking institution, savings bank, savings society, or savings institution is, at the time insolvent, shall be guilty of embezzlement, and shall be punished by a fine double the amount so received, or be confined in jail not less than fifteen days nor more than one year, or be confined in the penitentiary not less than one nor more than three years, in the discretion

of the jury, for each offense. Any officer of any bank, banking institution, savings bank, savings society or savings institution who shall permit money to be received from a depositor with the actual knowledge that the said bank, banking institution, savings bank, savings society or savings institution is, at the time, insolvent, shall be guilty of embezzlement, and shall be punished by a fine double the amount so received, or be confined in jail not less than fifteen days nor more than one year, or be confined in the penitentiary not less than one nor more than three years, in the discretion of the jury, for each offense. On the trial of any indictment under this section it shall be the duty of any such bank, banking institution, savings bank, savings society, or savings institution, their agents or officers, to produce in court, on demand of the attorney for the Commonwealth, all books and papers of such bank, banking institution, savings bank, savings society, or savings institution, to be read as evidence on the trial of such indictment: provided, that in determining the question of the solvency of any such bank, banking institution, savings bank, savings society, or savings institution the capital stock thereof shall not be considered as a liability due by it.

CHAP. 347.—An ACT making it a misdemeanor for parents or guardians to refuse or neglect to support their children under fourteen years of age, or to subject children under seventeen years of age to vicious or immoral influence, encourage any child to commit a misdemeanor, or to send a child under seventeen years of age to certain places; punishment therefor, and declaring an emergency.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That any person within the State of Virginia of sufficient financial ability, earnings or income, who shall refuse or neglect to provide for any child under fourteen years of age, of which he or she shall be the parent or guardian, such food, clothing and shelter as will prevent the suffering and secure the safety of such child, or shall subject a child under seventeen years of age to vicious or immoral influences, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment by a fine of not more than one hundred dollars, or by imprisonment in jail for a period not to exceed sixty days, or in lieu thereof to hard labor on the public roads for a period not to exceed sixty days, but the court in its discretion, having regard to the earning capacity of the defendant, shall have the power to suspend the execution of such sentence and to make an order, which shall be subject to change by it from time to time as the circumstances may require, directing the defendant to pay a certain sum monthly for the space of one year to the guardian or custodian of such child, or to any society or association approved by the court, and to release the defendant from custody on probation for the space of one year, upon his or her entering into recognizance, with or without sureties, as the court may direct.

2. The conditions of the above recognizance shall be such that if the defendant shall promptly make such payments, and shall make his or her

appearance in court whenever ordered to do so within the year, and shall further comply with the terms of the order, and of any subsequent modification thereof, then the recognizance shall be void, otherwise of full force and effect. If the court be satisfied, by information and due proof, under oath, that any time during the year the defendant has violated the terms of such an order, it may forthwith proceed to enforce the original sentence. The court may direct any probation officer of such city or town, at any time, to ascertain and report to it if the defendant is obeying such order of the court.

3. It shall be unlawful for any person to cause or encourage any boy or girl to commit a misdemeanor, or for any person to send or cause to be sent any boy or girl, under seventeen years of age, to any house of prostitution, or to any saloon or wine-room, or to any policy-shop or gambling place, or to any pool-room or bucket shop, knowing them to be such, or knowingly permit, contribute to, encourage, or cause any such child to be guilty of any vicious or immoral conduct, and any person so offending shall be guilty of a misdemeanor, and shall be tried in any court of competent jurisdiction, and upon conviction thereof shall be punished by a fine not in excess of one hundred dollars, or by imprisonment in jail for a period not exceeding one year, or, in discretion of the court, in lieu thereof, to hard labor on the public roads for a period not to exceed six months.

4. All laws and parts of laws not consistent herewith are herewith repealed.

5. There being emergency, this act is ordered to be in force and effect immediately upon its passage.

CHAP. 348.—An ACT to amend and re-enact section 4 of an act entitled an act to establish a permanent place in the State penitentiary, at Richmond, Virginia, for the execution of felons upon whom the death penalty is to be imposed, and to change the mode of execution so that the death sentence shall be by electricity, and to provide an appropriation therefor, approved March 10, 1908.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That section four of an act entitled an act to establish a permanent place in the State penitentiary, at Richmond, Virginia, for the execution of felons upon whom the death penalty is to be imposed, and to change the mode of execution so that the death sentence shall be by electricity, and to provide an appropriation therefor, approved March sixteenth, nineteen hundred and eight, be amended and re-enacted so as to read as follows:

§4. The said superintendent, or the assistants appointed by him, shall proceed, unless a suspension of execution be ordered, at the time named in said sentence, to cause the said felon under sentence of death to be electrocuted until he is dead.

At the execution there shall be present the superintendent, or an assistant, the surgeon of the penitentiary, or his assistant, and a number of respectable citizens numbering not less than six nor more than twelve. The counsel for the convict and minister of the gospel may be present.

CHAP. 349.—An ACT to authorize the board of supervisors of the county of Charlotte to sell, convey and release to the State of Virginia the reversionary interest and all other rights of the said county in a certain tract of land conveyed by the said county to the State of Virginia on the 3d day of July, 1901, for the establishment of an agricultural experiment station thereon, and to authorize the State board of agriculture and immigration to purchase the reversionary interest and all other rights of the said county in the said tract of land, and to sell and convey the whole or any part thereof, if deemed by the said board unnecessary for its uses.

Approved March 17, 1910.

Whereas, the county of Charlotte on the third day of July, nineteen hundred and one, conveyed to the State of Virginia a tract of land situate in the said county, containing five hundred acres, for the purpose of the establishment thereon of an agricultural experiment station by the department of agriculture, on the terms and conditions set out in an act of the general assembly of Virginia, approved on February first, nineteen hundred and one; and

Whereas, it is now considered by the State board of agriculture and immigration that the whole of the said tract of five hundred acres of land is not needed for the purpose aforesaid, and that it is desirable that the whole or some part of the said tract of land should be sold; and

Whereas, it is represented that the county of Charlotte is willing to release the department of agriculture, or the State board of agriculture and immigration, from the obligation to maintain an experimental station upon the said tract of land, and also to convey to the State of Virginia the reversionary interest and any and all rights of the said county in and to the said tract of land, or in some part thereof, in order that the said tract of land, or any part thereof, may be sold by the State of Virginia; therefore,

1. Be it enacted by the general assembly of Virginia, That the board of supervisors of the county of Charlotte be authorized, and the said board of supervisors is hereby empowered, to sell, convey and release unto the State of Virginia the reversionary interest and any and all rights of the said county of Charlotte in and to the said tract of land, which was conveyed to the State of Virginia on July third, nineteen hundred and one, for such consideration and upon such terms as may be agreed upon between the said board of supervisors and the said State board of agriculture and immigration, but such purchase price shall not be a less sum than was paid by the said board of supervisors for the said tract of land, together with accrued legal interest on said price, and the said State board of agriculture and immigration is hereby authorized and empowered to purchase from the said county of Charlotte the reversionary interest and any and all rights of the said county in and to the said tract of five hundred acres of land for such price and upon such terms and conditions as to the said State board of agriculture and immigration shall seem expedient, but such purchase price shall not be a less sum than was paid by the said board of supervisors for the said tract of land, together with accrued legal interest on said purchase price, and should such purchase be consummated and the said rights and interests of the said county in the said tract of land be duly conveyed and released to the State of Virginia under the provisions and authority of this act, the said

State board of agriculture and immigration shall have, and authority is hereby given the said State board of agriculture and immigration, to sell the whole or any part of the said land which the said board shall deem unnecessary for its uses, and make deed or deeds of conveyance therefor to any purchaser or purchasers thereof, which said deed or deeds shall be signed and acknowledged by the president of the said State board of agriculture and immigration with the seal of said board thereto affixed; and such conveyance shall pass to such purchaser or purchasers all of the right, title or interest of the State of Virginia in and to the said land or any part thereof; and the proceeds of any sale made under this act shall be paid into the State treasury for the benefit of and be subject to the control and disbursement of the said State board of agriculture and immigration as other funds of said board are controlled and disbursed.

CHAP. 350.—An ACT to amend and re-enact section 2219 of the Code of Virginia, in regard to how a minister is authorized to celebrate the rites of marriage, as amended and re-enacted by an act approved February 15, 1908.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That section twenty-two hundred and nineteen of the Code of Virginia, as amended and re-enacted by an act approved February fifteenth, nineteen hundred and eight, be amended and re-enacted so as to read as follows:

§2219. When a minister of any religious denomination shall, before the circuit court of any county or corporation, or before the judge thereof in vacation, or before the corporation or hustings court of any city in this State, produce proof of his ordination and of his being in a regular communion with the religious society of which he is a reputed member; such court, or the judge of such circuit court in vacation, may make an order authorizing him to celebrate the rites of marriage, upon the execution of a bond, with surety, conditioned according to law, before such court, or the clerk of the court in which the minister resides.

CHAP. 351.—An ACT to constitute a united agricultural board to co-ordinate the Virginia College of Agriculture and Polytechnic Institute and the Virginia Agricultural Experiment Station, the commissioner and State board of agriculture, and the State board of education, in co-operation with the United State Department of Agriculture for the betterment of agricultural, experimental and demonstration work, and generally to advance the agricultural interest of this State, and to authorize boards of supervisors to appropriate county funds for experimental and demonstration work in their respective counties.

Approved March 17, 1910.

Whereas, experiments heretofore conducted have demonstrated that in order successfully to encourage the adoption of improved methods of agriculture in Virginia, applicable to every section, crop and interest, it is necessary that experiment stations shall be located in the different

agricultural districts of the State, which should ascertain by careful, scientific experiments, the best methods of crop relation, fertilizing culture, control of insect pests and diseases, et cetera, of the crops most commonly grown, or which may be profitably grown in the respective districts and that the facts so ascertained shall be earned by the teacher, institute lecturer and demonstrator to the people; and

Whereas, it is necessary to the fullest success of this plan that the said Virginia College of Agriculture and Polytechnic Institute, and the Virginia Agricultural Experiment Station, the commissioner and State board of agriculture, and the State board of education should unite their agencies in harmonious and determined efforts to advance by the methods above set forth, and in every other legitimate and practical way, the great agricultural interests of the State; and in order to co-ordinate harmoniously the efforts of these various State agencies in hearty co-operation with the United States department of agriculture which has been so successfully conducting its operations along these lines in Virginia; therefore,

1. Be it enacted by the general assembly of Virginia, That a board to be known as the united agricultural board be, and the same is hereby, established, to be composed of the governor, the State superintendent of public instruction, representing the State board of education; the commissioner of agriculture, and two members of the State board of agriculture, to be selected by that board; the president of the Virginia College of Agriculture and Polytechnic Institute; the director of the Virginia Agricultural Experiment Station, and one member of the board of visitors of those institutions to be selected by the said board; the supervisor of the district experiment stations; the general director of demonstration work of the United States department of agriculture; and the Virginia director of demonstration work of the United States department of agriculture. The members of said board shall hold office during the term of incumbency of the several offices which render them ex officio members of this board; except that the State board of agriculture and the board of visitors of the Virginia College of Agriculture and Polytechnic Institute, and Virginia Agricultural Experiment Station, shall have power to elect a successor to its members of the board for two-year periods, beginning March first, nineteen hundred and ten, or in the interim whenever its member of the board is incapacitated from serving on said board by death, resignation or otherwise. It is further provided also, that the officials of the United States department of agriculture, herein designated as members of the board, shall continue in office so long as that department co-operates in the work for which the united agricultural board is established.

The officers of the board shall be the governor as chairman, and a secretary, to be elected by the board.

2. The members of the united agricultural board shall not be entitled to any compensation, but the Virginia members shall be reimbursed for their actual and necessary traveling expenses and hotel bills, while engaged in the discharge of their duties, to be paid out of the funds hereinafter mentioned, allotted respectively to the State agencies entitled to membership on the board.

3. The united agricultural board shall, under such rules and regula-

tions as it may prescribe, assign to the Virginia College of Agriculture and Polytechnic Institute the adult demonstration work and movable schools and other like agencies when established; to the Virginia Agricultural Experiment Station, under like rules and regulations, the establishment and direction of the local or district experiment stations; to the State board of education, under like rules and regulations, the experimental and demonstration work in connection with the public schools of the State; and to the commissioner and State board of agriculture, under like rules and regulations, the direction and management of the farmers' institutes to be held in the different sections of this State; and the said united agricultural board may adopt such other methods and agencies, not herein specifically enumerated, as shall tend to further the interests of agriculture, and assign to the various agencies represented on the united board, such duties as may seem best.

4. For the purpose of carrying this bill into effect in addition to the money allotted by the United States department of agriculture, and the general education board, acting through the United States general director of demonstration work, and from other sources, the State board of education is hereby directed to appropriate and set apart out of the common school fund the sum of five thousand dollars annually; the sum of five thousand dollars shall be paid annually to the commissioner of agriculture; the sum of five thousand dollars shall be paid annually to the Virginia College of Agriculture and Polytechnic Institute; the sum of five thousand dollars shall be paid annually to the Virginia Agricultural Experiment Station, out of any fund in the treasury of the State not otherwise appropriated; said several sums of money to be paid by warrants authorized by the united agricultural board, signed by its secretary and countersigned by the chairman: provided, that all moneys appropriated under this act, shall be used for the purposes of this act. But nothing in this act shall apply to any funds except those mentioned in this act. And the moneys allotted to the commissioner of agriculture shall be used for farmers' institutes; the moneys allotted to the Virginia College of Agriculture and Polytechnic Institute shall be used for adult demonstration work, movable schools, et cetera; and the money allotted to the Virginia Agricultural Experiment Station shall be used for experimental work at the local or district experiment station, established or to be established, and for no other purpose; and the money appropriated by the State board of education shall be used for experiments and demonstrations in connection with the schools of the State. An itemized statement with all vouchers shall be reported to the governor, and included in his annual report.

5. If it shall appear to the board that any of the work required by this act, or which shall be prescribed by the board, is not being faithfully and efficiently performed by the agency to which it is assigned, the board shall at once inquire into the matter and has the power to take action assigning said work to some other agency or in any other way that may seem best for the faithful and efficient performance of said work. The moneys provided and appropriated under this act shall not be available prior to the twenty-eighth day of February, nineteen hundred and eleven.

6. The board may determine its own by-laws and rules of procedure, except that a meeting may be called at any time by the chairman on ten

This would prevent the board from adopting the work of the State board of education to control thought.

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days' notice, and the secretary shall issue calls for a meeting of the members of the board, giving ten days' notice, upon request in writing of not less than five members, and it shall require a majority vote of the entire membership to pass any question or resolution coming before it. In case of a tie vote the governor shall be entitled to cast an additional deciding vote.

7. The boards of supervisors of the several counties of the State are hereby authorized and empowered to appropriate out of county funds for experimental and demonstration work in their respective counties such sums as the said boards shall deem proper not to exceed twenty dollars for each one thousand inhabitants.

8. But nothing in this act shall apply to the Virginia Truck Experiment Station.

CHAP. 352.—An ACT to permit the boards of supervisors of counties and the councils of cities to provide help for destitute persons bitten by mad dogs.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That the board of supervisors of any county or councils of the various cities are hereby empowered, at their discretion, to appropriate money for the relief of any person or persons known to have been bitten by a mad dog or other rabid beast, to convey to and help maintain at any Pasteur institute: provided, such patient or patients are entirely unable to pay for same: provided further, that all patients shall be sent to the nearest institute giving free treatment: provided further, that such person or persons, who are aided and relieved, shall be bona fide citizens and residents of the county or city and have been such for the two years immediately preceding.

CHAP. 353.—An ACT to amend and re-enact section 608 of the Code of Virginia, as amended by an act approved March 10, 1904, which is chapter 94 of the acts of session 1904, in relation to lists of property, and so forth, delinquent for taxes.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That sections six hundred and seven and six hundred and eight of the Code of Virginia be amended and re-enacted so as to read as follows:

§608. Court to examine and correct lists, after being examined and approved by commissioners and supervisors; copies to be certified to auditor and aggregate of taxes to treasurer; copy of first list to be certified to commissioner; original lists and tickets to be preserved by clerk; how delinquent taxes and levies paid; what clerk may receive; his report.—Each of the three lists shall be presented to and examined by the circuit court of the county, or the judge thereof in vacation, or by the corporation or hustings court of the city. The court or judge being satisfied of the correctness of the said lists, and that the taxes and levies are correctly extended, or having corrected them, if erroneous, shall direct

the clerk to certify copies thereof to be furnished him by the treasurer to the auditor of the public accounts, the aggregate amount of State taxes shown by said lists to the treasurer of the State, and a copy of the list first mentioned to the commissioner of the revenue, who shall correct his books accordingly; but said lists shall not be presented to the court or judge nor allowed unless they have been first submitted to the commissioner of the revenue for the county, district, or city to which they relate, or, in the case of his death, to some other commissioner, if any there be, and are accompanied by the written opinion of such commissioner touching the propriety of such lists and each case therein contained, verified by his oath, and shall also have been submitted in case of a county treasurer, to the board of supervisors of said county, and are accompanied by the certificates of said board touching the propriety of such lists and each case therein contained. The supervisors shall assemble for said purpose at their respective courthouses not later than the fifteen day of August in each year. The original lists, and the tickets for taxes and levies corresponding therewith, shall be preserved by the clerk in his office. After the said copies are so directed to be certified, the treasurer shall not receive any of the taxes or levies mentioned in the said first and third lists, but they may be paid into the public treasury, and it shall be the duty of the auditor when delinquent taxes and levies are so paid, or received by him under section six hundred and twelve, to credit the respective counties and cities with the amount of county and city levies, respectively; and other local taxes, including also, such as have been received for years previous, and pay the same over to the county or city treasurer upon an order of the board of supervisors of the county or the council of the city; or the capitation and personal property tax and levies may be paid to the clerk of the circuit or corporation or hustings court, who shall, in a book to be kept in his office for the purpose, enter the name of each person who pays any part of said taxes of levies, the amount paid by him, and the date of such payment; and on the first day of June and December of each year shall transmit to the auditor a copy of the entries so made, which shall be verified by his oath to the following effect: "I, A. B., clerk of ——— county (or city) do make oath that the foregoing is a true statement of all capitation and personal property taxes and levies received by me since my last statement for such taxes and levies"; and shall, at such time, remit the amount with which he is chargeable, less his commission of five per centum for collection.

CHAP. 354.—An ACT to authorize the judge of any court, police justice or justice of the peace in cities of forty thousand inhabitants and over to continue the case and admit to bail any person brought before him charged with being an habitual drunkard, with failing to support his wife or children, with being a vagrant or an idler able to work, and who is liable to become a charge upon the corporation, and to commit such person to the supervision of an officer to be known as a probation officer; to provide for the appointment and compensation of such probation officer, and to invest him with full police power while in the discharge of his duties.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That whenever any person is brought before the judge of any court, any police justice

or justice of the peace, charged with being an habitual drunkard, with failing to support his wife or children, with being a vagrant or an idler able to work, and who is liable to become a charge upon the city, and satisfactory evidence is produced that such person is guilty of the offense charged, or is such a person as above described, such judge, police justice or justice of the peace may, in his discretion, continue the case for final determination to some later day, to be fixed by him, and bail the accused for his appearance on such day, with or without security, and the said judge, police justice or justice of the peace may commit the said person to the supervision of an officer known as a probation officer, whose appointment is hereinafter provided for, under such directions, rules and regulations as the said judge, police justice or justice of the peace may give, direct and prescribe.

2. The said judge, or the proper boards or other authorities of any city, may designate some discreet and proper person, either a private person or a constable or police officer of his county, city or town, as he may think proper, to be known as the probation officer of such city. The compensation of said probation officer shall be prescribed by the city council, and in all cases shall be paid out of the treasury of the county, city or town for which he is appointed.

3. The said probation officer shall ascertain the name and address and such facts in relation to the antecedent history and environments of the person committed to his charge as may enable him to determine what corrective measures will be proper in his case, and shall exercise a constant supervision over the conduct of such person, and make report to the judge, police justice or justice of the peace whenever he shall deem it necessary, or be required to do so, and shall use every effort to encourage and stimulate such person to a reformation. Whenever said probation officer shall become satisfied that such person is violating the directions, rules and regulations given or prescribed by the judge, police justice or justice of the peace for his conduct, he shall have authority to arrest such person upon a warrant duly issued and carry him before the judge, police justice or justice of the peace before whom he was first brought, or some other judge, police justice or justice of the peace acting in his place; and such judge, police justice or justice of the peace may, in his discretion, declare the recognizance forfeited and commit such person to jail, or, in his discretion, extend the time of probation under like conditions as are above prescribed. Every probation officer appointed under authority of this act is hereby invested with all the power and authority of a police officer or constable while in the discharge of his duties: provided, that this act shall only apply to cities of forty thousand inhabitants and over.

4. All acts and parts of acts in conflict with this act are hereby repealed.

CHAP. 355.—An ACT to amend and re-enact section 3419 of chapter 167 of the Code of 1887, relating to the appointment of trustees, as amended by an act approved February 7, 1890, as amended by an act approved March 2, 1898, as amended by an act approved December 10, 1903, entitled an act to amend and re-enact section 3419, as amended by an act entitled an act to amend and re-enact section 3419 of chapter 167 of the Code of

1887, in reference to the powers of a personal representative of a dead trustee, approved February 7, 1890, and by an act approved March 7, 1898, and section 3426, as amended by an act entitled an act to amend and re-enact section 3426 of the Code of Virginia of 1887, in relation to interlocutory decrees and orders, approved February 12, 1894, and by an act approved January 27, 1896, and by an act approved March 3, 1898.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That section thirty-four hundred and nineteen of the Code of Virginia, amended by an act approved February seventh, eighteen hundred and ninety, as amended by an act approved March second, eighteen hundred and ninety-eight, as amended by an act approved December tenth, nineteen hundred and three, be amended and re-enacted so as to read as follows:

§3419. How trustee appointed in place of one who is dead, resigned, removed, or declined the trust.—When a trustee in a will, deed, or other writing, dies or removes beyond the limits of the State, or declines to accept the trust, or when, having accepted, he resigns the same, as he may be allowed to do, the circuit court of the county or the circuit, corporation, hustings, or other court of the corporation in which such will was admitted to probate, or such deed or other writing is, or might have been recorded, or the clerk of any of said circuit courts in vacation may, on motion of any person interested, appoint a trustee or trustees in place of the trustee named in such instrument. A motion under this section shall be after reasonable notice to all parties interested in the execution of the trust other than the plaintiff in such motion; and if any of the parties on whom such notice is required to be served be insane or under twenty-one years of age, the court, or clerk, shall appoint some discreet and competent attorney at law as guardian ad litem to such insane or infant defendant, on whom notice may be served. Until a trustee or trustees shall on such motion be so appointed, the personal representative of the deceased trustee, if the deceased trustee was a sole trustee, the surviving trustee or trustees, if there be more than one trustee, or the remaining trustee or trustees, if there were more than one trustee, and one or more of them removes or remove beyond the limits of this State, declines or decline to accept the trust, or having accepted, resigns or resign, shall execute the trust, or so much thereof as remained unexecuted at the death, removal beyond the limits of the State, declination to accept the trust, or resignation after acceptance of such trust (whether the trust subject be real or personal estate), unless the instrument creating the trust direct otherwise, or some other trustee be appointed for the purpose by the court of chancery having jurisdiction of the case. This section shall not apply to any case provided for by section fourteen hundred and twenty-three.

2. An emergency existing, this act shall be in force from its passage.

CHAP. 356.—An ACT to amend and re-enact section 37 of chapter 5 of an act entitled an act concerning corporations, which became a law without the governor's signature May 21, 1903.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That section thirty-seven of chapter five of an act entitled an act concerning corporations, which became a law without the governor's signature May twenty-first, nineteen hundred and three, be amended and re-enacted so as to read as follows:

§37. Every corporation organized under this act, or at any time heretofore organized under any laws of this State, may issue a new certificate of stock in the place of any certificate theretofore issued by it alleged to have been lost or destroyed, and the directors may, in their discretion, require the owner of the lost or destroyed certificate, or his legal representatives, to give the corporation bond in such sum as they may direct, not exceeding double the value of the stock, to indemnify the corporation against any claim that may be made against it on account of the alleged loss of any such certificate; a new certificate may be issued without requiring any bond when, in the judgment of the directors, it is proper so to do, and when any such corporation shall have refused to issue a new certificate of stock in the place of one theretofore issued by it, or issued by any corporation of which it is the lawful successor (if the legal obligation rests upon such successor corporation to issue such certificate), alleged to have been lost or destroyed, the owner of the lost or destroyed certificate, or his legal representatives, may apply to the circuit court of the county, or the corporation or chancery court of the city, in which the principal office of the corporation is located, for an order requiring the corporation to show cause why it should not issue a new certificate of stock in place of the one so lost or destroyed; such application shall be by petition, duly verified, in which shall be stated the name of the corporation, the number and date of the certificate, if known or ascertainable by the petitioner, the number of shares of stock named therein, and to whom issued, and a statement of the circumstances, as near as may be, attending such loss or destruction; thereupon the said court shall make an order requiring the corporation to show cause, at a certain time and place therein mentioned, why it should not issue a new certificate of stock in the place of the one described in the petition; a copy of the petition or order shall be served upon the president, or other head officer of the corporation, or on the cashier, secretary, treasurer, or any director thereof, personally, or left at the principal office or place of business of the corporation in this State at least five days before the time designated in the order requiring such corporation to show cause.

CHAP. 357.—An ACT to amend and re-enact section 49 of the Code of Virginia, 1887.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That section forty-nine of the Code of Virginia be amended and re-enacted so as to read as follows:

§49. Every person having one-sixteenth or more of negro blood shall be deemed a colored person, and every person not a colored person having one-fourth or more of Indian blood shall be deemed an Indian.

CHAP. 358.—An ACT to amend and re-enact sections 4 and 10 of an act to amend and re-enact an act approved May 20, 1903, as heretofore amended, entitled an act defining the duties and powers of the board of agriculture and immigration, so as to prescribe the powers and duties of said board and said commissioner, and to repeal an act approved February 29, 1888, entitled an act to further define the duties and enlarge the powers of the commissioner of agriculture, and an act approved March 5, 1888, entitled an act to provide a commissioner of agriculture of Virginia, and make an appropriation therefor, and to repeal sections 1785, 1786, 1787, 1788, 1789 and 1790 of the Code of Virginia, approved February 25, 1903.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That sections four and ten of an act approved May twentieth, nineteen hundred and three, as heretofore amended, entitled an act defining the powers and duties of the board of agriculture and immigration, and providing for the election of a commissioner of agriculture and immigration, approved February twenty-fifth, nineteen hundred and eight, be amended and re-enacted so as to read as follows:

§4. The board shall annually elect a president and shall employ a clerk, who may be a member of said board, to act as secretary, and such secretary shall receive such compensation for his services as the board may prescribe.

§10. Powers and duties of the commissioner.—The said commissioner shall be the executive officer of the board, and shall see that their orders are carried out, and shall have immediate direction of all of the work of the department.

He shall, subject to the approval of the board, appoint the following employees of the department, who shall be under his direction and control, and he shall have power to remove them, or any of them, at any time he may think the interest of the department requires such removal, and report to the next meeting of the board the cause for such removal: provided, that the commissioner shall have the sole appointment of the stenographers herein named:

One fertilizer clerk, who shall be paid a salary of one thousand seven hundred dollars per annum.

One chief clerk, who shall be paid a salary of one thousand seven hundred dollars per annum.

One assistant clerk, who shall be paid a salary of one thousand five hundred dollars per annum.

Two stenographers, both of whom shall be capable of doing clerical work, who shall be paid a salary of one thousand dollars each per annum.

One mailing clerk and messenger, who shall be paid a salary of nine hundred dollars per annum, and who shall act as janitor.

One State chemist, who shall be paid a salary of two thousand dollars per annum.

One assistant chemist, who shall be paid a salary of one thousand five hundred dollars.

One second assistant chemist, who shall be paid a salary of one thousand four hundred dollars per annum.

One third assistant chemist, who shall be paid a salary of one thousand four hundred dollars per annum.

One fourth assistant chemist, who shall be paid a salary of one thousand two hundred dollars per annum.

One laboratory janitor, who shall be paid the salary of seven hundred and twenty dollars per annum, and who shall be appointed by the State chemist.

The commissioner, with the approval of the board of agriculture and the governor, may appoint and fix salaries of such further employees as may be necessary to meet the growing needs of the department.

All salaries and expenses of the department, and all expenditures, shall be paid out of the funds in the treasury to the credit of the department upon warrants drawn by the commissioner and countersigned by the president of the board.

CHAP. 359—An ACT to allow the land assessors of the State further time in which to make their returns for the year 1910, and making certain provisions for the review, revision and correction of their assessments, under certain conditions.

Approved March 17, 1910.

1. Be it enacted by the general assembly of Virginia, That the time for the return of the books showing reassessment of lands to the clerk of the circuit court of the county, or corporation court of the city wherein the lot or land is located, to the commissioner of the county, district, or corporation, and to the auditor of public accounts, shall be made not later than the first day of October, nineteen hundred and ten, and in cities having a population of forty-six thousand, by the last United States census, not later than December first, nineteen hundred and ten. If the board of supervisors of any county or any member of said board, or if the Commonwealth's attorney of any county or city, or if any member of the council of any city shall think the valuation of any tract of land or city lot is too low, the said Commonwealth's attorney may, of his own motion, or whenever directed by the board of supervisors, or any member thereof, or member of the council of a city, or whenever required in writing by any five freeholders of his county or city, shall apply to the circuit court of his county or the corporation court of his city, to have the assessment thereof raised or corrected, which application shall be proceeded in as

to notice and otherwise as required by section four hundred and forty-four of the Code of Virginia.

2. By reason of the fact that the land assessors have not been provided with the necessary books for making said returns, an emergency is declared to exist, and this act shall be in force from its passage.

CHAP. 360.—An ACT to amend and re-enact section 563 of the Code of Virginia.

Approved March 18, 1910.

1. Be it enacted by the general assembly of Virginia, That section five hundred and sixty-three of the Code of Virginia be amended and re-enacted so as to read as follows:

§563. When taxes on licenses payable into the treasury.—The taxes assessed on licenses shall be accounted for and paid into the treasury by the county and city treasurers at the following times: Taxes assessed on or after the first day of January and before the first day of July following shall be accounted for and paid on or before the fifteenth day of July, and the taxes assessed on or after the first day of July and before the first day of January following shall be accounted for and paid on or before the fifteenth day of January. Failure of a treasurer to comply with the requirements of this law shall operate a forfeiture of his commissions on license taxes.

2. The collection of current revenue being affected, there is an emergency for the passage of this act, and it shall be in force from its passage.

CHAP. 361.—An ACT to provide that it shall be unlawful to hunt or to trap birds or animals in the county of Rappahannock without obtaining a written permit from the landowner or landowners, and to provide a penalty therefor.

Approved March 18, 1910.

1. Be it enacted by the general assembly of Virginia, That it shall be unlawful to hunt or trap birds or animals in the county of Rappahannock without obtaining the written permission, duly signed, stating the person's name who has given the permission, and said permission to be acknowledged before an officer authorized to take acknowledgments; said permit shall not exceed four months; the middle of the public road shall be construed as belonging to the adjoining landowners, whose lands lie immediately on said road; any person violating the provisions of this act shall be deemed guilty of a misdemeanor and shall be fined not less than five dollars nor more than thirty dollars.

This act is made subject to all the provisions of the game laws which apply to the county of Rappahannock.

CHAP. 362.—An ACT to provide for the assessment and payment of omitted capitation taxes and of capitation taxes of persons who become of age after the first of February in any year, and to repeal chapter 342 of acts of assembly of 1902-1903-1904, entitled an act to prescribe the manner in which a duly registered voter who has not been assessed with his State capitation tax may pay same, and to prescribe penalties for failure on the part of clerks and treasurers to observe the provisions of this act, and to repeal chapter 26 of the acts of assembly of 1906, entitled an act authorizing and directing the auditor of public accounts to accept from the county and city treasurers of the Commonwealth all money collected by such treasurers as poll taxes under orders of courts since the first day of July, 1903.

Approved March 18, 1910.

1. Be it enacted by the general assembly, That any person assessable with capitation taxes for any year or years, who has not been assessed therewith, and any person who will be assessable with such taxes for the ensuing year by reason of his becoming of age after the first of February in any year, may apply to the commissioner of the revenue for the district of the county or for the city in which he resides and have himself assessed with such omitted capitation taxes or with such capitation taxes as shall become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and it shall be the duty of the commissioner of the revenue to assess such person with such omitted capitation taxes or with such capitation taxes as will become assessable against him for the ensuing year by reason of his becoming of age after the first of February in any year, and to give to such person a certificate of such assessment, and thereupon the treasurer of the county or city in which the person so assessed resides shall receive from such person the capitation taxes set out in such certificate.

2. The commissioner of the revenue making the assessments provided for in this act shall keep a record thereof and report to the auditor of public accounts on the first day of January and July of each year a list of such assessments made by him during the preceding six months. The county and city treasurers receiving the taxes assessed under this act shall pay the same into the treasury on or before the tenth of January and July of each year and shall furnish the auditor of public accounts with a list of the taxes received by them under this act. The auditor of public accounts shall charge the treasurer with the amount of the assessments reported by the commissioners of the revenue and shall require the treasurer to account for the amount of such assessments received by him and shall credit him with so much of said assessments as he shall state under oath in his report were not received by him.

3. Chapter three hundred and forty-two of the acts of assembly of nineteen hundred and two-three-four, entitled an act to prescribe the manner in which a duly registered voter who has not been assessed with his capitation tax may pay the same, and to prescribe penalties for failure on the part of the clerks and treasurers to observe the provisions of this act and chapter twenty-six of the acts of assembly of nineteen and six, entitled an act authorizing and directing the auditor of public accounts to accept from the county and city treasurers of the Commonwealth all money collected by such treasurers as poll taxes under orders of the courts since the first day of July, nineteen hundred and three, be, and the same are hereby, repealed.

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

5. This act shall be in force on and after the first day of July, nineteen hundred and ten.

CHAP. 363.—An ACT to amend and re-enact section 35 of an act approved April 2, 1902, entitled an act to provide a new charter for the town of Covington, in the county of Alleghany, and to repeal all other acts with reference thereto.

Approved March 18, 1910.

1. Be it enacted by the general assembly of Virginia, That section thirty-five of the charter of the town of Covington, be amended and re-enacted so as to read as follows:

§35. The town council, as now constituted or hereafter elected, shall have, subject to the provisions of this act, the control and management of the fiscal and municipal affairs of the town and of property, real and personal, belonging to said town, and make such ordinances, orders, and by-laws relating to the same as they shall deem proper and necessary; they shall likewise have power to make such ordinances, orders, and by-laws and regulations they shall deem necessary and proper and to carry out the powers which are hereby vested in them.

First. To establish, enlarge, and operate a system of sewerage, water works, gas works, and electric light works within or without the limits of the town; to contract or agree with the owners of any land for the use and purchase thereof, or to have the same condemned according to law, within or without the town, for the location, extension and enlargement of their said works, the pipes or wire connected therewith, or any other appurtenances or fixtures thereof, and shall have power to protect from injury, by ordinance prescribing adequate penalties, the works, pipes, fixtures, and land, or anything connected therewith, whether within or without the limits of said town.

Second. To close or extend, widen or narrow, straighten, lay out, graduate, curb, and pave, and otherwise improve the streets, sidewalks, and public alleys in the town, and have them kept in good order and properly lighted; and over any street or alley in the town which has been or may be ceded to the town, or conveyed to the town by proper deed, they shall have like power and authority as over other streets and alleys; they may build bridges in and culverts under said streets, and may prevent or remove any structure, obstruction, or encroachment over or under or in any street, sidewalk, or alley in said town; and may permit shade trees to be planted along said streets; but no company, firm, or individual shall occupy with its or his works or appurtenances thereof the streets, sidewalks, or alleys of the town without the consent of the council duly entered of record; and wherever, in the construction of any sewer or conduit, it is necessary that the same should pass through or under private property, the said council shall have authority to contract and agree with the owners thereof for the use and purchase of the right of way through or under the same, or have the same condemned according to law. The said council shall have power to authorize the laying down of railway tracks and the running of cars thereon in the streets of the

town by electricity or other motive power, under such regulations as the council may prescribe.

Third. To prevent the cumbering of streets, sidewalks, alleys, lanes, or bridges in the town in any manner whatever, and to have full and complete control of the same.

Fourth. To determine and designate the route and grade of any railroad to be laid in said town, and to restrain and regulate the speed of bicycles, traction engines, locomotives, engines, and cars upon the railroads within said town, and may wholly exclude such engines and cars if they please, provided that no contract is hereby violated.

Fifth. To secure the inhabitants from contagious, infectious, or other dangerous diseases; to establish, erect, and regulate hospitals; to provide for and enforce the removal of patients to said hospitals; to appoint and organize a board of health for said town, with the authority necessary for the prompt and efficient performance of its duties.

Sixth. To require and compel the abatement and removal of all nuisances within said town at the expense of the person or persons causing the same, or the owner or owners of the ground whereon the same may be; to require and compel the owners of houses in the town, or if the owner be unknown or absent, the occupants of such houses, to connect their water-closets and water drains with the sewer of the town, provided such sewer be within a distance of sixty feet of the lot upon which such house or houses are situated; and upon their failure so to do, the same may be done by the town, and the cost attending the same shall be collected from the owners or occupants of such houses as taxes are herein in this act allowed to be collected by the town.

Seventh. If any ground in said town shall be subject to be covered with stagnant water, or if the owner or occupiers thereof shall permit any offensive or unwholesome substance to remain or accumulate therein, the council may cause such grounds to be filled up, raised or drained, or may cause such substance to be covered or to be removed therefrom and may collect the expenses of so doing from the said owner, or owners, occupier, or occupiers, or any of them, by distress and sale, in the same manner in which taxes levied upon real estate for the benefit of said town are authorized to be collected: provided, that reasonable notice shall first be given to said owners or their agents. In case of non-resident owners who have no agents in said town, such notice may be given by publication for not less than four weeks in any newspaper printed in said town.

Eighth. To direct the location of all buildings for storing gunpowder, fire-crackers, or other fireworks manufactured or prepared therefrom, kerosene oil, nitroglycerine, camphene, burning fluid, or other combustible material; to regulate the exhibition of fireworks, the discharge of firearms, the use of candles and lights in barns, stables, or other buildings, and to regulate or restrain the making of bonfires in streets and yards.

Ninth. To prevent horses, cattle, hogs, dogs, and all other animals from running at large in said town, and may subject the same to such confiscations, regulations, and taxes as they may deem proper; and the council may prohibit the raising and keeping of hogs in the town, or in any part thereof.

Tenth. To prevent the riding or driving of horses or animals at an improper speed, throwing stones, or engaging in any employment or

sport on the streets, sidewalks or public alleys dangerous or annoying to passengers, and to prohibit and punish the abuse or cruel treatment of horses or other animals in said town.

Eleventh. To restrain and punish drunkards, vagrants, and street beggars; to prevent vice and immorality, obscenity, and profanity; to preserve peace and good order; to prevent and quell riots, disturbances, and disorderly assemblages; to suppress houses of ill-fame and gambling houses; to prevent lewd, indecent, and disorderly conduct or exhibitions in said town, and to expel therefrom persons guilty of such conduct.

Twelfth. To prevent, forbid, and punish the selling of liquor and intoxicating drinks in any place not duly licensed, and the selling or giving any intoxicating liquor to any child or minor; to provide for regulating the sale, within the town and within one mile of the corporate limits thereof, of cider or other beverages containing alcohol, and to control the sale of same through its police officers, and to prevent, forbid and punish the selling or giving of cigarettes to any minor under sixteen years of age without the consent in writing of his or her parents or guardian, and for any violation of any such ordinance may be imposed such fine as the council may prescribe.

Thirteenth. To prevent the coming into the town of persons having no ostensible means of support, and of persons who may be dangerous to the peace and safety of the town, and for those may require any railroad company or stage company, or any person or persons bringing such person to said town, to enter into bond, with satisfactory security, that said persons shall not become chargeable to the town for the period of one year thereafter, or may require and compel said company or persons to take them back whence they brought them, and compel said persons to leave town: provided, that such order to leave be issued within sixty days after their arrival.

Fourteenth. To designate such portions and parts of the town as they may deem proper within which no buildings of wood shall be erected; to prohibit the erection of wooden buildings in any portion of the town without their permission; and on the petition of the owners of at least one-fourth of the ground included in any square of said town to prohibit the erection on such square of any building or addition to any building, unless the outer walls thereof be made of brick and mortar, or stone and mortar, and to provide for the removal of any such building or addition which shall be erected contrary to such prohibition at the expense of the builder or owner thereof, and if any such building shall have been commenced before said petition can be acted upon by the council, or if any building in progress of erection appears clearly to be unsafe, the council may cause such building to be taken down.

Fifteenth. In addition to the special powers hereinbefore specifically delegated to the town council, all general powers not in conflict with the laws of this State or of the United States necessary for the proper and efficient government of said town, and which are, by law, allowed to municipal corporations, are hereby likewise delegated to and vested in the said town council.

CHAP. 364.—An ACT to empower the board of visitors of Lee Camp Soldiers' Home to take into its possession the money and personal effects found in said home belonging to any inmate thereof who has died intestate, and to dispose of the same where no claim is made therefor within one year by any person entitled thereto.

Approved March 22, 1910.

1. Be it enacted by the general assembly of Virginia, That when any inmate of the Lee Camp Soldiers' Home shall die intestate, leaving in said home any money or personal effects, it shall be the duty of the board of visitors of said home to take the same into its possession, and if no person entitled thereto by law shall make claim therefor within one year from the date of the inmate's death, the board shall sell the personal effects so left in the home at public auction or by private sale, as in its discretion may seem best, and use the proceeds of such sale, together with any money that may be left by the decedent, for the benefit of the surviving inmates of said home: provided, that when the money and personal effects so left by any inmate are of greater value than twenty-five dollars it shall be the duty of the board, as soon as practicable after his death, to advertise once a week for four successive weeks in some newspaper published or circulated in the county, city or town from which the decedent was admitted to the home the name and date of death of said inmate and an itemized list of the money and personal effects left by him in the home.

2. All moneys received by the board of visitors under this act shall be accounted for in its annual statements of receipts and disbursements rendered to the governor.

CHAP. 365.—An ACT to authorize recitals in deeds of conveyance executed prior to April, 1865, that the deed from the patentee of the land conveyed to or from his vendees was admitted to record in the general court at Richmond, Virginia, or Frankfort, Kentucky, and authenticated copies of such original deeds to be received as prima facie evidence of the execution of the said deed in suits and actions where the title to the land purported to be conveyed is involved.

Approved March 22, 1910.

1. Be it enacted by the general assembly of Virginia, That in any action at law or suit in equity, wherein the title to real estate is involved, it shall appear from the evidence that any deed from the patentee of the land in controversy, or to or from his vendees, cannot be found upon the records of the county or counties in which said land is situated, and if it shall appear that there are deeds in the chain of title of the land in controversy, duly executed and recorded prior to April, eighteen hundred and sixty-five, in the county or counties where the said land, or some part thereof, is situated, reciting the recordation of such deed or deeds from the patentee, or to or from his vendees, in the general court at Richmond, Virginia, or Frankfort, Kentucky, then the recitals in such deed or deeds or authenticated certified copies of such original deeds shall be received as prima facie evidence of the execution and recordation of the original deed or deeds referred to in said recital, and unless rebutted by satisfactory proof such recitals shall have all the effect of the original deed or deeds.

CHAP. 366.—An ACT in relation to discharge and retirement of commissioned officers of the Virginia volunteers.

Approved March 22, 1910.

1. Be it enacted by the general assembly of Virginia, That an officer may be discharged by order of the commander-in-chief or to carry out the lawful sentence of a court-martial.

2. An officer may be honorably discharged by the commander-in-chief upon removal of residence from the Commonwealth; upon tender of resignation; upon the disbandment of the organization to which he belongs; or, if a staff officer, upon the written request of the officer appointing him, or upon the qualification of his appointed successor, or when he accepts an appointment in the army or navy of the United State. Officers in staff departments and staff corps shall be discharged or retired as provided for in the case of officers of the line.

3. Any commissioned officer in the militia service who has served as such in the active militia of this Commonwealth for the period of ten years may, upon his own application, be placed upon the retired list with the rank held by him at the time of making such application.

A commissioned officer upon the retired list who accepts a commission in the active militia may at any time, upon his own application, be placed again upon the retired list with the rank with which he was formerly retired: provided, however, that if his latest service on the active list has entitled him to a grade on the retired list higher than that previously held by him, he shall be given such higher grade.

4. The commander-in-chief may retire any commissioned officer who shall have been ordered by him before a medical board consisting of at least three commissioned medical officers if such board report him to be physically unable to perform the duties of his office.

5. Any officer who has been honorably discharged from the militia may, upon application to the commander-in-chief, have such discharge rescinded, and be placed upon the retired list under the provisions of this act.

6. The names and records of all retired officers shall annually be printed in a separate register in the order of their retired rank, to be appended to the report of the adjutant general.

7. Retired officers shall be commissioned on the retired list by the commander-in-chief, and on occasions of ceremony may, and when acting under orders as hereinafter provided shall wear the uniform of their retired rank. They shall be eligible to perform any military duty to the same extent as if not retired, and the commander-in-chief may, in his discretion, require them to serve upon military boards, courts of inquiry and courts-martial, or to perform any other special or temporary military duty, and for such service they shall receive the pay and allowances provided for like services of the active militia: provided, however, that they shall only receive the pay, allowances and benefits provided for in this act while on active duty. They shall be amenable to court-martial for military offenses, as if upon the active list of the volunteer militia. Their names shall be borne on a separate roster, kept under the supervision of the adjutant general. They shall report to the adjutant general any change in their residence. An officer now on the retired list may, on ap-