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# POPULAR GOVERNMENT



*The 1949 General Assembly*

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# 1949 Legislative Summary

Prepared by the  
Institute of Government



Shown above is the 1949 legislative staff of the Institute of Government, responsible for the preparation of this year's legislative bulletins and this summary. Left to right: Donald W. McCoy, Alexander McMahon, Clifford Pace, who was in charge of the 1949 service, George H. Esser, Jr., Henry W. Lewis and J. D. Phillips, Jr.

This summary outlines the provisions of the principal statewide laws enacted  
by the 1949 General Assembly



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# 1949 APPROPRIATIONS

## I. THE APPROPRIATIONS ACT FOR THE BIENNIUM 1949-51

### A. GENERAL

Ch. 1249 (HB 33). Provides the money to operate the State's institutions, agencies and services for the biennium 1949-51, appropriating therefor \$401,417,791. This represents an increase of 29% over the appropriations for the current biennium and establishes a new spending record for the State. Also appropriated in this Act, in a new undertaking for the State, is \$25,000,000 to be used for school buildings. Summarized in the table below are the appropriations by purpose for each year of the biennium compared with the average appropriations for the fiscal years 1947-49.

### B. SCHOOL BUILDING AID

The \$25,000,000 appropriation to aid in construction or repair of school buildings was carried in the Biennial Appropriations Act but is only a part of the contemplated program of aid to local school building. Ch. 1020 (SB 203) calls for an election on the question of issuance of \$25,000,000 of bonds which if approved will make a total of \$50,000,000 available for this purpose. The \$25,000,000 appropriated by the Appropriations Act is to be divided \$250,000 to each county of the State and if the bond election carries, that \$25,000,000 will be distributed on the basis of average daily school membership. (See also Education and the Public Schools.)

### C. STATE EMPLOYEES' SALARIES

Public school teachers were given a raise about 28 1/2% in salary over the current biennium, bringing the pay scale for Grade A teachers up to \$2081-\$2787, about \$200 short of the \$2200-\$3100 scale supported by the Governor. A bonus for public school teachers contingent on surplus revenues in the fiscal years 1949-50 and 1950-51 was included in the Appropriations Act as amended by Ch. 1291 (SB 490). This bonus is to be paid as of June 30 of each year and if the amount of surplus available is not sufficient to raise the pay to a range of \$2200-\$3100, the increases will be figured in multiples of 2%. For salary raises for State employees other than school teachers, 20% of the basic salary appropriation for the biennium 1947-49 is made available to the Director of Personnel and the governing bodies of agencies and institutions to be used to increase and adjust the pay of individual State employees under their jurisdiction.

For merit salary increases in the year 1950-51 there is appropriated \$900,000 in the General Fund and \$600,000 in the Highway Fund to be transferred to the various agencies and institutions at the beginning of the fiscal year 1950-51 on statements of the Director of Personnel as to the amounts allocated to each department for merit salary increases.

## II. SUPPLEMENTAL APPROPRIATIONS FOR THE BIENNIUM 1947-49

Ch. 223 (SB 31). Provides a 20% pay raise for the remainder of the fiscal year 1948-49 and retroactive to October 1, 1948, which is applicable to all State employees including public school teachers, but does not apply to constitutional officers and those employees whose pay is fixed by statute.

Ch. 1162 (SB 421). Appropriates \$87,275 to provide pay increases for the remainder of the fiscal year 1948-49 and retroactive to January 1, 1949, for Supreme Court justices, superior court judges and solicitors.

## III. PERMANENT IMPROVEMENTS

Ch. 1248 (HB 31). Appropriates \$72,827,734 for the construction of buildings and other permanent improvements at State institutions and agencies. Of the total amount, \$27,578,282 goes to supplement the appropriations made by the 1947 General Assembly for permanent improvements and \$44,346,952 is provided for new projects authorized by the 1949 General Assembly. The Act prohibits the spending of the amounts appropriated for purposes other than the specific projects authorized and provides that projects are not to be increased in either size or quality. All unexpended balances are to revert to the General Fund. The appropriations made to the Medical Care Commission for aid in the construction of local hospitals may be granted units without compliance with the requirement that Federal funds be available for use in the construction of the hospital. (See also Public Health.)

## IV. SPECIAL APPROPRIATIONS

### A. ALCOHOLICS' TREATMENT

Ch. 1206 (HB 623). Appropriates \$300,000 for the biennium to be used to set up and operate facilities for the care and treatment of alcoholics. (See also PUBLIC WELFARE.)

### B. COUNTY VETERANS' SERVICE OFFICES

Ch. 1292 (HB 463). Appropriates \$100,000 for the biennium to aid the counties in the support of veterans service offices. (See also VETERANS AFFAIRS AND THE NATIONAL GUARD.)

### C. GUEST HOUSE AT OTEEN

Ch. 1219 (HB 1114). Appropriates \$10,000 to aid in the cost of enlarging the guest house at the Veterans' Hospital at Oteen. (See also VETERANS AFFAIRS AND THE NATIONAL GUARD.)

### D. CHEROKEE HISTORICAL ASSOCIATION

Ch. 1064 (HB 1174). Grants \$35,000 to the Cherokee Historical Association to aid in the production of an annual play based on Cherokee Indian and pioneer historical events.

### E. REMODELING GOVERNOR'S MANSION

Ch. 697 (HR 761). Appropriates \$50,000 for remodeling, refurnishing and redecorating the Governor's mansion.

### F. SENATE AND HOUSE FURNITURE

Ch. 1284 (HB 1337). Appropriates \$12,000 for the purchase of chairs for the Senate Chamber and the Hall of the House.

### G. SUPERVISOR OF MUSIC EDUCATION

Ch. 981 (SB 219). Provides \$15,000 for the biennium to establish the position of supervisor of music education in the Department of Public Instruction. (See also EDUCATION AND THE PUBLIC SCHOOLS.)

## V. DEFICIT FOR THE BIENNIUM

A deficit of about \$6,000,000 is embodied in the Appropriations Act, since estimated biennial revenues of \$381,000,000, \$31,000,000 from the Post War Reserve Fund and an anticipated surplus of \$10,000,000 on June 30, 1949, fall that much short of meeting the authorized expenditures of al-

Purpose	Average appropriation 1947-49	Appropriation 1949-50	Appropriation 1950-51
I. Legislative .....	\$ 225,000		\$ 225,000
II. Judicial .....	507,991	695,999	695,999
III. Executive and administrative .....	6,289,203	9,826,204	10,258,336
IV. Educational Institutions .....	7,095,574	11,854,061	12,136,156
V. Charitable and Correctional Institutions .....	7,776,068	11,009,688	11,468,827
VI. State Aid and Obligations .....	8,502,933	13,365,647	13,435,722
VII. Pensions .....	299,200	335,332	284,122
VIII. Contingency and Emergency .....	1,000,000	1,000,000	1,000,000
IX. Public Schools .....	64,049,167	87,856,057	89,321,410
X. Debt Service .....	33,178	500,788	2,518,183
XI. Agriculture .....	1,069,161	1,142,791	1,145,091
XII. Highway and Public Works .....	52,435,495	56,018,279	56,845,779
XIII. Debt Service (Highway Fund) .....	6,445,489	4,037,802	4,440,458
<b>TOTAL</b> .....	<b>\$155,615,959</b>	<b>\$197,642,648</b>	<b>\$203,775,143</b>
Total for biennium .....			\$401,417,791
School building aid to counties .....			25,000,000
Special appropriations .....			522,000
<b>GRAND TOTAL</b> .....			<b>\$426,939,791</b>



most \$427,000,000. The provision in the Permanent Improvements Act freezing the specifications for construction authorized by that Act together with some indication that building costs are slowly dropping lead to the belief that if other sources of revenue come up to expectations, the return to the General Fund of savings on permanent improvements will balance the budget.

## ALCOHOLIC BEVERAGES

### I. WINE CONTROL IN ABC COUNTIES

Ch. 251 (SB 370). Supplements Article 8 of Chapter 18 of the General Statutes as follows: (1) grants county and city governing bodies power to revoke retail wine licenses for violation of any law or State ABC Board wine regulation; (2) empowers local ABC boards to suspend or revoke wine permits if, in their discretion, the holder is unsuitable, or his place of business is unfit, or if they believe the number of permits should be reduced; (3) empowers local ABC boards to limit the sale of wine to ABC stores if they so desire; (4) allows local ABC boards to restrict the days and hours for the sale of wine more stringently than does the State ABC Board; (5) endows all ABC officers with wide investigatory powers, including the right to enter licensed premises to examine the operation of the premises and the licensee's books and records; and (6) provides that the revocation of any wine license or permit serves to revoke all others the holder may have. Amends G.S. 18-32(3) to make possession of more than one gallon of wine at any one time, whether in one or more places, prima facie evidence of violation of G.S. 18-32, which makes it illegal to possess wine for the purpose of sale except as specifically provided by law. Further makes it unlawful "for any person other than a manufacturer, distributor or bottler to sell at retail to any one person, more than one gallon of wine at any one time whether in one or more places." The wine referred to in this bill includes both fortified wine (defined in G.S. 18-96) and unfortified wine (defined in G.S. 18-64 (b)), and the act is made applicable only to those counties and cities that have, or may establish, ABC stores.

### II. MALT BEVERAGE CONTROL

Ch. 974 (SB 282). Adds to G.S. Ch. 18 a new section giving the State ABC Board the sole power, in its discretion, to determine the fitness and qualifications of an applicant to sell, manufacture or bottle beer; all resident bottlers or manufacturers of beer and all resident wholesalers and retailers of beer must file a written application for a permit with the State ABC Board containing information set out in the Act. Applicants obtaining a permit based on an application containing a false statement shall be guilty of a misdemeanor. Requires an applicant, before seeking a permit, to give 10 days notice to county and municipal authorities of the place where the business will be carried on. Requires notice and hearing before a permit may be refused or revoked. Provides that counties and cities retain any power they have under existing law to revoke or suspend beer licenses. Authorizes the Board to make regulations to carry out the provisions of the Act. Sets up Malt Beverage Division to enforce Board regulations and provisions of the Act. Directs that not less than 15 "inspectors" be employed to devote their full time to enforcement work. Authorizes the use of ABC officers for enforcement work under the direction of the Board. Bans sale of beer from 11 P.M. to 7:30 A.M. Appropriates to State ABC Board in addition to its other appropriations not less than 3% and not more than 5% of the total malt beverage taxes collected by the Department of Revenue before distribution to local units. Amends G.S. 18-78 to take from the Commissioner of Revenue and vest in the State ABC Board the power to revoke and suspend State licenses; gives the Board power to revoke and suspend permits provided for under this Act; provides that revocation or suspension of State permits will operate as automatic revocation or suspension of all State, county and city licenses granted under the Beverage Control Act of 1939; strikes from G.S. 18-78.1 the provisions under which the Commissioner of Revenue may revoke or suspend licenses.

### III. ABC STORES

Local bills authorizing the establishment of ABC stores in 22 cities and towns upon a vote of the people were introduced. The bills that were finally passed authorized votes on liquor stores in 18 towns *only* if there was no county-

wide election called on ABC stores within 60 days from the date of ratification.

## CIVIL PROCEDURE, ESTATES AND CONVEYANCES

### I. CONSTITUTIONAL AMENDMENTS AFFECTING THE COURT SYSTEM

#### A. ELECTION OF SUPERIOR COURT JUDGES

Ch. 393 (HB 161). Submits to voters at 1950 general election question of amending the Constitution to permit the General Assembly to provide for the election of one or more superior court judges in each judicial district.

#### B. ASSIGNMENT OF JUDGES AND SPECIAL TERMS

Ch. 775 (HB 154). Submits to voters at 1950 general election question of amending the Constitution to transfer power to assign judges from the Governor to the Chief Justice of the Supreme Court.

#### C. JURISDICTION OF SPECIAL AND EMERGENCY JUDGES

Ch. 775 (HB 154). Submits to voters at 1950 general election question of amending the Constitution to permit the General Assembly to define the jurisdiction of the special and emergency judges.

### II. PAY OF JURORS

Ch. 915 (SB 10). Rewrites G.S. 9-5 to provide that county commissioners may fix the compensation of superior court jurors at not less than \$3 nor more than \$6 per day; within these limits, however, the commissioners may set different rates for different classes of superior court jurors.

### III. JUDICIAL COUNCIL

Ch. 1052 (HB 160). Sets up a 12-member Judicial Council to make a continuing study of the administration of justice, to receive criticisms and suggestions on this subject, and to recommend desirable changes to the General Assembly or to the courts. The Council is empowered to employ a lawyer as executive secretary at an annual salary of \$3,000.

### IV. ADMINISTRATION OF ESTATES

#### A. WITNESSES TO WILLS

Ch. 44 (SB 15). Adds section to G.S. Ch. 31 providing that a corporation named as trustee in a will is not disqualified from acting as trustee simply because a stockholder in the corporation signs the will as a witness. Effective date July 1, 1949.

#### B. NOMINATION OF ADMINISTRATORS

Ch. 22 (SB 14). Amends G.S. Ch. 28 to provide that any person renouncing his right to qualify as administrator may, *at that time*, nominate in writing some other qualified person to serve, who will be entitled to the same priority of right to qualify as the person making the nomination. The right of the clerk of superior court to pass on the individual's qualifications is retained.

#### C. BONDS OF EXECUTORS, ADMINISTRATORS AND COLLECTORS

Ch. 971 (SB 184). Inserts a provision in G.S. 28-34 to the effect that when the value of the assets in the estate to be administered exceeds \$100,000 the clerk of superior court may accept bond from the personal representative in an amount equal to the value of the assets plus 10% thereof. Where the estate is of this size this provision specifically supercedes the other provisions of the section concerning the amount of bond required of the personal representative. Effective date July 1, 1949.

#### D. NOTICE TO CREDITORS

##### 1. CONSECUTIVE NOTICE REQUIRED

Ch. 47 (SB 21). Amend G.S. 28-47 to provide that the notice to creditors must be published once a week for six consecutive weeks instead of merely for six weeks as formerly written. Effective date July 1, 1949.

##### 2. WHERE ONLY ASSETS ARE PROCEEDS FROM WRONGFUL DEATH

Ch. 63 (HB 95). Adds provision to G.S. 28-47 to the effect that a personal representative need not publish notice to creditors when the deceased person owned no real property and the only assets of the estate are proceeds received for wrongful death. Effective date July 1, 1949.

#### E. SUMS OWED INTESTATES

Ch. 691 (HB 216). Amends G.S. 28-68 to allow payment to the clerk of the superior court of debts of not over \$500 owing an intestate. This section which formerly applied to only 79 counties has been made to apply statewide.

#### F. FINAL ACCOUNT

Ch. 63 (HB 95). The personal representative of a deceased person who did not own any real property or any



interest in real property at the time of his death may file his final account for settlement at any time within one year after his appointment when the only assets of the estate consist of proceeds received for wrongful death.

#### G. GUARDIANSHIPS

##### 1. SALES OF WARD'S REAL ESTATE

Ch. 724 (HB 583). Amends G.S. 33-31.1 to provide that when a clerk of superior court considers a guardian's request for an order to sell or mortgage real property owned by the ward in a county other than that in which the guardian resides, the clerk may issue the order when he finds that the ward's interest would be "materially promoted" by the sale or mortgage as well as when he finds that it is "necessary." This order is then certified to the clerk of the superior court of the county in which the land lies, but the findings and orders of the clerk must first be approved by the resident judge or the judge holding court in the district before it becomes effective. Effective date July 1, 1949.

##### 2. NONRESIDENT INCOMPETENTS

Ch. 986 (SB 291). Provides that an ancillary guardian for the nonresident incompetent owner of an interest in real property in this state may be appointed by the clerk of the superior court of the county in which the property lies upon petition, application, and due proof that the facts are as indicated and that the nonresident has no guardian in North Carolina. The ancillary guardian is required to account to the clerk annually and to remit the net income from the property to the guardian in the state of the owner's residence.

##### 3. REMOVAL OF PERSONALTY BY FOREIGN GUARDIAN

Ch. 253 (HB 305). Adds to first sentence of G.S. 33-49 a provision that any bank doing business in another state in which no bond or surety is required in order for the bank to qualify as guardian, may remove personal property of its ward without filing the bond with surety required by G.S. 33-49.

#### H. SUMS OWING INDIGENT CHILDREN AND PERSONS NON COMPOS MENTIS

Ch. 188 (SB 103). Amends G.S. 2-53 to raise from \$300 to \$500 the amount of money owing indigent children and persons non compos mentis which may be paid into court without the appointment of a guardian.

#### I. MISSING PERSONS ESTATES

Ch. 581 (HB 299). Provides a complete procedure for the administration of the estates of persons missing more than seven years, determination of their heirs and next of kin, and for the vesting of titles contingent upon the death of the missing person.

#### V. CONVEYANCES AND REGISTRATION

##### A. ACKNOWLEDGMENT OF INSTRUMENTS EXECUTED BY ATTORNEYS IN FACT

Ch. 66 (HB 132). Adds to G.S. 47-43 a provision that when an instrument purports to be executed by parties acting through another by virtue of a power of attorney, the instrument shall be sufficient if it is signed either in the name of the principal *by* the attorney in fact, or in the name of the attorney in fact *for* the principal. If the instrument purports to be under seal, the seal of the attorney in fact shall be sufficient provided the power of attorney was executed under seal. The act validates all instruments executed prior to its passage if they conform to the requirements set out in the amended G.S. 47-43, but carries a specific provision that it is not to affect litigation pending at time of ratification.

##### B. GENERAL VALIDATING ACTS

###### 1. DEEDS EXECUTED IN FOREIGN STATES

Ch. 87 (HB 219). Validates unsealed deeds to North Carolina land executed prior to January 1, 1919, where the deeds were acknowledged in states not requiring the seal and where the deeds have been duly recorded in North Carolina. Does not affect pending litigation.

Ch. 296 (SB 195). Validates unsealed deeds to North Carolina land executed prior to January 1, 1948, where the deeds were acknowledged in states not requiring the seal and where the deeds have been duly recorded in North Carolina. Does not affect pending litigation.

###### 2. RECORDATION OF MAPS AND PLATS

Ch. 1073 (SB 307). Validates the acts of registers of deeds and deputy registers of deeds in recording plats and maps by transcribing copies thereof or by attaching the original to the records in the "Book of Plats." Act applies only to such actions heretofore taken and does not apply to pending litigation.

##### 3. CORPORATE CONVEYANCES

###### a. Signatures on Deeds of Defunct Corporations

Ch. 825 (HB 350). Validates deeds of North Carolina

land made by any North Carolina corporation prior to January 1, 1939, when executed in the name of the corporation and signed by either its president, vice-president, or secretary, and sealed with the corporate seal notwithstanding the failure of one of these officers to sign the instrument if the corporation has been dissolved for at least seven years and if the deed has been on record for at least seven years. Does not affect pending litigation.

###### b. Unsealed Corporate Deeds

Ch. 436 (HB 611). Validates unsealed deeds of North Carolina land made by any North Carolina corporation prior to January 1, 1948, when executed in the corporate name and signed and attested by the proper officers. Note: the Act amends G.S. 55-41 to this effect by changing the date from January 1, 1938, to January 1, 1949. Does not affect pending litigation.

###### c. Deeds of Foreign Dissolved Corporations

Ch. 1212 (HB 910). Validates deeds of North Carolina land made by any dissolved foreign corporation prior to its dissolution and prior to January 1, 1947, otherwise in proper form where there was an error in the attestation clause, where the acknowledgment fails to identify the officers signing the deed, and where it fails to recite that authority was duly given and that the deed was the act of the corporation. Does not affect pending litigation, but any action to attack the validity of such a conveyance must be brought within one year from April 23, 1949, the date of ratification.

#### C. CORPORATE PERSONAL PROPERTY

##### 1. PERSONAL PROPERTY—PROBATE FORM

Ch. 1224 (HB 1218). Adds to G.S. 47-41 an additional form of probate for contracts in writing for the sale of personal property by corporations when a lien is provided for or when title is to be retained.

##### 2. PERSONAL PROPERTY—EXECUTION

Ch. 1224 (HB 1218). Makes G.S. 55-43 specifically applicable to chattel mortgages, chattel deeds of trust and conditional sales of personal property by corporations. Under its provisions such instruments are considered "sufficiently executed" if signed in the name of the corporation by the president, secretary or treasurer.

#### VI. PARTITION OF LAND AND TIMBER

##### A. TIME FOR FILING COMMISSIONERS REPORT

Ch. 16 (HB 19). Amends G.S. 46-17 to add a provision allowing the clerk of superior court to extend the time of filing the report of real property partition commissioners for an additional period not to exceed 60 days.

##### B. VALUATION OF LIFE ESTATE ON SALE OF TIMBER

Ch. 34 (SB 34). Rewrites G.S. 46-25 to insure that, in addition to the cases already covered, the section specifically applies to the situation in which *one* or more persons own a remainder or reversionary interest in a tract of land subject to a life estate.

##### C. PAY OF COMMISSIONERS

Ch. 975 (SB 72). Authorizes clerks of superior court to fix the pay of commissioners dividing land at a sum not to exceed \$6 per day.

#### VII. LIENS ON PERSONAL PROPERTY

##### A. VALIDITY OF FOREIGN LIENS

Ch. 1129 (HB 185). Provides that no mortgage, deed of trust or other encumbrance on personal property created while the property is located in another state shall be valid, after the property has been moved to this state, as against purchasers for a valuable consideration without notice unless the lien is or was actually registered or filed for registration in the proper office in the state from which the property was removed.

##### B. PROCEEDS FROM SALE OF TOBACCO—LANDLORD'S LIEN ON

Ch. 193 (SB 148). Provides that any tenant or share cropper who sells tobacco authorized by the marketing card in his possession and who fails to account to his landlord, to the extent of the net proceeds from the sale for all liens, rents, advances, or other claims held by his landlord against the tobacco or the proceeds of its sale, shall be guilty of a misdemeanor.

#### VIII. ESCHEATS

##### A. DERELICT BANK DEPOSITS

Ch. 1069 (SB 259). Under G.S. 116-24 bank deposits which have been neither debited nor credited for 5 years and for which the bank cannot locate the depositor escheat to the University of North Carolina. This act adds clarifying provisions to the section as follows: (1) debits of service charges and intangible taxes are not debits under this section, and (2) a bank is deemed unable to locate a



depositor when the present address is unknown and return-addressed mail to the last known address is returned undelivered.

#### B. UNCLAIMED FUNDS HELD OR OWING BY LIFE INSURANCE COMPANIES

Ch. 682 (SB 181). Defines "unclaimed funds" for escheat purposes to include money held and owing by insurance companies doing business in this state which remains unclaimed for 7 years or more after due and payable under any life or endowment insurance policy where the last known address, in the company records, or the person entitled to the funds is within North Carolina. If payable to one other than the insured whose address is not definite or is unknown to the company, his address shall be deemed to be the last known address of the insured according to company records. It also provides that a life insurance policy not matured by the prior death of the insured is to be considered matured and the proceeds thereof are to be considered as falling within the term "due and payable" when the insured attains the limiting age under the mortality table on which reserve is based. For such funds to be "due and payable" the policy need not have been surrendered, proof of death need not have been submitted, and it is immaterial that the claim as to the payee may have been barred by a statute of limitations.

#### IX. JUDICIAL SALES AND EXECUTION SALES

Ch. 719 (SB 60). Introduces two new articles into Ch. 1 of the General Statutes in which the existing laws relating to procedures for holding judicial sales and execution sales are brought together and rewritten to make the different sales procedures as uniform as possible. The redrafted provisions permit superior court judges to retain the latitude in prescribing procedure for judicial sales they held prior to this enactment, but a detailed procedure is provided which the judges *may* follow and which clerks of superior court *must* follow. Other than changes designed to promote uniformity, the act also makes the following changes: requires notice of sale of personal property to be posted *only* at the courthouse; requires a minimum increase of \$25 when an upset bid on real property is made; permits the superior court clerk to require the bidder at resale to furnish the same compliance bond as a person making an upset bid; provides that when a sale pursuant to an execution is commenced *before* being barred by the statute of limitations, all procedure with respect to the sale, including resales, may be made after the statute has run; makes more specific the authority to sell unlisted securities at a private sale pursuant to court order. Effective date of the act is January 1, 1950. It does not apply (1) to judicial sales in which the original order of sale is issued prior to January 1, 1950, and (2) to execution sales held pursuant to any execution originally issued prior to January 1, 1950. The law prior to January 1, 1950, is made specifically applicable to sales exempted from the operation of the act.

#### X. SALES UNDER POWERS OF SALE

##### A. PROCEDURE REWRITTEN

Ch. 720 (SB 61). Introduces three new articles into Ch. 45 of the General Statutes in which statutes relating to procedures for holding sales under a power of sale in a mortgage, deed of trust, or conditional sale contract are brought together and rewritten to make the sale procedure conform as closely as possible with the procedure prescribed for judicial and execution sales. This act permits the sale of the remainder of mortgaged property when the sale of only a part fails to satisfy the obligation secured by the mortgage; it grants the same statutory powers of sale with respect to chattel mortgages and chattel deeds of trust as presently exist with respect to conditional sale contracts; it requires notice of sale of personal property to be posted at courthouse only; requires a minimum increase of \$25 when an upset bid on real property is made; permits the clerk of superior court to require a bidder at resale to furnish the same compliance bond as a person making an upset bid; provides that when a sale pursuant to a power of sale is commenced before being barred by the statute of limitations, all procedure with respect to such sale, including resales, may be had thereafter. Effective date January 1, 1950; any sale commenced prior to that date is to be conducted under the prior law.

##### B. CONDITIONAL SALE CONTRACTS—DEFICIENCY JUDGMENTS

Ch. 856 (HB 98). Provides that when the proceeds from a sale made under a power of sale in a conditional sale contract are not sufficient to pay the expenses of the sale, the expenses of retaking the goods, or the balance due on

the purchase price, the seller may recover the deficiency from the buyer or from anyone who has succeeded to the obligations of the buyer.

#### XI. SPECIFIC CIVIL ACTIONS AND SPECIAL PROCEEDINGS

##### A. DEFAMATION BY RADIO OR TELEVISION

Ch. 262 (SB 91). Provides that a radio or television station is not liable for any damage arising from any defamatory statement published or uttered in or as part of a broadcast by one other than the owner, operator, or their agents or employees, unless they are "guilty of negligence in permitting any such defamatory statement."

##### B. DIVORCE AND ANNULMENT

###### 1. RESIDENCE REQUIREMENTS FOR ABSOLUTE DIVORCE

Ch. 417 (HB 35). Amends G.S. 50-5 to provide that, in all cases of divorce mentioned therein, the allegation and proof that either the plaintiff *or* defendant has resided in North Carolina for 6 months next preceding the filing of the complaint will constitute compliance with the required residence requirements. Effective date July 1, 1949.

Ch. 264 (HB 79). Amends paragraph 4 of G.S. 50-5 to the same effect as HB 35 but effective date is March 10, 1949, the date of ratification.

Ch. 264 (HB 79). Amends G.S. 50-8 to require that if in a divorce action the plaintiff is a non-resident the action must be brought in the county of the defendant's residence and summons must be personally served on the defendant.

###### 2. CONCURRENT DIVORCE JURISDICTION

Ch. 264 (HB 79). Rewrites G.S. 50-1 to provide that the superior courts and *such other courts* as are now or may hereafter be so vested *by statute* shall have concurrent jurisdiction of actions for divorce and alimony, or either.

###### 3. INCURABLE INSANITY AS GROUNDS

Ch. 264 (HB 79). Rewrites paragraph 6 of G.S. 50-5 to make the following changes: require that the spouses be living apart at time action is instituted, require that defendant's confinement has been for at least ten years *next preceding* institution of the action, rewrite the provision concerning proof of the incurable insanity to require that it be supported by the testimony of two reputable physicians—one a staff member or superintendent of the institution where the defendant is confined and one a physician in the community in which the couple reside and who has no connection with the institution, and to insert a provision that either plaintiff *or* defendant must have resided in North Carolina for 6 months next preceding the institution of the action.

###### 4. PROHIBITING DEFENSE AFTER JUDGMENT OF ANNULMENT

Ch. 256 (HB 354). Amends G.S. 1-108 to include annulment in the actions exempted from this section which provides for defense after judgment based on substituted service.

##### C. EJECTMENT—APPEAL FROM JUSTICE OF THE PEACE

Ch. 1159 (SB 392). Amends G.S. 42-34 so that if an ejectment trial before a JP takes place at least 15 days before the next term of Superior Court then upon demand of either party the appeal from the JP must be docketed in time to be tried at the first term of the superior court after the JP trial.

##### D. INSANITY AND INEBRIACY

###### 1. RESTORATION TO SANITY OR SOBRIETY

Ch. 124 (SB 83). Amends G.S. 35-4 and G.S. 35-4.1 to grant the petitioner in a proceeding for restoration to sanity a right to appeal to the next term of superior court for trial *de novo* before a jury from an adverse ruling of either the clerk or a jury (1) in hearings on restoration to sanity or sobriety, and (2) in hearings to discharge a guardian appointed for such a person when discharged from a mental institution. Does not apply to pending litigation. Effective date March 23, 1949.

###### 2. CONFINEMENT FOR INEBRIATES

Ch. 980 (SB 208). Adds provision to G.S. 35-31 to the effect that if the petition or supplemental affidavit filed in an inebriate's case states that the subject's condition is such as to endanger himself or others, or if the person serving the warrant or the clerk himself believes this to be true, the clerk is allowed to order the alleged inebriate confined to the county jail or some place specifically designed for the care and confinement of such persons until it is judicially settled as to whether the subject is an inebriate. If found to be an inebriate the subject is to remain confined locally until accepted in a State institution or discharged by law.



**E. SALE OF PROPERTY OWNED BY A CLASS WITH MEMBERS NOT YET IN ESSE**

Ch. 811 (HB 476). Inserts new section, G.S. 41-11.1, to provide for a special proceeding in the superior court for the sale, lease or mortgage of a vested interest in real or personal property held by a class, the membership of which may be increased by persons not *in esse*. All members *in esse* must be made parties, and guardians *ad litem* are to be appointed for incapacitated persons and persons not *in esse*. The clerk is to appoint a trustee to make the lease, sale or mortgage found advantageous, after approval by the resident judge or judge holding the courts of the district. Proceeds from a sale are to be owned in the same manner the property was owned immediately prior to the sale, although the trustee may hold and re-invest the proceeds until the occurrence of the event which will finally determine the identity of all members of the class. Until that time the income is to be paid not more often than annually to the members of the class *in esse*. If the property is leased, the income, after payment of expenses and upkeep, is to be paid not more often than annually to the living members of the class. After a sale any legally competent member of the class may assign his interest. The clerk is authorized to permit the mortgage of such property only to raise money for the expenses of court, for maintenance and improvements, and for paying taxes and existing liens. Note: This section is not to apply where the instrument creating the interest specifically directs the way the property is to be used or disposed of, or contains specific limitations as to its use, form or investment.

**F. CONDEMNATION BY HIGHWAY COMMISSION**

Ch. 1115 (SB 250). Adds proviso to G.S. 136-19 to the effect that actions for damages must be brought within 6 months of the completion of the project if the Highway Commission posts a notice of the completion date at courthouse door and at each end of the project for thirty days; if no such notice is posted the action may be brought within 12 months from date of the project's completion.

**XII. CIVIL PROCESS**

**A. LIS PENDENS—FILING WITH SUMMONS**

Ch. 260 (HB 408). Adds to G.S. 1-116 a provision that notice of lis pendens may be filed with the summons and before the complaint when an order has been obtained from the superior court clerk extending the date for filing the complaint under the provisions of G.S. 1-121.

**B. PROSECUTION BONDS—COUNTIES**

Ch. 53 (HB 128). Amends G.S. 1-109 to provide that counties are not required to file prosecution bonds or make deposits in lieu of bond.

**C. SERVICE BY PUBLICATION**

**1. IN ANNULMENT ACTIONS**

Ch. 85 (HB 119). Amends G.S. 1-98 to provide for service by publication in actions for annulment.

**2. NEWSPAPER CHARGES**

Ch. 205 (SB 114). Amend G.S. 1-99 to provide that the newspaper charges for publishing service by publication shall be governed by the general law governing legal advertising, G.S. 1-596, which permits newspapers to charge "not to exceed the local commercial rate," rather than by G.S. 1-99, which fixes a maximum on the charges; the act also amends G. S. 1-596 to delete the provisions therein making it subject to G.S. 1-99 with respect to the cost of service by publication.

**D. SERVING COMPLAINT AFTER EXTENSION**

Ch. 1113 (SB 78). Amends G.S. 1-121 to provide that when complaint is filed at a time other than at issuance of summons the clerk of superior court must order the sheriff to serve a copy of the complaint on each defendant and make written return within ten days. If the return shows that defendant is not to be found in the county where summons was originally served on him, and affidavit is filed showing he cannot be found in the State, the act provides that it is unnecessary to serve the defendant with the complaint in any other manner. Amends G.S. 1-125 to provide that when service of the complaint is had as herein provided the defendant is given thirty days from date when complaint was served on him or thirty days from final date fixed for filing the complaint, whichever is later, in which to plead. If in a similar case the complaint is not served by the sheriff, the defendant is given thirty days from the date of the sheriff's return showing service was not made or thirty days after final date fixed for filing the complaint, whichever is later, in which to plead. Effective date July 1, 1949.

**E. DEATH OF PARTY**

Ch. 41 (SB 19). Amends G.S. 1-75 relating to procedure on death of a party to an action to provide that when the clerk of superior court is informed of the death of a party *defendant* to an action, he must issue summons to the party to appear before him within thirty days after service of summons succeeding to the deceased defendant's rights or liabilities. The Act grants the defendant in an action in which a deceased *plaintiff's* successor party has filed an amended complaint thirty days in which to answer. It further provides that, for good cause, the clerk may extend the time for filing answer to a day certain, but the clerk cannot extend the time more than once nor may he extend it for more than twenty days without the consent of the parties. The Act does not affect pending litigation. Effective date July 1, 1949.

**XIII. PLEADING AND JURISDICTION**

**A. DEMURRER**

**1. ANSWER AFTER**

Ch. 972 (SB 221). Amend G.S. 1-131 to make it agree with G.S. 1-125 in providing that the defendant must answer within thirty days after final judgment overruling a demurrer.

**2. HEARING OUT OF TERM**

Ch. 147 (HB 166). Amends G.S. 1-129 to provide that a demurrer, upon ten days notice to the adverse party, may be heard and passed upon out of term by the resident judge of the district or by any judge regularly assigned to hold the courts of the district. Does not affect pending litigation.

**B. PRE-TRIAL CONFERENCES**

Ch. 419 (HB 151). Provides for maintenance of a pre-trial docket upon which civil cases, except uncontested divorce cases and proceedings after judgment by default, will be docketed for hearing on the first day of each civil term. At the hearing attorneys are to consider (1) motions to amend or supplement pleadings, (2) settling of issues, (3) a reference, (4) admissions of facts and documents, (5) facts for judicial notice, (6) any other matters to aid in disposition of the case, and (7) in the judge's discretion, any motion, order, judgment, or decree which the judge could hear, determine, or enter at term. After the hearing the judge is to enter an order which controls the course of the litigation. With consent of counsel for all parties, the resident judge or the regular judge holding court in the district may hold pre-trial hearings out of term and in or out of the county or the district. For consent hearings of this nature the act is effective from March 18, the date of ratification. For other pre-trial hearings, the act is effective for civil cases in which issue is joined on or after October 1, 1949. As to judges of courts having jurisdiction less than the Superior Court but beyond that of a magistrate, they may, after October 1, 1949, order pre-trial conferences.

**C. MOTIONS TO STRIKE—HEARING OUT OF TERM**

Ch. 146 (HB 165). Amends G.S. 1-153 to provide that motions to strike matter from pleadings may be heard, on 10 days notice to the adverse party, out of term by the resident judge or the judge assigned to hold the courts of the district. Does not affect pending litigation.

**D. REMOVAL OF CAUSES TO FEDERAL COURTS**

Ch. 808 (SB 128). Amends G.S. 1-125 to provide that when a party has instituted proper proceedings for removal to federal court there shall be no further proceedings in the state court until the case is remanded to the state court and upon remand any party required to plead is given 30 days in which to do so. Also rewrites G.S. 1-584 to provide that when it appears to a state court that a petition for removal to federal court has been filed, the state court may suspend further proceedings until the case is remanded by the United States court, but that failure to enter the order of remand is not to entitle the state court to proceed.

**E. JURISDICTION, RIGHT OF JUDGE TO DECLINE**

Ch. 676 (SB 207). Authorizes any judge of any court to dismiss without prejudice any civil action over which he has jurisdiction if (1) the cause of action arose outside North Carolina, and (2) the defendant is a nonresident, and (3) the plaintiff is a nonresident, or if the deceased person in behalf of whose estate the action is instituted was at the time of death a nonresident. Does not apply to pending litigation.

**XIV. EVIDENCE**

**A. GENERAL STATUTES SUPPLEMENTS**

Ch. 45 (SB 18). Constitutes the 1945 and 1947 cumula-



tive supplements to the General Statutes of North Carolina prima facie evidence of the law.

#### B. PATERNITY

Ch. 51 (SB 70). Inserts in G.S. Ch. 8 a new section, 8-50.1, which provides that in any civil action in which the question of paternity arises the court on motion of either party must order that the plaintiff, the defendant, the mother and the child submit to blood grouping tests, and that the results thereof when the tests are performed by duly qualified persons must be admitted in evidence. The court may order the person requesting the tests to pay for them. (The Act also has provision for performing such tests and admitting the results in criminal cases—that portion is digested under the section on Criminal Law.)

#### C. TAKING EXCEPTIONS

Ch. 150 (HB 158). Provides that an objection made to the admission of evidence is deemed to imply an exception taken by the party against whom the ruling was made and renders the formal taking of exceptions unnecessary. Effective date July 1, 1949.

#### D. TAKING DEPOSITIONS

Ch. 864 (HB 958). Amends G.S. 8-71 by adding a provision which allows the taking of depositions of persons in the service of the U.S. Government in a civilian capacity serving outside the continental U. S.

### XV. JUDGE'S CHARGE TO JURY

Ch. 107 (SB 24). Amend G.S. 1-180 to provide that the judge in charging a petit jury shall not be required to state the evidence given in the case "except to the extent necessary to explain the application of the law thereto," but that he shall give equal stress to the contentions of both sides.

### XVI. VALIDATION OF OFFICIALS' ACTS

#### A. CLERKS OF SUPERIOR COURTS

Ch. 493 (SB 187). Amends G.S. 47-50 to validate all orders of registration made by clerks of the superior court prior to March 3, 1949 whether or not certificates or adjudications that the instruments were duly proved or that proofs or acknowledgments were correct or in due form were made.

#### B. NOTARIES PUBLIC

Ch. 1 (SB 7). Validates all the official acts of notaries public heretofore performed between the time of their appointment and their qualification, and validates all instruments concerned. Does not affect pending litigation.

#### C. DEPUTY CLERKS OF SUPERIOR COURTS

Ch. 1072 (SB 306). Validates all the official acts of deputy clerks of the superior court heretofore performed in taking acknowledgments, examining witnesses and probating wills, deeds and other instruments required by law to be recorded. Does not affect pending litigation.

#### D. PROBATE OF ATTESTED WRITINGS

Ch. 815 (HB 852). Amends G.S. 47-12 by removing the comma preceding the word "including" in line 3 and the comma preceding the word "executed" in line 4 to insure that the statute will be construed to apply to all those instruments which are required to be registered and attested instead of only those which were executed by a married woman where her husband was not the grantee. Also validates the probate of all instruments taken on or after Feb. 7, 1945, in accordance with G.S. 47-12 as amended by this and prior acts. Does not apply to pending litigation.

Note: A number of bills relating to Civil Procedure, the Judiciary and the Court System were introduced as the result of recommendations by the Commission for the Improvement of the Administration of Justice. Those enacted into law are digested under pertinent headings in the body of this Summary. Because of the widespread interest, particularly by members of the bar, in the fate of all these bills, those which failed of passage are here noted by title.

HB 15—The North Carolina Tort Claims Act

HB 148—To provide for the establishment of a jury commission in each county of the state and to make other changes in the laws relating to jurors.

HB 149—To authorize the Supreme Court to govern by rules of court the forms of process, writs, pleadings, practice, and procedure in all civil proceedings in all courts below the Supreme Court, except the courts of justice of the peace.

## CRIMINAL LAW AND PROCEDURE

### I. SPECIFIC CRIMES

#### A. LARCENY AND RECEIVING

Ch. 145 (HB 122). Amends G.S. Ch. 14 to make the offenses of larceny and receiving of property worth up to \$100 (instead of \$50) a misdemeanor. Vests jurisdiction of all offenses of larceny and receiving, which are declared by G.S. Art. 16, Ch. 14 as amended above to be misdemeanors, in all those courts created by special act or pursuant to G.S. Ch. 7 which now possess jurisdiction or misdemeanors punishable in the discretion of the court. Vests exclusive jurisdiction of the offenses of larceny or receiving of property worth more than \$100 in superior courts.

#### B. REMOVING SERIAL NUMBERS

Ch. 928 (HB 589). Amends G. S. Ch. 14 by adding section 14-416 to make the removal or concealment of the manufacturer's serial number on any machine or apparatus, or the knowledgeable possession with intent to defraud of a machine whose serial number has been removed or concealed, a misdemeanor punishable in court's discretion. Does not apply to electric storage batteries.

#### C. GRAVESTONE CHARGING CRIME

Ch. 1075 (SB 344). Makes it illegal to erect or maintain gravestones bearing inscriptions which charge anyone with the commission of a crime. Prohibits owners and operators of cemeteries from allowing such erection or maintenance therein and places a duty on persons having charge of cemeteries where such gravestones have already been placed to obliterate the proscribed inscriptions. Violations are misdemeanors punishable by fine and/or imprisonment.

#### D. HANDLING SNAKES

Ch. 1084 (SB 369). Makes unlawful (1) the ownership or use of poisonous reptiles whose venom has not been removed, unless they are kept in a container from which they cannot escape, (2) the handling of such reptiles in any way, and particularly any suggestion or invitation to other persons to handle and expose themselves to such reptiles. Directs any law enforcement officer having reasonable grounds to believe a violation is taking place to seize the reptile and deliver it to the county health authorities to determine if the reptile is poisonous. If found poisonous, the reptile is to be destroyed; if not, it is to be returned to its owner. If found poisonous, the persons engaged in handling are to be arrested, and upon conviction fined and/or imprisoned in the court's discretion. The Act is not applicable to possession, exhibition or handling of snakes by employees of museums, laboratories, or educational institutions.

#### E. NARCOTICS SALE

Ch. 1164 (SB 446). Amends G.S. 19-1 to make the erection, establishment, maintenance, ownership or lease of any place for the purpose of illegal sale of narcotic drugs a nuisance, and provides for its abatement.

#### F. CARRYING CONCEALED WEAPONS

Ch. 1217 (HB 1069). Rewrites G.S. 14-269. Deletes provision of former law which provided for specific punishment of persons carrying concealed pistols or guns and gives the court the same discretionary power to punish for carrying this type weapon as it now has for carrying all other types. Provides that all deadly weapons, except pistols or guns, for carrying which a defendant has been convicted, shall be destroyed. Any pistol or gun is to be confiscated and sold by the clerk of superior court, unless the presiding judge orders it returned to the defendant.

### II. CRIMINAL PROCEDURE

#### A. DUTIES OF GRAND JURY

Ch. 208 (HB 36). Amends G.S. 9-28 to provide that it shall not be necessary for a grand jury to make any inspections or submit any reports with respect to any county offices or agencies other than those specifically required by this section, nor for any judge of the superior court to charge the grand jury with respect thereto.

#### B. CRIMINAL PROCESS

##### 1. STATEWIDE RUNNING OF WARRANTS

Ch. 168 (HB 153). Amends G.S. 15-22 to provide (1) that warrants issued by a magistrate may be executed in any part of the state in like manner as warrants issued by supreme court justices and superior court judges, provided there is attached thereto a certificate by the clerk of the



superior court certifying the signature of the issuing magistrate and (2) that an endorsement by a magistrate of the county where the warrant is to be served is no longer necessary.

2. SEARCH WARRANTS

Ch. 1179 (HB 1280). Amends G.S. 15-25 to authorize the issuance of search warrants by clerks of courts inferior to the superior court.

3. DETAINER

Ch. 303 (HB 339). Provides that no person confined in the state prison and subject to the control of the State Highway Commission or confined in any other prison in the state may be tried for any other charge pending against him except upon written order from the court wherein the charge has originated on a case regularly docketed, directing that he be held to answer the charge. Does not apply to persons in the custody of parole and probation officials.

C. CRIMINAL CALENDAR

Ch. 169 (HB 157). Requires each solicitor, at least one week before a criminal term begins, to file with the clerk a calendar of all the cases he intends to call for trial, with the date for trial of each case specified. All grand jury cases may be set for trial on the first day of the term without obligation to call such cases for trial on that day. Otherwise no case may be called for trial before the date fixed on the calendar except by consent or order of the court. Cases docketed after the calendar has been made may be placed on the calendar at the discretion of the solicitor. Witnesses are to be subpoenaed to appear on the date listed for trial of the case in which they are witnesses and shall not be entitled to prove attendance for any days prior to that day unless otherwise ordered by the presiding judge. Nothing in the Act is to be construed to affect the authority of the court in the call of cases for trial. Effective date, July 1, 1949.

D. INDIGENT DEFENDANTS' COUNSEL

Ch. 112 (HB 155). Requires the clerk of the superior court to request the judge holding court in his district to appoint counsel for any person awaiting trial for a capital offense who the clerk believes may be unable to employ counsel. The judge is to appoint counsel if he is satisfied that such is the case. If the appointment takes place after the beginning of the term at which the accused is arraigned, the judge is authorized to continue the case until the next term on motion of counsel for accused. Effective date, July 1, 1949.

E. PUNISHMENT

1. CAPITAL CASES

Ch. 299 (HB 150). Rewrites G.S. 14-17 (murder), G.S. 14-52 (burglary), G.S. 14-58 (arson), and G.S. 14-21 (rape) to provide that upon conviction of any of these crimes a sentence of life imprisonment may be imposed if the jury so recommends when rendering its verdict in open court.

2. CORRUPT PRACTICES ACT VIOLATIONS

Ch. 504 (SB 92). Provides that officers convicted of violations of any provisions of G.S. Ch. 163, Art. 21 or Art. 22 (Corrupt Practices Act and Other Offenses Against the Elective Franchise), in addition to the punishment specifically provided, may be removed from office by the judge presiding at their trial, and thereupon become ineligible to hold public office until their citizenship is restored if the conviction is of a felony, or a period of two years if the conviction is of a misdemeanor.

3. ASSAULTS

Ch. 298 (HB 116). Rewrites G.S. 14-33 to provide that a defendant over 18 years of age convicted of assault upon a person under 12 years of age where no deadly weapon was used nor serious damage done shall be punished in the court's discretion. Excepts parents, teachers, guardians and other persons in loco parentis.

F. EVIDENCE OF PATERNITY

Ch. 51 (SB 70). Adds to G.S. Ch. 8 a new section, 8-50.1, which provides that in any criminal action in which the question of paternity arises, the court on motion of the defendant must order that the defendant, the mother and the child submit to blood grouping tests, and that the results of such tests when performed by duly qualified persons must be admitted in evidence. The court may order the person requesting the tests to pay for them. (The act also has provision for performing such tests and admitting the results in the civil cases—that portion is digested under the section on Civil Procedure.)

III. PENAL REGULATIONS OF STATE AGENCIES

Ch. 378 (SB 5). Adds to G.S. Art. 18, Ch. 143 a new section, 143-198.1, which requires every state agency and

administrative board created by statute and exercising regulatory, administrative, or quasi-judicial functions to file with the clerk of the superior court of each county, within 90 days after ratification of this Act, a certified indexed copy of all its duly adopted rules and regulations the violation of which would constitute a crime, and also to mail a copy to each member of the 1949 General Assembly. Requires each agency and board to file with the clerks all additional or amendatory rules or regulations within 15 days after their adoption. Requires the clerks to file these rules and regulations as a part of their office records.

IV. CONFISCATION OF ILLEGAL HUNTING DEVICES

Ch. 489 (SB 27). Amends G.S. 113-91 (d) by removing the authority to confiscate the devices used in *all* cases of the illegal taking of wild game and providing instead that the devices used in only certain enumerated instances of illegal hunting and fishing be seized by officers, turned over to sheriff and, in the court's discretion, confiscated upon conviction. Authorizes seizure of devices used in all other violations, delivery of same to the sheriff, their use in evidence by the state and then their return to the owner. Devices seized either for confiscation or use in evidence must be surrendered to the person establishing ownership upon his furnishing bond fixed by the sheriff conditioned on production of the devices at trial.

Note: A number of bills relating to criminal procedure were introduced as the result of recommendations by the Commission for the Improvement of the Administration of Justice. Those enacted into law are, of course, digested under pertinent headings in the body of this Summary. Because of the widespread interest, particularly by members of the Bar, in the fate of all these bills, those which failed of passage are here noted by title.

HB 146—To permit the terms of a suspended sentence to be put into effect out of term time.

HB 147—To amend Section 15-20 of the General Statutes of North Carolina relating to the issuance of warrants so as to authorize the issuance of summons instead of a warrant of arrest in misdemeanor cases.

HB 152—To amend Section 15-5 of the General Statutes of North Carolina relating to the assignment and compensation of counsel for indigent defendants so as to authorize the assignment and compensation of counsel in all felony cases where the defendant is not able to employ counsel.

HB 159—To regulate private prosecution by requiring every private prosecutor to disclose the identity of his employer.

CONSTITUTIONAL AMENDMENTS

I. JURISDICTION AND ASSIGNMENT OF SUPERIOR COURT JUDGES

Ch. 775 (HB 154), as amended by Ch. 1194 (SB 461). Submits to the voters at the general election on November 7, 1950, an amendment rewriting Section 11, Article IV, North Carolina Constitution, (1) to transfer to the Chief Justice of the Supreme Court the authority now exercised by the Governor in the assignment of superior court judges and in the calling of special terms of superior court, and (2) to authorize the General Assembly to define the jurisdiction of special judges, now defined by the Constitution.

II. ADDITIONAL SUPERIOR COURT JUDGES

Ch. 393 (HB 161). Submits to the voters at the general election on November 7, 1950, an amendment rewriting Section 10, Article IV, North Carolina Constitution, to permit the General Assembly to provide for electing one or more superior court judges in each district.

III. WAIVER OF INDICTMENT

Ch. 579 (HB 156). Submits to the voters at the general election November 7, 1950, an amendment to Section 12, Article I, North Carolina Constitution, to permit waiver of indictment when represented by counsel in all except capital cases, under such regulations as the General Assembly shall prescribe.

IV. RETIREMENT SYSTEM FUNDS

Ch. 821 (SB 164). Submits to the voters at the general election on November 7, 1950, a new section to be numbered Section 31, Article II, North Carolina Constitution, to provide that funds of the Teachers' and State Employees' Retirement System shall be used only for retirement purposes, except for benefits, administrative expenses and refunds as authorized by the retirement law. Such funds are not



now constitutionally protected from appropriation by the General Assembly for General Fund purposes.

#### V. LEGISLATORS PAY

Ch. 1267 (HB 466). Submits to the voters at the general election on November 7, 1950, an amendment to Section 28, Article II, North Carolina Constitution, to provide for paying members of the General Assembly \$15 per day and presiding officers \$20 per day for not more than 90 days for a regular session and 25 days for an extra session.

## EDUCATION AND THE PUBLIC SCHOOLS

### I. CHANGES IN THE PUBLIC SCHOOL LAWS

#### A. SCHOOL MACHINERY ACT

##### 1. MINIMUM EDUCATION PROGRAM

Ch. 1116 (SB 338). Declares an additional purpose of the School Machinery Act to be the establishment of a minimum program of education in order that "substantial equality of educational opportunity may be available to all children of the state." Amends G.S. 115-351 to authorize the State Board of Education, in its discretion, (1) to pay regular state-allotted teachers in 10 equal monthly installments and (2) to pay vocational teachers on a monthly basis in conformity with the rules of the program and the Federal government. Amends G.S. 115-355 to authorize the State Board, in its discretion, to allot additional teachers to county and city administrative units to be used as librarians, attendance assistants, special teachers, supervisors of instruction, and for other special instructional services. These additional teachers are to be paid by the State on the basis of the State salary schedule. The State Board is also given the discretionary power to make allotments of funds for clerical assistance to classified principals.

##### 2. FEDERAL AID

Ch. 1116 (SB 338). Gives the Governor power to take the steps necessary for this State to receive its share of the Federal funds made available in the event U. S. Senate Bill 246 or other legislation is passed by Congress granting Federal aid to the states in financing a minimum education program. The State Treasurer is designated to receive the funds for the State, and the State Board of Education is designated as the agency to administer and distribute the funds. These funds may be used to provide aid to county and city administrative units "on a just and equitable basis" for maintenance of school plants and other Federally-allowed purposes. The Board is authorized, with the approval of the Director of the Budget, to set up the necessary personnel at the State level to administer the Federal funds.

##### 3. TEACHER BUS TRANSPORTATION

Ch. 101 (HB 230). Amends G.S. 115-374 to permit school teachers to travel to work on school buses on condition that (1) no bus schedule be altered to accommodate a teacher, (2) no teacher displace a pupil, (3) no teacher exercise any official duty on the bus, and (4) any teacher using bus transportation assume the risk of accidents, thus relieving the State of any liability for injury suffered.

##### 4. PUPIL AGE REQUIREMENTS

Ch. 1033 (HB 792). Amends G.S. 115-371 to give any school principal the authority to require the parents of any child presented to school for admission for the first time to furnish either a copy of the child's birth certificate, to be furnished without charge by the county register of deeds having it on file, or to present other satisfactory evidence of the child's age.

##### 5. FUNDS OWING DECEASED EMPLOYEES

Ch. 1033 (HB 792). Amends G.S. 115-368 to permit the clerk of the superior court to cash vouchers of deceased teachers and school employees left uncashed or owing them at death, provided the amount does not exceed \$500 and provided there is no administration on the estate. The clerk may pay out these sums for purposes set forth in the bill.

#### B. HANDLING OF SCHOOL FUNDS

Ch. 1082 (SB 343). Rewrites G.S. 115-165 to provide that (1) the county treasurer is to be treasurer of all county school funds and school district funds of county administrative units and that he is to furnish separate bond for school funds in an amount to be fixed by the county commissioners; if the county uses a bank as treasurer the bank is not required to maintain the kind of bookkeeping system required of treasurers under G.S. 155-7, and instead

the county accountant is made responsible for keeping this accounting system under G.S. 153-115; (2) trustees of a city administrative unit must appoint a treasurer for school funds of the city unit who is to furnish bond in an amount set by the trustees and maintain accounts with regard to these funds comparable to those required for county funds; (3) the county board of education for county administrative units and the board of trustees for city administrative units must appoint a treasurer for all special school funds for each individual school in their respective units, and in all individual schools a complete record must be kept of all money received and from what source and of all money disbursed and for what purpose; the special fund treasurer so appointed may, however, be the school fund treasurer appointed for all the funds of the unit. Rewrites part of G.S. 115-366 dealing with the bonds to be required of local school officials to provide that county and city administrative unit governing bodies must require "all persons authorized to draw or approve school checks or vouchers drawn on school funds . . . and all persons who as employees . . . are authorized or permitted to receive any school funds from whatever source, and all persons responsible for or authorized to handle school property" to be bonded in amounts to be set by the unit's board or trustees; the cost of bonds is to be paid from the general operating budget of the unit. Inserts a new subsection in G.S. 115-368 to provide that the governing body of each administrative unit must designate the bank in which the special funds of each school in its unit are to be deposited, that such funds are to be paid out only on checks signed by the school principal and the fund's treasurer, provided that this is not required for schools handling less than \$300 if in the board's judgment it is not necessary, and provided that this new subsection is not to restrict the drawing powers set up in the remainder of G.S. 115-368. Rewrites G.S. 115-369 dealing with audit of school funds to require that all school funds be audited and reported on each school year as follows: (1) State school funds, by the State Board of Education in cooperation with the State Auditor; (2) county and city administrative unit and district funds, by the unit's governing body in cooperation with the State Board of Education, with the requirement that reports be filed with the State Board, the Director of Local Government, and the State Superintendent of Public Instruction no later than October 1st; (3) special funds of individual schools, by the governing body of the administrative unit. Requires that copies of school fund audits be filed with the chairman and secretary of the governing body of the school administrative unit and be made available to the public, and requires that the audits themselves be published in a local newspaper at the close of each fiscal year. Effective date July 1, 1949.

#### C. PRIVATE SCHOOLS CURRICULUM

Ch. 1033 (HB 792). Amends G.S. 115-302 to require private schools instructing children of compulsory school age to maintain the minimum curriculum standards required of public schools.

#### D. HANDICAPPED CHILDREN PROGRAM

Ch. 1033 (HB 792). Adds G.S. 115-31.19 to authorize the State Board of Education to provide public school funds for the special education program for handicapped children, under such rules as it may prescribe.

#### E. FORMATION OF DISTRICTS

Ch. 597 (HB 658). Amends G.S. 115-31.2 to provide that the power of the State Board of Education to divide the State into a convenient number of school districts shall include the power to form a school district from contiguous parts of two or more counties, the term "school district" to include city administrative units. All such districts heretofore created and all districts enlarged pursuant to G.S. 115-361, are ratified and confirmed.

### II. STATE AID FOR SCHOOL BUILDINGS

Ch. 1029 (SB 203), as amended by Ch. 1249 (HB 33). Appropriates \$50,000,000 to be used in aiding the counties in the construction, improvement and repair of school plant facilities, the sum to be allocated by the State Board of Education as follows: (1) \$25,000,000 on the basis of \$250,000 outright to each county; (2) \$25,000,000 on the basis of average daily school membership in each county. The allocation of the \$25,000,000 to be distributed on the basis of average daily school membership is to be contingent on approval by the voters of a bond issue in that amount. The State Board of Education is authorized to deduct up to ¼ of 1% for providing surveys and plans for construc-



tion and repair of county buildings, such plans to be made available without charge to the counties through the Division of Schoolhouse Planning. (See also APPROPRIATIONS.)

### III. STATE INSURANCE OF SCHOOL BUILDINGS

Ch. 1182 (SB 281). Establishes the necessary machinery in the State Board of Education for State insurance of school property against losses from fire, lightning, wind-storm, hail, or explosions resulting from defects in equipment in school buildings, and sets up a "Public School Insurance Fund" with an appropriation of \$2,000,000 from the State Literary Fund for reserves. The State Board is to fix rates not in excess of those allowed on May 31, 1948. Insurance under this plan is to be optional with administrative unit governing bodies but each unit must decide whether it will insure with the State by January 1, 1951. 30 days notice of intention to insure with the Fund must be given and must be accompanied by (1) a detailed list of property to be insured and an estimate of valuation, (2) a list of commercial policies then in force and the dates of expiration thereof. State insurance is then to go into effect upon expiration of each commercial policy, except that during the remaining life of the commercial policy the State is to act as co-insurer. The State Board is to provide for periodic inspection of all property insured by trained fire inspectors who shall also make such safety recommendations as are found advisable. Up to 10% of annual premiums may be used for this purpose. Local tax-levying authorities are required to levy taxes sufficient to pay the premiums. When the local units have paid in premiums in the amount of \$1,000,000, that amount is to be returned to the Literary Fund and the same procedure is to be followed when the second million has been paid in. When the fund reaches 5% of the total insurance in force, and annually thereafter, the State Board is required to decrease the premiums proportionately so that at no time is more being received from premiums than is necessary to maintain the fund at 5% of the total insurance in force. Provides machinery for arbitrating the amount of damage when agreement cannot be reached between a unit suffering loss and the State Board. \$50,000 is appropriated for operating expenses in the next biennium but it is indicated that thereafter operating expenses are to be charged against premiums. Effective date July 1, 1949.

### IV. STATE EDUCATION COMMISSION STUDY

Ch. 1116 (SB 338). Authorizes the State Board of Education in its discretion, to continue the study of the public school system as undertaken by the State Education Commission established by the 1947 General Assembly, but does not extend the life of that Commission. A report of the findings of any study made is to be submitted to the Governor and the General Assembly of 1951.

### V. MUSIC EDUCATION

Ch. 981 (SB 219). Provides for the supervision and promotion of music in the public schools and communities of the state through the establishment in the Department of Public Instruction of the position of the Supervisor of Music Education. The supervisor is to cooperate and work with the music departments of the institutions of higher learning, the North Carolina Symphony Society, and the North Carolina Recreation Commission. Appropriates \$7500 annually for salary and expenses. Effective date July 1, 1949.

### VI. TEACHERS MILITARY SERVICE

Ch. 1274 (HB 1308). Amends G.S. 127-83 to give school superintendents, principals, and teachers leaves of absence with pay for periods spent in training with military or naval units.

### VII. ADVERTISING FOR QUALIFIED TEACHERS

Ch. 1264 (SB 487). Appropriates \$3000 to the State Board of Education to be used in advertising in other states for public school teachers with the equivalent of Grade A rating.

### VIII. COUNTY BOARDS OF EDUCATION APPOINTMENTS

Ch. 1172 (HB 1107). Contains the biennial appointments for county boards of education, all members being named for two-year terms from first Monday in May, 1949, unless otherwise specified in the Act. Provides that per diem and mileage for all members up to five be paid out of the State School Fund and for those in excess of five, out of the County School Fund.

### IX. COMMUNICATION STUDY COMMISSION

Ch. 1077 (HB 610). Creates a commission to consist of the Governor, Superintendent of Public Instruction, and

Director of the Department of Conservation and Development, *ex officio*, plus 7 members to be appointed by the Governor, 3 of whom are acquainted with the entire State educational program, 2 from the field of radio, and 2 representing business. Their terms are to commence July 1, 1949, and end June 30, 1953. The Commission is charged with "surveying, studying, and appraising" the uses, potentialities, and development of radio, motion pictures, photographic and other communication facilities in relation to their educational advantages for all phases of the State education program and is directed to coordinate with the work and objectives of the State Department of Education in this field to the extent possible. It is empowered to accept grants and gifts of money, act with existing agencies for the ends desired, and employ, with the Governor's approval, an executive director. The Governor is required to name a Communication Advisory Committee of 30 to serve for 2 years from July 1, 1949, and their successors for 2 years from July 1, 1951. The function of this committee is to serve in an advisory capacity to both the Governor and the Commission. Appropriates \$12,500 for each year of the biennium for the work of the Commission.

## ELECTIONS

### I. GENERAL ELECTION LAW CHANGES

#### A. REGISTRATION OF VOTERS

Ch. 916 (SB 93). Rewrites G.S. 163-43 through G.S. 163-49 and amends G.S. 163-50 and G.S. 163-51. Before the 1950 primary all registrations must be revised and placed in a single book for each precinct in lieu of the present separate party primary books and general election registration books. The State Board of Elections is required to furnish books providing for convenient alphabetical listings in time to permit complete transcription of existing books before the 1950 registration period, and the Board is empowered to permit populous precincts to use a loose-leaf system. Party affiliations will be carried over into the new book for persons now registered in party primary books. New registrations in 1950 will be carried in the new book. In making the transcription registrars are empowered to delete names of deceased and removed registrants. County boards of elections are empowered to order a completely new registration in lieu of having the present books copied if they want to do so. The chairman of the county board of elections is made custodian of the registration books when not in use, and is allowed, in his discretion, to permit them to be inspected and copied under his supervision. The existing law setting liability for chairmen of county boards for violating registration provisions has been broadened to cover registrars.

#### B. ELECTION MACHINERY AMENDMENTS

Ch. 672 (SB 95). Prohibits members of county boards of elections from serving as campaign managers for any candidate in a primary or election. Amends sections dealing with the presidential ballot to make it clear that "any group of petitioners" must qualify under the definition of a "political party" before they can get their candidate's name on the official ballot. Changes date of delivery of absentee ballot forms to proper officials from August 1st to September 1st before the general election. Changes the filing deadline for candidates in state, district and congressional office primaries from 6 P.M. to 12 noon on the tenth Saturday before the primary.

#### C. VOTING MACHINES

Ch. 301 (HB 250). Authorizes counties and cities to buy or lease voting machines for use in primary and general elections, and validates their use if the machines are approved by the State Board of Elections.

#### D. FILING FOR U. S. SENATE CANDIDACY

Ch. 932 (HB 808). When there are two vacancies for United States Senator, requires candidates when filing notice of candidacy with the State Board of Elections to designate the vacancy for which they are filing.

#### E. ORGANIZATION OF POLITICAL PARTIES

Ch. 671 (SB 94). Rewrites G.S. 163-1. Requires that petitions of persons seeking to establish a new party be filed with the State Board of Elections by noon of the first day of July preceding a general election, and makes specific the requirement that the signers must at that time be registered and qualified voters. This petition must specifically state that the signers intend to participate in the next election by voting for the nominees of the party they seek to establish. The signatures must be proved by an of-



ficer authorized to take acknowledgments of deeds, or the genuineness of the signatures must be proved by oath and examination before such an officer by a person in whose presence the petition was signed. Each petition must be accompanied by a certificate of the chairman of the county board of elections stating that the signatures obtained in his county have been checked against the registration books, a statement of the number of signers, and the signatures of those qualified to vote must be checked. Names of candidates chosen in convention must be certified to the State Board of Elections by August 1st prior to the general election in order to have them printed on the ballots which are printed under the State Board's supervision. Names of candidates of a new party are not to be printed on county ballots for the first election held after the petition for a new party is filed. To keep its status as a party, a group of voters must poll at least 10% of the votes cast. Note: Any party recognized as such in the 1948 general election and which polled as much as 3% of the votes cast in the general election is to be considered a political party until the 1952 general election is held.

F. CORRUPT PRACTICES ACT (for amendments to this act see CRIMINAL LAW AND PROCEDURE)

### II. MUNICIPAL ELECTIONS IN NEWLY INCORPORATED TOWN

Ch. 1083 (SB 361). Authorizes Municipal Board of Control to provide for the first election in a newly incorporated town, appoint a registrar and two judges of elections, and order the election held. Persons signing the incorporation petition are to be treated as the registered voters of the new town, but the Municipal Board of Control may provide for additional registrations on or before the election date.

### III. SPECIAL ELECTIONS—MAJORITY NEEDED

#### A. GENERAL AMENDATORY STATUTE

Ch. 497 (HB 212). Amends all statutes which contain provisions for conducting special elections for approving county, municipal, and school district bond issues and incurring of indebtedness, whether or not required by the Constitution, to provide that all such elections are to be determined by a majority of those voting in the election in accordance with the constitutional amendment approved in November, 1948. The Act applies not only to elections called under state-wide statutes, but specifically applies to any propositions submitted to the voters by any political subdivision under any public, public-local, private or special act. The Act applies retroactively to all such elections conducted since November 24, 1948. G.S. sections specifically amended: 153-78, 153-92, 160-379, 160-387, 131-126.22, 131-126.33.

#### B. SCHOOL ELECTIONS

Ch. 918 (SB 270). Amends following sections of the General Statutes: 115-189, 115-191, 115-192, 115-193, 115-196, 115-198, 115-361. In each section deletes the requirement that an affirmative majority of the registered voters is needed to carry the elections mentioned below and provides that an affirmative majority of the voters voting is sufficient to carry elections in the following cases: levy of special school district taxes, enlargement of school tax district, abolition of special school tax district, enlargement of special school tax district inside incorporated town, incorporation of school district created out of parts of two or more counties, and extension of school supplement tax district.

Ch. 1033 (HB 792). Amends G.S. sections 115-204, 115-209, and 115-65 to change all references therein concerning the majority needed to carry the kinds of school elections listed below to read majority of voters voting rather than majority of qualified voters: creation of special school tax district, election for county supplement in which part of the levy may be retained by a special district, and elections on the establishment of kindergartens. In addition this act carries a general provision to the effect that wherever in G.S. Chapter 115, "or in any other statute, general, public or local," there appears a requirement that the levy of a tax or the issuance of bonds or the change of any boundary of a school taxing district is made to depend upon the votes of a majority of the qualified voters or registered voters, such provision is amended to require simply a majority of those voting.

#### C. HOSPITAL ELECTIONS (see also A. above)

Ch. 358 (HB 396). Amends General Statutes listed below to provide that the county hospital elections provided for therein are to be determined by a majority of the voters voting rather than by a majority of the registered voters: G.S. 131-28.2, 131-28.4, 131-28.5, 131-28.6, and 131-28.8.

#### D. SANITARY DISTRICT ELECTIONS

Ch. 880 (SB 223). Rewrites Articles 6 and 7 of G.S. Chapter 130 dealing with sanitary districts and special-tax sanitary districts to remove provisions therein requiring an affirmative vote of a majority of the registered voters to carry bond and special tax elections for such districts and to insert provisions requiring simply the affirmative vote of a majority of those voting. (See also MATTERS OF INTEREST TO LOCAL OFFICIALS.)

## HIGHER EDUCATION

### I. REGIONAL EDUCATION COMPACT

Resolution 26 (SR 204). Declares that North Carolina is a party to the compact entered into by 14 Southern States through their Governors on February 8, 1948. The purpose of the compact is the development and maintenance of regional educational services in the Southern States in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens of the states. The compact provides that the states which are parties form a district which shall, for purposes of the compact, constitute an area for regional education. Provides for a Board of Control to consist of the Governor of each State, ex officio, and 3 additional citizens of each State appointed by the Governor, with at least one from the education field, to serve for 4-year terms, the terms of the members to be staggered. The Board shall have power to establish by-laws consistent with the compact and to elect as chairman a person not a member of the Board, but residing in one of the signatory states. The Board shall (1) submit plans and recommendations on the subject of regional schools for appropriate legislative action by the states; (2) hold title to such properties and facilities as are used in regional education; (3) enter into agreements with any of the states and educational institutions for the providing of services and facilities for the graduate, professional, and technical education of the citizens of the region. Any two states may enter into supplemental agreements concerning operation of educational institutions for citizens of an area consisting of a portion of the region if such agreements are approved by the Board. The regional schools are to be financed by legislative appropriations of the several states, the contribution of each state to be in the proportion that its population bears to the total population of the region. The compact shall take effect 60 days after approval by at least six states within 18 months of the date of the compact, except that, if a constitutional amendment is required in any state, such state shall have 7 years to approve the compact. The compact continues for an unlimited period of time; it may be terminated by unanimous action of the states; and any state may withdraw two years after notification of such action by the State Legislature. Any state withdrawing forfeits any claim to property held by the Board. If any state defaults on any obligation assumed under the compact that state shall be suspended and, unless the default is made good within one year, a vote of three fourths of the members of the Board shall terminate the compact with respect to such defaulting state.

### II. LOANS TO COLLEGE STUDENTS

Ch. 586 (HB 529). Amends G.S. 116-143 to authorize boards of trustees of State-supported educational institutions to allow students to become obligated for the amount of required academic fees, as well as for tuition.

### III. MATTERS RELATING TO PARTICULAR STATE-SUPPORTED INSTITUTIONS

#### A. UNIVERSITY OF NORTH CAROLINA

Ch. 503 (SB 42). Authorizes the Board of Trustees of UNC to establish and operate a standard dental school in conjunction with the medical school.

Ch. 1048 (SB 417). Authorizes the Board of Trustees of UNC to issue \$300,000 of revenue bonds to provide for the erection of an alumni memorial building at North Carolina State College in Raleigh, provided however that before the issuance of the bonds \$100,000 must be raised by alumni and friends of the college. Trustees are empowered to pledge gross receipts from rental of rooms in the building for payment of interest and principal. The credit of neither the Trustees nor the State can be pledged nor can the principal or interest of the bonds be paid from the general revenue of the State or the college.

Ch. 1049 (SB 418). Authorizes the Board of Trustees of UNC to issue \$150,000 of revenue bonds to provide for



enlargement of the stadium at North Carolina State College in Raleigh. Trustees are empowered to pledge gross receipts of the Athletic Department for payment of principal and interest. The credit of neither the Trustees nor the State can be pledged nor can the principal and interest of the bonds be paid from the general revenue of the State or the college.

**B. PEMBROKE STATE COLLEGE**

Ch. 58 (SB 77). Changes name of college from "Pembroke State College for Indians" to the "Pembroke State College," effective on July 1, 1949, and amends existing statutory references to conform to the new name.

**C. APPALACHIAN STATE TEACHERS COLLEGE**

Resolution 15 (HR 300). The General Assembly of North Carolina joins with the President and Board of Trustees of Appalachian State Teachers College in extending invitation to the Association of American Teachers Colleges to hold its 1950 meeting in Boone.

**D. NEGRO AGRICULTURAL AND TECHNICAL COLLEGE**

Ch. 130 (HB 118). Authorizes the board of trustees to direct the president of the board to execute a bond, on behalf of the college, securing to the federal government the safekeeping and return of all federal property the college may receive for ROTC purposes.

**LOCAL GOVERNMENTAL AFFAIRS**

(Matters pertaining to county health and welfare will be found under those headings.)

**I. COUNTIES**

**A. REGISTERS OF DEEDS**

Ch. 261 (HB 412). Amends G.S. 161-6 to authorize each register of deeds to appoint one assistant register of deeds who shall have the special power to register and sign in the name of the register, indicating that such action is *by* the assistant. The certificate of appointment is to be filed with the clerk of superior court.

**B. CLERKS OF SUPERIOR COURTS**

**1. HOLIDAYS AND LEAVES OF ABSENCE**

Ch. 122 (SB 65). Amends G.S. 2-24 to authorize clerks to observe office hours and holidays prescribed by county commissioners for all county officers. Amends G.S. 2-25 to make it unnecessary for a clerk who has an assistant to secure an order from a superior court judge for a leave of absence, and to make it unnecessary for a clerk who has a deputy but no assistant clerk to secure such an order unless the leave extends beyond 48 hours.

**2. OATHS AND ACKNOWLEDGMENTS**

Ch. 57 (SB 62). Rewrites paragraph 1 of G.S. 2-16 to empower clerks to administer any and all oaths and to take acknowledgments of execution of all instruments or writings. (Former law authorized such action only "whenever necessary, in the exercise of the powers and duties of his office.") Inserts new section in same chapter ratifying administration of oaths by clerks when not necessary in the exercise of their office prior to ratification of this Act. Does not apply to pending litigation. Effective date, July 1, 1949.

**C. REGISTRARS OF VITAL STATISTICS**

Ch. 306 (HB 457). Amends G.S. 130-101 to make counties responsible for the compensation of all local registrars of vital statistics whether the registration is done inside a municipality or not.

**D. JUSTICES OF THE PEACE**

Ch. 1091 (HB 322). Authorizes any board of county commissioners to adopt a resolution on the first Monday in March, 1950, or any even numbered year thereafter, fixing the number of justices of the peace to be appointed in the county for the term beginning the first Monday in December thereafter. The justices for each county which so acts shall be appointed by the resident judge of the superior court of the district wherein the county lies. The resident judge may remove any justice, after due notice and hearing, for "misfeasance, malfeasance, nonfeasance or other good cause." Justices are to be paid a salary set by the commissioners in lieu of fees, and all fees now provided in criminal and civil cases are to be paid into the county general fund, except that any fees provided for matters respecting other than civil or criminal cases may be retained by the justice. Justices are to be subject to G.S. 153-135, the "Daily Deposit Law," and are to make monthly reports to the county commissioners of all fees,

finances and forfeitures collected. Each magistrate is to have countywide jurisdiction but is to hold court at places determined and made available by the county commissioners. Terms of office of all present J. P.'s in those counties adopting such a resolution will expire on the first Monday after the adoption. (Under the provision of this Act, the terms of the present J. P.'s will end on the first Monday after adoption of the resolution; the terms of the new J. P.'s will begin on the first Monday in December. There is no provision covering the interim period.) Vacancies other than by expiration of term are to be filled by the clerk of superior court. Each J. P. is to furnish a bond as the commissioners may require, but the premium is to be paid by the county. The act is not applicable to the counties of: Alamance, Alexander, Alleghany, Ashe, Avery, Beaufort, Bertie, Brunswick, Cabarrus, Caldwell, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davidson, Davie, Duplin, Durham, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Jackson, Johnston, Jones, Lee, Lincoln, McDowell, Macon, Madison, Martin, Moore, Mitchell, Nash, New Hanover, Northampton, Pamlico, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rutherford, Sampson, Scotland, Surry, Swain, Transylvania, Tyrrell, Union, Warren, Washington, Wayne, Watauga, Wilkes, Wilson, Yadkin, Yancey. Effective date, November 1, 1950.

**E. LOCAL RECREATION BOARDS**

Ch. 1204 (HB 359). Amends G.S. 160-161 to provide that the recreation board of a county, city or town shall be composed of ten members appointed by the governing body; four shall be ex-officio, one of these representing the governing body, one the school system, one the health department and one the welfare department; the other six shall be public members appointed for staggered terms of three years. No public member shall serve more than two terms and no ex-officio member shall serve over six years. Amends G.S. 160-163 (2) to provide that the ad valorem tax rate shall be not less than 3 cents nor more than 10 cents.

**F. STREETS AND SECONDARY ROADS**

**1. EASEMENTS TO ABANDONED ROADS**

Ch. 1215 (HB 957). Rewrites G.S. 136-67 to redefine neighborhood public roads as those abandoned or not taken over for maintenance by the S H & P W C and which remain open and in general use as a means of ingress and egress for two or more families, those built with relief funds by the Department of Public Welfare, and all other roads outside the boundaries of any incorporated municipality which serve as a means of ingress or egress for two or more families. All roads except such neighborhood roads and roads being maintained by the S H & P W C are conclusively presumed abandoned and the owner of the fee is invested with the easement or right of way heretofore existing in such abandoned roads.

**2. CLOSING STREETS AND ROADS**

Ch. 1208 (HB 729). Amends G.S. 153-9 subsection 17 to authorize county commissioners to close streets and roads lying outside municipalities and to authorize town governing bodies to close those inside, after having served notice on affected persons, if such closing is not contrary to the public interest and if no one will be deprived of the means of ingress to his property thereby. Persons aggrieved by such action may appeal from the order within 30 days to the superior court where the hearing will be de novo. Copies of the registered letters giving notice of proposed closings, return receipts or other evidence of service, and the resolution of the governing body or judgment of the superior court when an appeal was taken must be recorded in the office of the register of deeds. Upon the closing of such streets and roads adjacent landowners shall be vested with title to the contiguous portions.

**G. FARM CENSUS SURVEYS**

Ch. 1273 (HB 1293). Rewrites G.S. 106-25 to provide that the county commissioners may appoint either the county tax supervisor and list takers or some other person to compile the statistical information required by G.S. Ch. 106, Part 4 (annual farm census surveys). This person shall receive compensation, serve the term and perform the duties as prescribed by former law. Rewrites G.S. 106-26 to provide that the department of agriculture shall pay to the counties 10 cents for each acceptable report received which covers 90% or more of the tracts of land within the township covered, and shall withhold 20 cents for each report covering less than 80% of the tracts, and further deduct \$2 for each unauthenticated report.



**H. PROPERTY FOR ARMORY PURPOSES**

Ch. 1066 (HB 1240). Amends Ch. 1010, Session Laws 1947 to provide that any municipality or county may lease or convey "any real property" suitable for an armory instead of merely "any hereafter acquired real property" as the Act formerly provided.

**II. CITIES AND TOWNS****A. DEPUTY CITY CLERKS**

Ch. 14 (SB 49). Adds to G.S. 160-273 a paragraph which authorizes municipal governing bodies to appoint a deputy city clerk to act in the absence or disability of the city clerk and to assign to this deputy all the powers, duties and authority of the clerk.

**B. STREETS AND BRIDGES**

Ch. 862 (HB 841). Adds to G.S. 160-54 a proviso that when the maintenance of streets and/or bridges within the corporate limits of any town is taken over by the S H & P W C the town shall not be responsible thereafter either for maintenance or for injuries to persons or property resulting from failure to provide maintenance. Does not apply to pending litigation.

**C. SHARING STATE HIGHWAY REVENUES**

Resolution 31 (HR 693). Citing the need for a painstaking study of the just sharing of highway revenues with municipalities, directs the Governor, on or before June 1, 1949, to appoint a seven-member State-Municipal Road Commission, the members to be appointed so as to represent fairly the whole interest of the State in the problem. Members are to receive \$7 per day served and actual travel expenses. All expenses of the Commission are to be allocated from revenues of the State Highway Commission. The Commission is to study all factors which should affect a just sharing of highway revenues with municipalities for construction and maintenance of streets within such municipalities, and study whether such sharing should be (1) by allocations of funds on a percentage basis of highway revenues or (2) by definite appropriations therefrom or (3) by maintenance and construction by the state of such streets or (4) by some other means. Requires public hearings for receiving all material data. Calls for submission of report on before December 1, 1950, and directs the Governor to have the report printed and distributed to the press and the public.

**D. ABATEMENT OF SMOKE NUISANCES**

Ch. 594 (HB 629). Amends G.S. 160-55 to provide that smoke emitted by coal burning locomotives during their necessary operation is not to be classed as a nuisance subject to abatement by the governing body of a municipality. Rewrites G.S. 160-200 (32) to provide that a governing body may regulate the emission of smoke within its city except smoke emitted by coal burning locomotives during their necessary operation.

**E. BOARDS OF ADJUSTMENT**

Ch. 979 (SB 160). Amend G.S. 160-178 to provide that municipal governing bodies may appoint "not more than" two alternate members of zoning boards of adjustment for the same terms as regular members to serve in the absence of regular members. The former provision was for appointment of "two alternate members."

**F. SEWAGE DISPOSAL PLANTS**

Ch. 1213 (HB 913). Authorizes municipalities to issue bonds, subject to the Municipal Finance Act except as to the debt limits fixed therein, for the acquisition and construction of sewage systems, including sewage disposal plants, and to collect fees for sewer service to liquidate the bonds. Rates may be based either on the quantity of water used, the number and size of sewer connections, the number and kind of plumbing fixtures, the number of persons residing or working in the premises, the type or character of the premises, or any other factor affecting the use of the facilities or any combination of the above. Municipalities may, but are not required to, cut off the water supply of persons failing to pay sewer charges within 30 days of receiving a bill for such charges. Revenues must be pledged to the payment of principal and interest on the bonds.

**G. JAILS**

Ch. (HB 947). Adds to G.S. 160-2 a new subsection 10 which authorizes municipalities to establish, erect, repair, maintain and operate a jail or guardhouse and to raise by taxation the sums necessary therefor.

**III. SANITARY AND DRAINAGE DISTRICTS****A. SANITARY DISTRICT POWERS**

Ch. 1133 (HB 645). Amends G.S. 130-39 to add general corporate power to make rules and regulations for promo-

tion and protection of the public health and welfare of people of the district including specific powers to (1) require property owners to connect with district water and sewage systems or to install sanitary toilets septic tanks and other installations if it is impractical to connect such systems, (2) require any person, firm or corporation to abate any nuisance detrimental to the public health of the district, and (3) abolish or regulate all pig sties and other animal stockyards within the district and 500 feet beyond, unless such 500 feet is within the corporate limits of a city or town. The district is to serve notice on persons failing to comply with an order and allow at least 30 days from date of service for compliance. Upon expiration of such period without compliance, persons failing to act shall be guilty of a misdemeanor punishable in the discretion of the court, but the sanitary district board may take civil action as well as criminal.

Ch. 1145 (HB 1177). Adds to G.S. 130-39 a new subsection which provides that sanitary district boards may, on petition of 2/3 of the voters and 2/3 of the real property owners of an area, establish a zoning area. After establishment of such zoning area the boards shall have the powers and duties conferred on municipal corporations by G.S. Ch. 160, Art. 14, except that such boards shall act as zoning commissions and boards of adjustment. Authorizes appropriations for this purpose. This Act shall apply to only those sanitary districts which adjoin cities with over 50,000 population. Provides that Ch. 176, Public Laws, 1931, shall not apply to any sanitary district.

**B. DRAINAGE COMMISSIONER'S ELECTION AND PAY**

Ch. 956 (HB 972). Amends G.S. 156-81 subsection 7 to provide that the chairman of the board of drainage commissioners shall receive compensation and allowances as fixed by the clerk of the superior court. Adds subsection 9 which provides that, in lieu of the method of selection of drainage commissioners set out in G.S. 156-79 and 156-81, the clerk of the superior court may appoint them. Amends subsection 8 to provide that the provisions of the section shall apply to all districts, now or hereafter existing.

**C. DRAINAGE DISTRICT CANALS' MAINTENANCE**

Ch. 1216 (HB 971). Adds Article 7-A, entitled "Maintenance," to G.S. Ch. 156. Authorizes any board of drainage commissioners with approval of the clerk of superior court to levy annual maintenance assessments not to exceed \$1 per acre, such assessments to be in the same ratio as existing classification of lands in the district. Proceeds are to be used to maintain canals in the district in an efficient operating condition and for necessary operating expenses, which may include the hire by the board of engineering assistance, construction equipment and personnel. Authorizes the boards of several districts to coordinate their construction and maintenance efforts, without regard for county lines. Gives board, or boards acting jointly, power to purchase, lease, and sell equipment for construction or maintenance or to contract with private firms for such work. Authorizes coordinating boards to set up a joint board composed of one member from each district to control the personnel and equipment used on a joint basis. Voting strength is to be divided according to the proportionate acreage of each district compared with the total acreage of the combined districts. Maintenance assessments are to be collected by the county tax collector.

**IV. PUBLIC LIBRARIES****A. STATE LIBRARY COMMISSION****1. ADMINISTRATIVE EXPENSE OF PUBLIC LIBRARY SERVICE FUND**

Ch. 232 (HB 226). Amends paragraph 4 of G.S. 125-26 to raise to 7% the proportion of the annual appropriation to the public library service fund which may be used for administration, allocation and supervision of the fund.

**2. REPORTS FROM SCHOOL LIBRARIES**

Ch. 232 (HB 226). Amends G.S. 125-21 to make unnecessary the filing of reports to the Library Commission by school libraries.

**B. COUNTY LIBRARIES****1. ISSUANCE OF BONDS**

Ch. 354 (HB 229) as amended by Ch. 1270 (HB 1149). Amend G.S. 153-77 to add erection and purchase of library buildings and equipment to the purposes listed for which counties are authorized to issue bonds and levy taxes.

**2. SPECIAL TAX RATE**

Ch. 353 (HB 228). Amends G.S. 160-65 to raise the permissible special tax for library purposes from 5 cents to 10 cents.



3. USE OF SURPLUS COUNTY FUNDS

Ch. 1222 (HB 1150). Adds to G.S. 153-9 a provision authorizing boards of county commissioners, in their discretion, to expend any surplus funds which may be available for the erection and/or purchase of library buildings and equipment.

4. ESTABLISHMENT OF RURAL LIBRARIES

Ch. 351 (HB 225). Adds a provision to G.S. 160-65 to allow rural territories outside cities or towns which have established libraries for themselves under this section, to vote on the question of establishing libraries under this authority.

C. POWER TO CONSTRUCT AND EQUIP MUNICIPAL LIBRARIES

Ch. 352 (HB 227). Adds to the corporate power of municipalities enumerated in G.S. 160-200 the power to construct and equip public libraries. (For permissible increase in special tax see Ch. 353 under IV B above.)

V. LOCAL TAXATION AND FINANCE

A. COUNTIES

1. ASSESSMENT OF PROPERTY FOR TAXATION

a. Postponing Quadrennial Reassessment

Ch. 109 (HB 86). Amends G.S. 105-278 to authorize boards of county commissioners to defer or postpone the quadrennial revaluation and reassessment of real property for the years 1949 and 1950.

b. Stocks of Merchandise—Chain Store Reports

Ch. 930 (HB 718). Rewrites G.S. 105-302.1 as enacted in 1947 to provide that anyone engaged in business in more than one county and maintaining stocks of goods or other taxable property in more than one county must, upon the request of the tax supervisor of any county, furnish a certificate giving a list of the counties in which such goods or property is located and the true value of the property in each county and the total of the property in North Carolina.

2. DELINQUENT PROPERTY TAX COLLECTION

Ch. 730 (HB 780). Authorizes boards of county commissioners to relieve the tax collector, sheriff, or other officers charged with the duty of collecting taxes, of the charge of all insolvent taxes which are five years or more delinquent.

3. COUNTY CAPITAL RESERVE FUND

Ch. 196 (HB 91). Adds a provision to G.S. 153-142.9 authorizing the expenditure of a capital reserve fund for a special purpose, when the order establishing the fund covers collections of ad valorem taxes levied for such special purpose. Clarifies G.S. 153-142.10 and G.S. 153-142.11 in line with G. S. 153-142.9 as amended.

4. EXTENSION OF TIME FOR ISSUING BONDS

Ch. 190 (SB 119). Amends G.S. 153-102 to provide that bonds of a county authorized by an order which took effect prior to July 1, 1948, which have not been issued prior to July 1, 1949, may be issued at any time prior to July 1, 1951, and that bond anticipation notes issued in anticipation of the sale of such bonds may be paid at any time prior to June 30, 1951.

B. CITIES AND TOWNS

1. PRIVILEGE LICENSE ORDINANCES

Ch. 933 (HB 848). Adds a provision to G.S. 160-56 to permit the board of commissioners or aldermen of any town to re-adopt any existing ordinance levying and defining its privilege license taxes by reference and without reading it in detail.

2. EXTENSION OF TIME FOR ISSUING BONDS

Ch. 190 (SB 119). Amends G.S. 160-389 to provide that bonds of a municipality authorized by an order which took effect prior to July 1, 1948, which have not been issued prior to July 1, 1949, may be issued at any time prior to July 1, 1951, and that bond anticipation notes issued in anticipation of the sale of such bonds may be paid at any time prior to June 30, 1951.

3. EXTENSION OF TIME FOR ISSUING REVENUE BONDS

Ch. 1081 (SB 303). Rewrites G.S. 160-417 to extend from 30 to 35 years the maximum permissible maturity period for revenue bonds issued by municipalities.

C. AD VALOREM TAXATION, EXEMPTIONS AND DEDUCTIONS

1. FARM PRODUCTS HELD FOR FOREIGN SHIPMENT

Ch. 1268 (HB 891). Amends G.S. 105-297 so as to exempt from property taxation cotton, tobacco and other farm products held for shipment to foreign countries when located in seaport terminals in towns where there is a seaport or within 10 miles of any such towns.

2. MARKETING ADVANCES ON FARM PRODUCTS

Ch. 723 (HB 142). Amends G.S. 105-298 to provide that in determining the tax value of cotton, tobacco, and other farm products held by or for any cooperative stab-

ilization or marketing association or corporation to whom the products have been delivered, conveyed, or assigned by the original producer for the purpose of sale, the person or corporation liable for the tax may deduct from the determined value of the commodity the amount of any unpaid loan or advance of any nature made thereon by the United States government, any agency thereof, or any cooperative stabilization or marketing association or corporation. Applies to taxes listed as of January 1, 1949.

D. LOCAL GOVERNMENT ACT AMENDMENTS

1. SCOPE OF THE ACT

Ch. 925 (SB 385). Amends G.S. 159-142 to make the Act applicable to all units empowered to levy ad valorem taxes regardless of contrary provisions of any law enacted before the adjournment of the 1949 session of the General Assembly. The section formerly carried a similar provision up through the 1947 session.

2. APPLICATIONS FOR APPROVAL OF BONDS OR NOTES

Ch. 1085 (SB 378). Rewrites G.S. 159-7 to clarify the wording and to specify that in cases in which the question of issuance of bonds or notes must be submitted to the voters, the bonds or notes concerned are to be invalid unless the required application for Local Government Commission approval is filed at least 40 days prior to the election. Effective May 15, 1949.

3. INVESTMENT OF BOND PROCEEDS

Ch. 858 (HB 628). Inserts a new section in G.S. Chapter 159 to provide that when the proceeds from bonds sold by a county or municipality are not needed for at least 90 days for the purposes for which sold, the issuing unit, with approval of the Local Government Commission, may invest the money as provided in G.S. 159-49.1 provided such investments mature by the date the money will be needed.

CIVIL PROCEDURE, ESTATES AND CONVEYANCES

(Matters affecting the law of marriage, divorce, adoption, and domestic relations will be found in the section on Public Welfare.)

MISCELLANY

I. WORLD GOVERNMENT RESOLUTION

Resolution 37 (HR 1158). Applies to the Congress of the United States, pursuant to Article V of the Constitution of the United States, to call a constitutional convention for the purpose of proposing (1) amendments to the Constitution which are appropriate to authorize the United States to negotiate with other nations, subject to later ratification, a constitution of a world federal government open to all nations with limited powers adequate to insure peace, or (2) amendments to the Constitution which are appropriate to ratify any world constitution which is presented to the United States by the United Nations, by a world constitutional convention or otherwise.

II. GOVERNOR'S COMMITTEE ON INTERSTATE CO-OPERATION

Ch. 1065 (HB 1198). Amends G.S. 143-180 so as to authorize the Governor to appoint to this committee one additional member who is not an administrative official. The present law provides for 5 members who are all to be administrative officials.

III. WILMINGTON DRY-DOCK

Resolution 20 (SR 180). Petitions Congressional committees on Fisheries and Merchant Marine to locate a surplus navy floating dry-dock at Wilmington for the preservation of bottoms of the Maritime Commission-owned Merchant Marine fleet laid up in the Brunswick River.

IV. MERCI TRAIN GIFTS

Ch. 1061 (HB 1089). Vests title of gifts and articles, presented to the State of North Carolina by the French Republic and the French people, in the State and places them in the custody of the State Department of Archives and History. Authorizes the Department to lend the gifts to organizations capable of caring for and properly displaying them so that they may educate and be enjoyed by all the people in the State. Excepts from the act the boxcar given to the Grand Voiture, Societe 40 & 8, North Carolina.

V. MEMORIALS

A. AYCOCK MEMORIAL

Ch. 1021 (SB 248). Creates the "Charles B. Aycock Memorial Commission" to be composed of 21 members, part ex-officio and part appointed by the Governor. Appropriates \$5,000 to enable the commission to acquire the birth place and home of former Governor Aycock, and to establish it as a perpetual memorial and shrine. (This act embodies



the report of a committee of Senators and Representatives appointed by the Governor pursuant to the authority of Resolution 12 (SR 67), ratified February 1, 1949, whose duties were to investigate the possibilities of perpetually preserving the birth place.)

#### B. DANIELS' MEMORIAL

Resolution 10 (HR 53). Requests the Governor to appoint a committee of 7 members to study proposals looking to the erection of a permanent memorial in Raleigh to be dedicated to the memory of Josephus Daniels; the report is to be made to the Governor and transmitted by him to the 1951 session of the General Assembly.

#### C. TRYON'S PALACE

Ch. 233 (HB 233). Amends Chapter 791 of the Session Laws of 1945, relating to the restoration of Tryon's Palace in New Bern, to provide that the property necessary to restoration may be acquired when \$250,000 has been acquired from private donations and when the Board of Conservation and Development has found that there is reasonable grounds to anticipate that ample funds from private donations will thereafter be provided to restore the palace. Adds a further provision authorizing the Department of Conservation and Development to acquire for the use of the palace such part of the area in New Bern originally included in the palace grounds as may be deemed reasonably necessary for the restoration of the palace.

### VI. MATTERS RELATING TO SHAW UNIVERSITY

Ch. 204 (HB 398). Authorizes the Governor to convey certain property in Wake County to Shaw University, and authorizes the City of Raleigh to release a portion of said property from a lease which it now holds from the State of North Carolina. The property is to be used by the University for athletic, educational and recreational purposes, and is to revert to the State if it is ever used for any other than the stated purposes.

Ch. 1104 (HB 1244). Amends Chapter 153, Private Laws of North Carolina, 1874-75 session, which incorporates Shaw University. Removes limitation as to value and amount of property which may be held by the University; adds power to purchase real estate, build and borrow thereon for purposes of expansion of the University; limits power of executive board of the board of trustees to ordinary business of the corporation, which shall not include purchase or conveyance of real estate, investment of funds, or borrowing; and states method by which conveyances of property by the University are to be executed and attested.

## MOTOR VEHICLE LAWS

### I. RULES OF THE ROAD

#### A. SPEED LIMITS

Ch. 947 (SB 8). Empowers municipalities to fix speed limits on streets which are not a part of the State highway system at any speed not lower than twenty-five miles per hour they deem safe and proper, provided that proper signs indicating the limits are erected. The penalty for a violation of such a speed limit is fixed at not more than \$50 dollars or imprisonment for not more than 30 days. The state-wide speed limit in residential areas remains at thirty-five miles per hour as fixed by the 1947 General Assembly.

#### B. SIGNALING DEVICES

Ch. 1016 (HB 1134). Requires that all signaling devices for indicating stops and turns of vehicles be approved only by the Department of Motor Vehicles.

#### C. RIGHT-OF-WAY

Ch. 1016 (HB 1134). Fills a gap left in the "rules of the road" by providing that the driver of a vehicle which has not entered an intersection must yield the right-of-way to any vehicle already in the intersection *regardless* of the direction in which the latter is moving, provided the latter has given a proper signal that he is turning. The law formerly provided that the approaching vehicle must yield only if the vehicle in the intersection were turning left.

#### D. TELEVISION SETS IN AUTOMOBILES

Ch. 583 (HB 461). Adds a new section, G.S. 20-136.1, prohibiting television sets in automobiles if such sets are visible to the driver.

#### E. STOP LIGHTS OUTSIDE TOWNS

Ch. 583 (HB 461). Amends G.S. 20-158 to provide that vehicles must obey stop lights outside cities and towns.

### II. TRUCK REGULATIONS

#### A. TRUCK WEIGHTS

Ch. 1207 (HB 642). Changes the gross permissible weights of vehicles as set out in G.S. 20-118 as follows:

gross weight of a vehicle having two axles shall not exceed 30,000 pounds unless used in connection with a combination consisting of 4 axles or more; gross weight of a vehicle or combination of vehicles having 3 axles shall not exceed 44,000 pounds; gross weight of a vehicle or combination of vehicles having 4 or more axles shall not exceed 56,000 pounds; the limit of weight per axle remains unchanged. Amends G.S. 20-96 to increase the additional tax for overloading from \$3 to \$10 per thousand pounds.

#### B. EQUIPMENT REQUIRED ON SEMI-TRAILERS

Ch. 1207 (HB 642). Adds a new section, G.S. 20-117.1, specifying the equipment required on all semi-trailers operated by contract or franchise haulers. Equipment listed includes: clearance, side-marker and tail lamps set out in the Act which are capable of being seen at a distance of 500 feet under normal atmospheric conditions; stop lights actuated by foot brakes and capable of being seen at a distance of 100 feet in daylight, which lights may be incorporated in the tail lamp; rear vision mirrors; reflectors set out in the Act which are visible from a point directly in front of a normal headlight beam at all distances between 500 and 50 feet from the motor vehicle; flags or lights on loads extending more than 4 feet beyond the rear of the trailer body.

#### C. MISCELLANEOUS TRUCK REQUIREMENTS

Ch. 1207 (HB 642). Amends G.S. 20-118.1 to require the owner or operator of a truck at his own risk to care for material unloaded from a vehicle to bring it within the load limit. Amends G.S. 20-152 to require truck drivers to remain 300 feet behind other trucks while on the highway, instead of 100 feet as the former law required.

### III. MOTOR VEHICLE INSPECTION

The vehicle inspection program provided by the 1947 General Assembly was discontinued by Ch. 164 (HB 5). The only inspection which the State will now require is of vehicles brought into the State from outside. Ch. 675 (SB 179) provides that before any motor vehicle which has been registered or licensed for use in any other state or foreign country, can be registered for use on North Carolina roads the person applying for registration must file with the Motor Vehicles Department a certificate signed by a member of the Highway Patrol showing that the vehicle has been inspected by him and that it meets the mechanical requirements provided by our law. Such inspections are to be made by the Patrol without charge.

### IV. DRIVER'S LICENSE LAW

#### A. CARRYING DRIVERS' LICENSES

Ch. 583 (HB 461). Amends G.S. 20-7 to require that the operator's license be carried by the licensee while operating a motor vehicle, but provides no penalty for failing to do so. Eliminates proviso in G.S. 20-7 (a) concerning those learning to drive, as G.S. 20-7 (1) covers such persons.

#### B. EXPIRATION OF LICENSES

Ch. 826 (HB 459). Adds to G.S. 20-7 a provision that drivers' licenses issued prior to July 1, 1947, shall expire according to the last names of persons as follows: licenses of persons whose last names begins with the letter A through G shall expire upon ratification of the act (April 6, 1949); H through K on June 30, 1949; L through M on December 31, 1949; N through Q on June 30, 1950; R through T on December 31, 1950; U through Z on June 30, 1951.

#### C. LIMITED OR RESTRICTED LICENSES

Ch. 1121 (SB 411). Empowers the Commissioner of Motor Vehicles to issue an operator's or chauffeur's license restricting or limiting the licensee to the operation of a single prescribed motor vehicle or to the operation of a particular class or type of motor vehicle. Such limitations must be shown on the face of the license issued; operation of any other type of vehicle by such a licensee is made unlawful.

#### D. RESTORATION OF LICENSES

Ch. 1032 (HB 606). Amends G.S. 20-231 to provide that an operator's or chauffeur's license shall be restored or reissued without any examination if the person seeking restoration would not have been required to be re-examined at the time of his application for restoration or reissuance had the offense for which the license was suspended, cancelled, or revoked not been committed. If the operator has not been re-examined since July 1, 1947 his license will run only to the time the operator would have to submit to an examination under the schedule set out in Ch. 826 (HB 459). Exempts cases covered by G.S. 20-231 from the authority to require reexamination contained in G.S. 20-16 (b).



**E. SUSPENSION OF LICENSES**

Ch. 373 (SB 89). Inserts a provision in G.S. 20-16 to prohibit the Department of Motor Vehicles from suspending a driver's or chauffeur's license because of evidence of violation of a motor vehicle law, or conviction of a violation while an appeal from such a conviction is pending.

**V. FINANCIAL RESPONSIBILITY ACT AMENDMENTS****A. ASSIGNMENT OF RISKS**

Ch. 1209 (HB 769). Adds to fifth paragraph of G.S. 20-276 a provision which requires insurance carriers, when assigned a risk by the Commissioner of Insurance, to issue a motor vehicle liability policy as a prerequisite to the further sale of motor vehicle liability insurance in the State. Requires the Commissioner of Insurance to assign the risk of any person licensed to drive a motor vehicle by the Department of Motor Vehicles.

**B. PERIOD OF REQUIRED FINANCIAL RESPONSIBILITY**

Ch. 977 (SB 139). Provides that proof of financial responsibility, required by the Financial Responsibility Act in order to obtain reinstatement or reissuance of a driver's or chauffeur's license after suspension or revocation of such license, is to be continued for a period of only 3 years from the time of reinstatement or reissuance.

**C. LIMITED COVERAGE FOR RESTRICTED LICENSEES**

Ch. 1160 (SB 409). Authorizes the Commissioner of Motor Vehicles to accept from the holder of a restricted or limited driver's or chauffeur's license (see IV C above) as proof of financial responsibility, a certificate of an insurance carrier authorized to do business in this State certifying that there is in effect a motor vehicle liability policy for the holder of such restricted license covering his operation of a vehicle under the restricted license.

**D. CANCELLATION OF LIABILITY POLICIES**

Ch. 1161 (SB 410). Adds to G.S. 20-227 (8), which provides that motor vehicle liability policies issued pursuant to the terms of the Financial Responsibility Act cannot be cancelled until at least 20 days after notice of cancellation has been filed in the Commissioner's office, a proviso that these policies are to be deemed continued in effect until 20 days after notice of cancellation, whether for termination of the policy term or other reason, so as to allow issuance of renewal or substitute policies without the necessity of furnishing new certificates to the Commissioner for each renewal or substitute policy. Effective date July 1, 1949.

**VI. REGISTRATION PROVISIONS****A. FRAUD IN PROCUREMENT OF TITLE**

Ch. 360 (HB 460). Declares fraud in the procurement of a certificate of title for a motor vehicle, as defined in G.S. 20-111 (e), to be a misdemeanor subject to imprisonment up to two years.

**B. FARM TRACTORS**

Ch. 429 (HB 92). Rewrites G.S. 20-51 (f) to provide that farm tractors equipped with rubber tires and trailers or semi-trailers when attached thereto and when used by a farmer, his tenant, agent or employee in transporting his own implements or farm products from one farm to another or from farm to market or while on trips within a radius of 10 miles from the point of loading, shall be exempt from the requirement of registration and certificate of title. The Act does not apply to such vehicles when operated on a for-hire basis.

**C. FEE FOR ONE AND TWO-WHEELED TRAILERS**

Ch. 355 (HB 298). Rewrites the first sentence of G.S. 20-88 (c) to raise to 2500 pounds the maximum permissible weight of one and two-wheeled trailers and loads which may be towed by passenger cars or by vehicles licensed for not more than 4000 pounds, and makes the fee for such trailers \$3.

**D. MUNICIPAL VEHICLES AND CITY-FRANCHISED BUSES OPERATING INTRA-CITY**

Ch. 583 (HB 461). Amends G.S. 20-84 to provide that, beginning in 1950, \$1 registration plates good for the life of the vehicle may be issued for vehicles owned by the State, counties, municipalities and other vehicles mentioned in the present section. Adds a new section, G.S. 20-84.1, authorizing the issuance, beginning in 1950, of \$1 registration plates good for the life of the vehicle for city-franchised busses operating intra-city.

**E. FRANCHISE HAULER VEHICLES**

Ch. 361 (HB 478). Amends G.S. 20-88 (e) to give franchise haulers the following alternative to the present 6% gross revenue tax and deposit now levied: at the time license plates are applied for, the franchise hauler may elect to pay a flat tax computed according to the scale for contract haulers on vehicles of the same gross weight provided

for in G.S. 20-88 (b). For the year 1949 the election may be made at any time before July 1.

**F. OVERLOADING**

Chs. 1253 and 583 (SB 437 and HB 561). Both of these acts accomplish the same purpose: they amend G.S. 20-96 to provide that the additional tax provided for in this section, which now applies to resident operators of overloaded vehicles, is to apply to non-resident operators of overloaded vehicles when their vehicles are more than one ton in excess of the licensed weight, or, regardless of the licensed weight, more than one ton in excess of the maximum weight provided for in G.S. 20-118.

**VII. MISCELLANEOUS PROVISIONS****A. DEALERS' LICENSES**

Ch. 583 (HB 461). Amends G.S. 20-79 (a) to provide that no person, firm, or corporation shall engage in the business of buying, selling, distributing or exchanging motor vehicles, trailers, or semi-trailers in this state unless he or it qualifies for and obtains the license required by this section.

**B. DEFINITION OF CONTRACT HAULER**

Ch. 1287 (SB 419). Rewrites first proviso in G.S. 20-38 (r) (1) to read as follows: "Provided, it shall not be construed to include the transportation of farm crops or products, including logs, bark, pulp and tannic acid wood delivered from farms and forests to the first or primary market, by an operator of not more than one truck or trailer for hire, nor to perishable foods which are still owned by the grower while being delivered to the first or primary market, nor to merchandise hauled for neighborhood farmers incidentally and not as a regular business in going to and from farms and primary markets."

**C. VIOLATIONS BY MINORS**

Ch. 163 (SB 134). Repeals G.S. 20-218.1, which provided that no juvenile or domestic relations court should have jurisdiction in cases involving a violation of the motor vehicle laws when committed by a person over 15 years old. Vests in juvenile courts all jurisdiction heretofore vested in superior courts by G.S. 20-218.1.

**D. LICENSING DISABLED OPERATORS**

Ch. 143 (HB 23). Provides for the issuance of special licenses and plates for the exclusive personal use of disabled persons operating motor vehicles not exceeding 1000 pounds in weight upon which the persons are dependent as a means of conveyance or as a means of earning a livelihood. Upon payment of \$1 for each such vehicle a special operator's license, renewable annually for a fee of 50c, and permanent registration plates shall be issued. Any one other than the licensee operating a vehicle licensed under this Act shall be guilty of a misdemeanor. Effective date, July 1, 1949. (See also Veterans Affairs and the National Guard.)

**PENSIONS AND RETIREMENT****I. CONFEDERATE HOMES AND PENSIONS**

Ch. 121 (SB 13). Amends G.S. 112-1 to (1) provide that daughters of Confederate soldiers may be admitted to the Confederate Woman's Home only until January 1, 1953, and (2) extend the corporate existence of the Home until January 1, 1960.

Ch. 1156 (SB 9). Amends G.S. 112-18 to increase pensions (1) for disabled Confederate soldiers from \$864 to \$1,200, (2) for colored servants from \$320 to \$456, (3) for blind or helpless widows of Confederate soldiers from \$420 to \$600, and (4) for widows of Confederate soldiers from \$220 to \$312.

Ch. 1018 (SB 146). Amends G.S. 112-34 to provide state payment of \$100 toward burial expenses of persons who otherwise would be entitled to Confederate pensions but who are not on the pension rolls at the time of death by reason of having been admitted to a county home, county institution, or state institution.

**II. RETIREMENT****A. TEACHERS AND STATE EMPLOYEES**

Ch. 1056 (HB 698). Amends G.S. Ch. 135 as follows: (1) G.S. 135-3 (5) to provide that teachers or state employees electing membership after prior refusal shall receive prior service credit if they elected to become members prior to July 1, 1946; (2) G.S. 135-4 (1) to allow teachers or state employees who were employed as such at any time during the 5 years immediately preceding establishment of the system to claim prior service credit if they became members of the system prior to July 1, 1946;



(3) G.S. 135-5, to permit former members whose membership ceased prior to July 1, 1949, but who become members again before July 1, 1951, to become entitled to service credits they held on ceasing membership by depositing in a single payment the amount they previously withdrew, provided that the redeposits shall count only as contributions made after July 1, 1947; (4) G.S. 135-4 (6) to allow teachers and state employees who entered the armed forces after February 17, 1941, and who returned to state service prior to July 1, 1950, to be entitled to full credit for prior service and to receive credit for the period of service in the armed forces after the date of establishment of the system and to require employers to make contributions for such returning employees as they would have paid for them during the period of military service—such contributions are not subject to reimbursement if the employee leaves the system, but payments made by members under G.S. 135-8 (1) (e) shall be reimbursed; (5) G.S. 135-5 (6), to allow legal representatives of members who die to be reimbursed the amount of the members' accumulated contributions at the time of death; (6) G.S. 135-15 is repealed and the board of trustees of the Teachers' and State Employees' Retirement System is authorized to establish and promulgate rules and regulations governing the re-employment of retired teachers and employees; (7) G.S. 135-17 is added and provides that on death of a member or beneficiary without designation of a person to whom accumulated contributions shall be paid, or in case the trustees find the beneficiary is unable to care for his own affairs, any payments due may be paid to the spouse, a child, parent, or any blood relative or any person deemed to have incurred expense for such beneficiary or member, except that claims by a duly appointed guardian, committee, or other legal representatives shall have precedence; (8) to permit employees of the Cooperative Agricultural Extension Service, in the discretion of the governing authority of a county, to become members of the Teachers' and State Employees' Retirement System to the extent that their compensation is derived from a county.

#### B. LAW ENFORCEMENT OFFICERS

Ch. 1011 (HB 911). Amends G.S. 128-24 (1) to permit law enforcement officers employed by a county, city, or town belonging to the N. C. Local Governmental Employees' Retirement System to become members of the N. C. Local Governmental Employees' Retirement System or the Law Enforcement Officers' Benefit and Retirement Fund.

Ch. 1055 (HB 591). Amends G.S. 143-166 (i) to permit any county, city, town or other subdivision of government or any law enforcement officer belonging to the Fund, to pay into the Fund to the credit of the individual member a sum not to exceed 5 per cent of such members annual compensation and/or a sum not to exceed the value of prior service of such members. The amounts contributed under this provision are for the purpose of providing additional retirement benefits, but contributions of the employing governmental unit shall be returned to the unit if the member dies or withdraws from the Fund. The State shall match the contributions of law enforcement officers employed by the State, and shall contribute the value of the employee's prior service to the Fund.

#### C. LOCAL GOVERNMENTAL EMPLOYEES

Resolution 36 (HR 1173). Authorizes a Commission to study the Local Governmental Employees' Retirement System and make recommendations for the improvement of the Retirement Act to the Governor and the General Assembly. The Commission shall consist of the Chairman of the Board of Trustees of the Teachers' and State Employees' Retirement System, and one person designated by the N. C. League of Municipalities, the Commissioner of Insurance, and the governing bodies of Charlotte, Durham, Greenville, and Guilford County.

Chapter 231 (HB 198) and Chapter 1015 (HB 1097). Amends G.S. 128-21 (2) to extend the coverage of the Local Governmental Employees Retirement System by defining "employer" to include housing authorities created and operated by virtue of Chapter 157, and the ABC boards of any county, city or town. Also amends G.S. 128-21 (3) to define "employee" to include full-time employees of any housing authority created under Chapter 157.

Ch. 1011 (HB 911). Amends G.S. 128-24 to permit certain law enforcement officers to join either the N. C. Local Governmental Employees Retirement System or the Law Enforcement Officers' Benefit and Retirement System (See Law Enforcement Officers). Ch. 1013 (HB 1087). Amends the same section to provide that county health and welfare

employees may be members of the North Carolina Local Governmental Employees' Retirement System to the full extent of their compensation.

Ch. 923 (SB 363) and Ch. 1012 (HB 1064). Authorize counties supporting a regional library or a district health department to participate in the Local Governmental Employees' Retirement System to the extent of the amount of salaries paid to the employees by the various counties.

## PUBLIC HEALTH AND HOSPITALS

### I. NORTH CAROLINA HOSPITALS BOARD OF CONTROL POWERS

#### A. ADMINISTRATION OF CAMP BUTNER HOSPITAL AREA

Ch. 71 (HB 64). Grants to the Board power to make rules and adopt ordinances for the administration of the Camp Butner hospital and adjacent territory, particularly for regulation of streets, construction and location of buildings, theaters and other public amusements, pool and dance halls, animals running at large, and nuisances; requires that such regulations and ordinances be filed with the Secretary of State; authorizes the Board to appoint special police officers to police its territory at Butner; and makes violations of ordinances a misdemeanor punishable by fine of \$50, imprisonment for 30 days, or both. Makes G.S. Ch. 20 relating to the use of highways, applicable to the streets at Camp Butner. Authorizes the Board to sell, lease, rent or otherwise dispose of surplus real property at Camp Butner under such rules and regulations as may be adopted jointly by the Board and the Advisory Budget Commission, provided that conveyances of such property shall comply with G.S. 143-146 through G.S. 143-151.

#### B. CONSTRUCTION AT CAMP BUTNER

Ch. 1230 (HB 1284). Authorizes the Board to construct, alter, repair, remove or demolish buildings and structures of all kinds through its duly elected officers, agents, or employees upon its own property at Camp Butner when the cost thereof is \$25,000 or less without complying with the provisions of G.S. Ch. 143, Art. 8 entitled Public Building Contracts. The authority granted is to expire in two years from the ratification of the Act.

### II. MEDICAL CARE COMMISSION POWERS

#### A. ADMINISTERING FUNDS

Ch. 592 (HB 601). Amends G.S. 131-120 (c) to give the Commission the same power to receive and administer state funds as it has previously had with regard to Federal funds.

#### B. STUDENT LOANS CREDIT

Ch. 1019 (SB 198). Amends G.S. 131-121 to authorize the Medical Care Commission to establish a system for granting principal and interest credits on student loans for rural service by physicians, dentists, and nurses.

### III. HOSPITAL LICENSING ACT AMENDMENTS

Ch. 920 (SB 337). Rewrites G.S. 131-126.1 (a) to define the term "hospital" so that it will include institutions that render diagnostic, medical, surgical and nursing care in branches of medicine such as obstetric, pediatric, orthopedic, eye, ear, nose and throat and cardiac services, mental and neurological ailments, and chronic and transmissible diseases; specifically excludes from the definition welfare institutions which are defined as orphanages, penal and correctional institutions, homes for the poor, aged and mentally or physically infirm, homes for pregnant women who require public assistance and medical care in such homes, and any infirmaries connected with such institutions or homes. Repeals all the present provisions of G.S. 131-126.17 which provide that the Hospital Licensing Act shall apply only to hospitals eligible for federal or state funds, grants-in-aid and other types of assistance under G.S. Ch. 143, Art. 13 and the Federal Hospital Survey and Construction Act; substitutes instead a provision that Article 13 shall not apply to privately-owned and operated hospitals for the mentally disordered licensed by the State Board of Public Welfare. Deletes the requirement of a \$10 license fee in G.S. 131-126.4 and G.S. 131-126.5.

### IV. CARE OF PREMATURE INFANTS

Ch. 490 (SB 96). Adds to G.S. Ch. 130 a new article providing that if an infant weighing 5 lbs. 8 oz. or less is born in a place other than a hospital equipped to care for children born prematurely, the physician or midwife must immediately notify the county health department. If the child is born in a hospital equipped to care for prematurely born children, the person in charge must file with the county health authorities a similar notification of birth



within 24 hours. Upon notification the health authorities must take steps to provide necessary care for the child.

**V. CANCER CONTROL**

**A. CANCER CONTROL CLINICS**

Ch. 1071 (SB 297). Amends G.S. 130-285 to liberalize the requirements for cancer clinics and their staffs by adding alternative requirements to those now prescribed in subsections 1 and 2 of the section, i.e., (1) clinics qualify which can meet the minimum requirements of the Division of Cancer Control, State Board Health; (2) staff physicians qualify who are approved by their county medical societies and by the Division of Cancer Control.

**B. REPORTING CANCER CASES**

Ch. 499 (HB 411). Adds to G.S. Ch. 130 a new section requiring physicians to notify local health officers of the name, address and other items as specified by State Board of Health, of all persons consulting physicians professionally who are found to have or are suspected of having cancer of any type. The physician's report is to be made within 5 days of establishing diagnosis or obtaining reasonable evidence of the affliction and forwarded by the local health officer to the State Board within 5 days of receipt from the physician.

**VI. REGISTRATION OF BIRTHS AND DEATHS**

**A. CONTENTS OF CERTIFICATES**

Ch. 161 (SB 112). Rewrites G.S. 130-79 and 130-89 so as to bring the certificates used by the Bureau of Vital Statistics into conformity with those used by the national agency in charge of vital statistics.

**B. FORWARDING CERTIFICATES TO REGISTERS OF DEEDS**

Ch. 133 (HB 236). Requires the State Registrar of Vital Statistics within 30 days of receipt to forward copies of birth, death and stillbirth certificates filed in a county other than the county of residence of the new-born or deceased person to the register of deeds of the county of residence of such person. The Act is not to apply to the case of a child born out of wedlock. Effective date July 1, 1949.

**C. DEATH CERTIFICATES FOR ARMED FORCES PERSONNEL**

Ch. 174 (HB 253). Adds a new section, G.S. 130-80.1, requiring the State Registrar of Vital Statistics, upon receiving notice from the U. S. Government of the death of a member of the armed forces outside the U. S., to prepare a death certificate showing such facts as the notice reveals, file and permanently preserve the certificate in his office, and forward a copy to the registrar of the district of the last known residence of the deceased. Requires the Registrar to provide certified copies of certificates upon request, the certificates to be accepted as prima facie evidence of the facts stated.

**D. CERTIFIED COPIES OF BIRTH CERTIFICATES**

Ch. 160 (SB 111). Amends G.S. 130-102 to provide that the certified copy of a birth record shall include only the full name, birth date, state of birth, race, sex, date of filing, and certificate number, except that a full certificate may be issued to certain persons specified in the act, or to any person on order from a superior court judge. Adds to G.S. 130-94 a provision that no person, except those authorized by the State Registrar shall have access to the original records.

**E. REGISTRATION OF CERTIFICATES FOR ADOPTED FOREIGN-BORN CHILDREN**

Ch. 160 (SB 111). Adds a new section, G.S. 130-93.1, providing for registration of the certificate of identification of adopted children born in a foreign country and living in this State.

**VII. BEDDING MANUFACTURE REGULATION—BEDDING STAMPS**

Ch. 636 (SB 113). Amends G.S. 130-272 to set the price of bedding stamps at \$8 per five hundred instead of the former \$10.

**VIII. LOCAL HEALTH MATTERS**

**A. CREATION OF HOSPITAL DISTRICTS**

Ch. 766 (SB 196). Adds Article 13C to G.S. Ch. 131; it provides that upon petition of at least 100 citizens of a described area within one county asking that such area be made a hospital district and that bonds and/or notes be issued for such "hospital facility" therein, the Medical Care Commission, with the approval of the board of county commissioners, is to hold a public hearing on the question. The Commission is empowered to deny or grant the petition; if granted, it must issue an order describing the territory and naming the district. The board of county commissioners is to constitute the governing authority of the hospital district. Once established, if 500 adult residents of the district petition the board of county commissioners asking

for (1) an election in the district on the issuance of bonds for construction of a "hospital facility," and/or (2) an election on the levy of a property tax to pay for operating, equipping and maintaining a facility, the commissioners are to order a new registration in the district and hold an election on either one or both of the issues. A majority of the voters voting will determine the election result. If bonds are approved, they are to be issued by the board of county commissioners as serial bonds payable in not more than 30 years and at interest not to exceed 6% from taxes levied on property in the district; the amount of any special tax similarly approved is to be fixed by the commissioners and levied only against property in the hospital district. Adds to the definition of "hospital facility," as the term is used in G.S. 131-126.18 (c), housing or quarters for local public health departments. Expands the definition of "special purposes" in G.S. 153-77 to include all facilities listed in the definition of "hospital facility."

**B. DISTRICT HEALTH DEPARTMENTS, ENFORCEMENT OF REGULATIONS**

Ch. 159 (SB 110). Makes violation of rules and regulations made by a district health department a misdemeanor punishable by a fine not exceeding \$50 or imprisonment not exceeding 30 days, the same as is now provided for violation of rules of a county health department.

**C. MUNICIPAL SUPPORT FOR HOSPITALS**

Ch. 767 (SB 197). Authorizes the governing bodies of counties, cities and towns to pledge, encumber or appropriate surplus funds, unappropriated funds, and profits from ABC stores to secure the operating deficits of publicly owned hospitals and non-profit hospitals. Also authorizes such governing bodies to: (1) issue bonds and notes for the purpose of constructing, operating or securing operating deficits of such hospitals and (2) levy an annual special tax of not more than 10c on the \$100 valuation for the special purpose of constructing, operating or securing operating deficits of such hospitals. Provides that this Act is to be construed as supplementary to other acts providing for constructing and operating hospitals by a bond issue and tax levy approved in an election. Contains a severability clause.

**D. STATE AID FOR LOCAL HOSPITALS**

Ch. 1248 (HB 31). Included in the Permanent Improvements Act is an appropriation of \$6,826,972 to the Medical Care Commission to be used to share in the cost of construction of local hospitals and health centers. These funds can be used with Federal funds or with local funds in cases where the local authorities can provide the balance of the cost of the units.

**E. VACCINATION OF DOGS**

Ch. 645 (HB 397). Amends G.S. 106-364 (b) to change slightly the definition of vaccination. Adds a proviso to G.S. 106-367 authorizing county health officers or county commissioners to require vaccination of dogs when necessary to control rabies. Amends G.S. 106-375 to allow county commissioners in those counties not having health officers to declare a quarantine against rabies. Amends G.S. 106-383 to define vaccine as that approved by the U. S. Bureau of Animal Industry. Amends G.S. 106-372 and G.S. 106-373 to provide that the vaccination fee shall be fixed by the county commissioners at a sum not exceeding \$1.00.

**PUBLIC WELFARE**

**I. AID TO NEEDY**

Ch. 1038 (SB 22). Provides for state participation in the program of general assistance to needy persons through the Division of Public Assistance of the State Board of Public Welfare. Sets forth the obligation of the state to help provide care and relief for all persons unable to earn or obtain a sufficient living income and not inmates of public institutions, in addition to old-age assistance and aid to dependent children. The county superintendent of public welfare by and with the approval of the county welfare board, is to determine who will receive assistance and the amount of assistance to be granted, in accordance with rules to be established by the State Board of Public Welfare to insure equitable treatment in all counties, and assistance is not to be refused even though the applicant does not come within Federal requirements governing the use of Federal grants-in-aid for general assistance purposes. Assistance is to include the necessities of life but not any hospital or other institutional care except residence in a duly-licensed boarding home. Funds are to be distributed



by the State to the counties from a State General Assistance Fund to be composed of General Assembly appropriations and grants-in-aid from the Federal government which the State Board of Public Welfare is authorized to accept. Allotments from this fund to counties are to be made by the State Board of Allotments and Appeals, created by G.S. 108-33, based on the estimates of funds required per annum submitted by the county commissioners, as prescribed in G.S. 108-36 and 37. Until Federal funds are available no county shall receive from the fund less than 10% nor more than 50% of its total needs, and after Federal funds become available, no county is to receive more than 90%. The State Treasurer is to be treasurer of the fund and allotments will be transferred to counties according to G.S. 108-39, on warrants drawn by the county treasurer and signed and countersigned by the superintendent of public welfare and the county auditor. Quarterly reports by the counties to the State Board of Public Welfare are required. The general assistance program is to be permissive with respect to individual counties unless Federal grants are made on the condition that all counties participate, in which event the program will be mandatory. Effective date, July 1, 1949.

The General Assembly in Ch. 1249 (HB 33) appropriated \$700,000 for the biennium 1949-51 to carry out the purposes of this Act. The appropriation however, was made contingent on the receipt of matching Federal funds.

## II. DOMESTIC RELATIONS

### A. DOMESTIC RELATIONS COMMISSION

Resolution 39 (SR 296). Continues the commission authorized by the 1945 General Assembly. The commission is to continue its study of the laws of the State relating to domestic relations and laws pertaining to the welfare of children with special emphasis on laws relating to guardianship, and then report to the 1951 General Assembly.

### B. DOMESTIC RELATIONS COURTS

#### 1. ESTABLISHMENT

Ch. 420 (HB 462). Amends G.S. 7-101 to provide that a county may establish a domestic relations court if it has a county seat of 25,000 or more population, as the law now provides, or if the county has a population of 85,000 or more.

Ch. 957 (HB 973). Adds to G.S. 7-101 a provision authorizing the establishment of a joint domestic relations court by cities located in the same county and having more than 25,000 population; any number of such cities may also join with the county in establishing such a court.

#### 2. TRANSFERRING CASES TO DOMESTIC RELATIONS COURTS

Ch. 600 (HB 703). Amends G.S. 7-110 to provide that on the creation of a county domestic relations court, the clerks of inferior criminal courts in the county shall transfer actions relating to domestic relations to the domestic relations court; this is in addition to the present requirement that clerks of the superior court transfer domestic relations actions to the new court.

## III. CHILDREN

### A. ADOPTIONS LAW

Ch. 300 (HB 203). Rewrites G.S. Ch. 48 to amplify and clarify adoption proceedings and the legal status of parties thereto and affected thereby; provides for adoption by special proceedings before the clerk of superior court; sets out necessary parties to proceedings; provides that consent of the parents is not necessary in the case of a child adjudged to be abandoned, nor is consent of the father of an illegitimate child required; provides for substituted consent in certain cases, as where the child has been surrendered to a county superintendent of public welfare or a licensed child-placing agency of this or any other state; provides for the consent of a parent who is 12 or older in the same manner as formerly provided for parents over 21; provides for service of process by publication in proper cases; defines venue in adoption proceedings; prohibits reference in court papers to the marital status of natural parents and makes use of the child's original name unnecessary; sets out the form and contents of petitions and decrees; provides for investigation of the condition and antecedents of the child and of the suitability of a foster home; provides for an interlocutory decree and probation period of from 1 to 3 years during which time the decree is subject to rescission or modification, but that decree may be waived by the court if the child is by blood a grandchild, nephew, niece or stepchild of one of the petitioners; gives a child the same legal status with respect to adopting parents and their property as if he were their natural child; gives adopting parents the same rights in

the child as if they were natural parents; provides for recording only the final decree of adoption, copies of other papers to be sent within stated periods to the State Board of Public Welfare; the record of proceedings, investigations, etc., is not to be open for general public inspection, and except for information contained in the petition and decrees, it would be a misdemeanor to open the record for inspection without an order of the clerk reviewed by the judge; sets out appeal procedure; provides that after the final order, the validity of the adoption may not be questioned by any party to the proceedings nor anyone claiming under such a party by reason of any defect or irregularity, jurisdictional or otherwise, nor by anyone not injured by a defect, and that an adoption may not be directly or collaterally attacked by anyone other than a natural parent or guardian of the person of the child; provides for issuance of new birth certificates in the same form as original certificates and as if adopting parents were the natural parents; provides for appointment of a guardian of an adopted child with an estate; makes it a crime for the forfeiting parents to procure custody of an adopted child other than by legal process, to be punished as for an abduction; provides that in re-adoption proceedings under this statute the first adoptive parents are to be substituted for the natural parents; validates prior adoption proceedings; proceedings pending on the effective date are not affected.

### B. ABANDONMENT LAW CHANGES

Ch. 810 (HB 81). Add to G.S. 14-322 a provision making it a misdemeanor for any father or mother to abandon his or her child or children, whether natural or adopted, willfully without providing adequate support for such child or children.

### C. SEPARATING CHILDREN UNDER SIX MONTHS OLD FROM MOTHERS

Ch. 491 (SB 136). Rewrites G.S. 14-320 to provide that it shall be a crime punishable by a fine of not more than \$500 or imprisonment for not more than 1 year or both, to separate a child under 6 months of age from its mother with intent to place such child in a foster home or institution without the written consent of the county superintendent of public welfare or of a licensed child-placing agency. Such consent is not necessary when the mother places the child with relatives or in a licensed boarding agency.

### D. JURISDICTION IN CHILD CUSTODY CASES

Ch. 1010 (HB 355). Amends G.S. 50-13 to enlarge the jurisdiction of the superior court so as to include special proceedings dealing with controversies respecting the custody of children not provided for by G.S. 17-39, which concerns custody in habeas corpus cases where parents are separated but not divorced, or by G.S. 50-13, which deals with custody in divorce cases.

### E. VOID MARRIAGES

Ch. 1022 (SB 249). Adds to G.S. 51-3 a further proviso that marriages between parties either of whom is under 16 shall not be annulled if: (1) the girl be pregnant or (2) a child has been born, unless it is dead at the time of the annulment action.

### F. APPEALS FROM JUVENILE COURTS

Ch. 976 (SB 135). Adds to the present provisions of G.S. 110-40 a requirement that upon notice of appeal the juvenile court judge shall file, with the record of the case, a statement of the case on appeal together with his decision and notice of appeal. If either party objects to the statement, his exceptions shall be filed with the juvenile court judge and be sent with the case on appeal to the resident judge or the judge holding the courts of the district. The superior court judge must hear and determine questions of law and send his order or judgment to the clerk of the county where the action is pending. If the appeal is on issues of fact either party may demand that the case be tried at the next term of court and such case shall have precedence over all cases but exceptions to home-steads and summary ejectments, subject to the discretion of the judge.

## IV. BLIND

### A. RELATING TO ADMINISTRATION OF AID TO BLIND

Resolution 27 (HR 723). Memorializes N. C. delegation in Congress to prevent the adoption of a measure which would require the administration of Federal funds by the one state agency which supervises aid to the blind, since in N. C. both the State Commission for the Blind and the State Association for the Blind now have blind aid programs.



**B. PROTECTING BLIND PEDESTRIANS**

Ch. 324 (HB 409). Makes it unlawful for any person except one who is wholly or partially blind to carry a white cane, or a white cane tipped with red. Gives blind or partially blind pedestrians the right of way at any intersection where there is no traffic officer or traffic signal. If such person extends at arm's length a white cane or white cane tipped with red, or is accompanied by a guide dog. Further provides that the Act shall not be construed to require blind or partially blind persons to carry such canes, or be accompanied by dogs. Violation of the Act is a misdemeanor punishable by a fine up to \$50, or imprisonment up to 30 days, or both.

**V. MENTALLY AND PHYSICALLY HANDICAPPED****A. COMMITMENT OF MENTALLY DISORDERED**

Ch. 1060 (HB 834). Amends the first sentence of G.S. 122-79 to provide (1) that the physician attesting to the disorder should not be connected with the private hospital where the person is detained, instead of with any private hospital as the section now provides; and (2) that the affidavit required be made before a clerk of the superior court or a notary public. Authorizes detaining a person in a private hospital only on the order of a superior court clerk, not on his warrant as the section now provides.

**B. COMMISSION TO STUDY THE CARE OF AGED AND HANDICAPPED**

Ch. 1211 (HB 835). Creates a commission to study the problems relating to the care of the aged, the physically handicapped and the mentally handicapped. The commission is to be composed of the State Health Officer, the Commissioner of Public Welfare, the Superintendent of Public Instruction, and the Superintendent of Mental Hygiene, ex-officio; in addition the Governor is to appoint one member from the Hospitals Board of Control, one from the State Board of Health, one from the State Board of Public Welfare, one from the boards of county commissioners, one county superintendent of public welfare, one county health officer and one clerk of the superior court. Members are to receive \$7 a day plus expenses. The commission is to make recommendations to the Governor offering plans for providing the care needed for the groups studied, and for clarifying the responsibilities of the State and respective counties in providing this care.

**VI. ALCOHOLICS**

Ch. 1206 (HB 623). Adds to G.S. Ch. 122 a new section authorizing the Hospitals Board of Control to set up facilities for the treatment of alcoholics, to establish rules and regulations for admission, care and treatment, and to determine costs and set rates for maintenance. The Board may either operate the facilities, or join with the State Board of Alcoholic Control, or delegate the operation. The State Boards of Health and Public Welfare are constituted advisers to the program. Appropriates \$300,000 from the General Fund to be used for construction and operation of the facilities herein authorized.

**VII. PRISONS****A. TUBERCULAR PRISONERS**

Ch. 1136 (HB 879). Amends G.S. 131-88 to provide that the Prison Division of the Highway Commission shall guard and discipline tubercular prisoners at the North Carolina Sanatorium as it does other prisoners and inmates under its control. Amends G.S. 131-89 to provide that the North Carolina Sanatorium shall provide food for the prison staff and provide medical and dietetic treatment for tubercular prisoners as it does now.

**B. YOUTHFUL OFFENDERS**

Ch. 297 (HB 76). Authorizes the Hospitals Board of Control to convert the Prisoner of War camp on its property at Camp Butner into a modern prison camp with a capacity of 100 persons. Authorizes the Highway Commission to transfer to the prison youthful and first term offenders to be worked on the farm, in the woodwork shops and in other activities promoted by the Hospitals Board of Control. Youthful and first term offenders are defined as those under 25 years of age at the time of sentence who have not previously served a term in jail or prison. The expense of the conversion of the camp is to be borne by the Hospitals Board of Control out of the proceeds of the sale of surplus property at Butner, and the cost of maintenance of prisoners is to be borne by the Board. The Board and the Highway Commission are empowered to work out regulations for the transfer of prisoners and to carry out the intent of the Act.

**C. PRISON ADVISORY COUNCIL**

Ch. 359 (HB 426). Adds G.S. 148-85 through 148-88 creating a Prison Advisory Council to promote rehabilita-

tion of prisoners. The Council shall be composed of a chairman and four members appointed by the Governor for staggered terms of six years; the Attorney General and the Commissioner of Public Welfare shall be ex officio members. The Council shall meet semi-annually and at the call of the chairman, and reports shall be submitted after each meeting to the chairman of the State Highway Commission. The Council must advise with the Prison Director on all phases of prison management, study the prison, system, and make recommendations for improvement to the State Highway Commission.

**REGULATION OF BUSINESS****I. OCCUPATIONS****A. REAL ESTATE LICENSES**

Ch. 683 (SB 224). Amends G.S. 105-41 to provide that it is unlawful for a non-resident to engage in the real estate business in this state unless his state of residence will permit a N. C. resident to engage in such business, and that the mere obtaining of a N. C. license by a non-resident does not of itself entitle him to engage in the real estate business in this state. The act is effective June 1, 1949.

**B. FUNERAL DIRECTORS**

Ch. 951 (HB 661). Amends G.S. 90-203, 90-204, 90-206, and 90-207. Changes the name of the State Board of Embalmers to the State Board of Embalmers and Funeral Directors. Raises the number of members of the board from 5 to 7, the additional 2 not being required to be licensed and practicing embalmers. Gives board the power to regulate the conducting of funerals as to matters pertaining to sanitation, to enforce rules relative to health and sanitation promulgated by the State Board of Health and to require both embalmers and funeral directors to pay an annual \$10 fee.

**C. OPTOMETRISTS**

Ch. 357 (HB 390). Amends G.S. 90-118 to allow examinations to be given to applicants who will be 21 before the next regular examination period but provides that no license be issued until applicant reaches 21 years of age.

**D. CHIROPRACTORS**

Ch. 785 (HB 807). Amends G.S. 90-145 to provide that temporary licenses shall be granted by the entire Board of Chiropractic Examiners rather than by two members of the board as at present. Amends G.S. 90-154 to add unethical advertising and unprofessional and dishonorable conduct unworthy of the profession as grounds for refusal or revocation of license. Amends G.S. 90-156 to authorize the board to provide for "programs for licensed doctors of chiropractic."

**E. COSMETOLOGISTS**

Ch. 505 (SB 147). Adds G.S. 88-28.1 providing that the State Board of Cosmetic Art Examiners, the State Board of Health or any county, city, or district health officer, after notice, may apply to the superior court for a temporary or permanent order to restrain persons subject to the provisions of G.S. Ch. 88 from violating any regulation of the State Board of Cosmetic Art Examiners or any provision of G.S. Ch. 88.

**F. CONTRACTORS****1. DEFINITION OF "GENERAL CONTRACTORS"**

Ch. 936 (HB 906). Rewrites G.S. 87-1 to define a general contractor as one who, for a fixed price, commission, fee or wage, undertakes to bid upon or to construct any building, highway, sewer main, grading or any improvement where the cost is \$15,000 or more, provided that the section does not apply to persons or firms furnishing or erecting industrial equipment, power plant equipment, radial brick chimneys or monuments.

**2. VALUE OF BUILDINGS REQUIRING LICENSED CONTRACTORS**

Ch. 934 (HB 854). Amends G.S. 87-14 to raise from \$10,000 to \$15,000 the cost of a structure for which the contractor must satisfy the building inspector that he is duly licensed.

**3. PUBLIC CONTRACTS DEPOSITS BY CERTIFIED CHECK**

Ch. 257 (HB 361). Amends G.S. 143-129 to provide that when the deposit required in bidding on a public contract is made by certified check, the check must be on a bank or trust company insured by the Federal Deposit Insurance Corporation instead of a bank or trust company authorized to do business in this state.



## II. BUSINESSES

### A. BANKS

#### 1. FEES FOR TRANSMITTAL OF REVENUE DEPARTMENT FUNDS

Ch. 1183 (SB 308). Provides that banks may charge the following fees for issuing cashiers' checks as a medium for the transmission of funds by deputy collectors of revenue to the Commissioner of Revenue: not over 25c if check not over \$250; not over 50c if check over \$250 and not over \$1000; and 1/10 of 1% for each check over \$1000.

#### 2. INTEREST CHARGEABLE BY INDUSTRIAL BANKS

Ch. 952 (HB 914). Rewrites G.S. 53-141 subsec. 1 to provide that industrial banks may discount and negotiate promissory notes, drafts, bills of exchange and other evidence of indebtedness; lend money on real or personal security and reserve lawful interest in advance upon such loans; and discount or purchase notes, bills of exchange, acceptances or other choses in action. Rewrites subsec. 2 to provide that, upon making a loan or discount, such banks may deduct interest in advance at a rate not over 6% per annum, notwithstanding that the loan is required to be repaid in installments.

#### 3. PHOTOSTATIC COPIES OF CHECKS

Ch. 818 (HB 917). Amends G.S. 53-58 so as to authorize the substitution of a photostat copy of an instrument lost in the chain of collection. The bank last forwarding such item which is subsequently lost or destroyed shall be solely liable if such check is presented for payment by an innocent holder.

#### 4. BEARER INSTRUMENTS

Ch. 953 (HB 915). Amends G.S. 25-15 so as to add to the types of instruments which are deemed payable to bearer those instruments which are payable to the order of a living person not intended to have any interest in the instrument, which fact was known to the person making it or known to his employee or other agent who supplied the name of such payee.

#### 5. CONDITIONAL PAYMENT OF CHECKS

Ch. 954 (HB 916). Adds a new paragraph to G.S. 25-144 to make any payment made by a drawee bank for a check presented to it conditional, subject to revocation, unless the bank accepts or certifies the check, such conditional payment to become unconditional at midnight of the next business day following the presentment of the check unless prior to such time the check is returned by the drawee bank; provided that checks may be presented and paid on other terms in accordance with clearinghouse rules or practices, or pursuant to special collection agreements, and that this paragraph shall not apply to checks presented over the counter unless for credit to a depositor's account.

### B. INSURANCE

#### 1. UNFAIR COMPETITION

Ch. 1112 (SB 284). Adds to G.S. Ch. 58 a new article which: (1) declares its purpose—the regulation of trade practices in the insurance business per the intent of Public Law 15, 79th Congress, by defining or providing for the determination of certain acts of unfair competition or unfair practices and prohibiting the same; (2) defines in detail the following acts as constituting unfair competition and practices: (a) misrepresentations and false advertising of policy contracts; (b) making, publishing, etc., any statement re the insurance business which is "untrue, deceptive or misleading"; (c) defamation of competitors; (d) boycotts, coercion and intimidation tending to create unreasonable restraints or monopoly; (e) filing with officials or placing before the public any false financial statements with intent to deceive thereby, or making false entries with intent to deceive examiners or public officials; (f) issuing agency company stock, other capital stock, benefit certificates, securities or insurance company advisory board contracts as an inducement to insurance; (g) discrimination as between policy applicants in the same risk classifications; (h) knowingly making rebates except as provided in policies, "rebates" not to include bonuses to policy-holders out of nonparticipating insurance surplus, allowances to industrial policy-holders for payments direct to insurer, and readjustments of group policy rates at end of policy years. Empowers Commissioner of Insurance to investigate to determine the existence of the above prohibited practices and to hold hearings based on such investigations after due notice; sets out in detail the procedure for the conduct of such hearings and for procuring judicial review of the Commissioner's ruling; authorizes the Commissioner to issue "cease and desist" orders upon finding of unfair practices, and to modify the same subsequently when deemed advisable. Authorizes Commissioner-

er to investigate and hold hearings to determine existence of other unfair practices than those specifically described and to seek enforcement of his findings by injunction through superior court. Violations of Commissioner's "cease and desist" orders will be punishable by penalties of up to \$1000 for each violation, such penalties to be given to use of the schools in the county where the violation occurred. Grants immunity from prosecution for transactions disclosed by persons subpoenaed by the Commissioner who seek to be excused on grounds of possible self-incrimination and nevertheless are made to testify; does not protect such persons from perjury prosecutions or revocation of licenses for matters brought out in such hearings. Contains severability clause.

#### 2. NON-LICENSED AGENTS

Ch. 1120 (SB 407). Adds to G.S. Ch. 58 a new section which prohibits insurance companies or agents from knowingly allowing any person not licensed as an insurance agent to solicit insurance, negotiate for, collect or transmit premiums, or act in any way in negotiations for policies. Provides that no license is required of persons making or transmitting life, accident and/or health insurance premium deductions under pay-roll deduction plans. Contains severability clause.

#### 3. INSURANCE ADJUSTERS

Ch. 958 (HB 1027). Amends G.S. Ch. 58 and G.S. Ch. 105 as they relate to insurance adjusters as follows: (1) rewrites G.S. 58-39.4(5) to define an "insurance adjuster" as an employee of an insurance company who reports to his principal on claims other than those arising out of life, annuity, health, or accident insurance on the sole behalf of the insurer, and to define an "independent adjuster" as a person reporting on the claims set out above as an independent contractor; exempts from the definition of "adjuster" lawyers adjusting losses occasionally and incidental to the practice of law, adjusters of marine losses, and special agents adjusting for companies of which they are agents; specifically defines as employee of an insurance company any person investigating hail insurance claims; (2) adds a new section requiring "independent adjusters" to obtain annually a license from the Commissioner of Insurance; (3) adds a new section requiring insurance companies to file with the Commissioner a list of all "independent adjusters" authorized to report in the company's behalf on claims; (4) adds "independent adjuster" to G.S. 58-41 which prescribes qualifications for agents and adjusters, to G.S. 58-41.1 which prescribes examinations, and to G.S. 58-42 which prescribes causes and procedure for revocation of licenses; (5) amends G.S. 105-228.7 to provide the following license fees: insurance agent (local) for each company represented—\$2.50; general agent or manager for each company represented—\$6; special agent or organizer for each company represented—\$5; insurance adjuster for each company represented—\$3; insurance broker—\$2.50; independent adjuster—\$100; non-resident broker—\$10.

Ch. 1244 (HB 1314) was made necessary because Chapter 958 was ratified on April 14, after the April 1 date for issuing insurance adjusters' licenses. It provides that all licenses issued after April 23 (date of ratification of Ch. 958) shall be subject to Ch. 958, but that those persons who secured licenses before April 14 will have an option of coming under the provisions of Ch. 958 for the present year. The Commissioner is authorized to make any necessary refunds to that end. Those adjusters who did not secure a license on April 1 have until 30 days after April 23 to secure a license under Ch. 958, and all acts of adjusters from April 1 to the time that they secure such renewal licenses are validated.

#### 4. PUBLIC HEARINGS BEFORE THE COMMISSIONER

Ch. 1079 (SB 285). Amend G.S. 58-27.1 to require the Insurance Advisory Board within 3 months of ratification (April 21) to promulgate rules and regulations providing for public hearings before the Commissioner of Insurance, or person designated to hold hearings, on proposals to revise existing rating schedules or to set up new ones that, in the judgment of the board, are of such importance as to justify and require hearings. Amends G.S. 58-27.2 to require the Commissioner of Insurance to order a hearing when a rating bureau or insurance company proposes to increase or decrease rates, with at least 10 days notice, if such hearing is required by the Advisory Board's regulations. Appropriates \$15,000 for each year of the biennium for administration of the act and for the employment of a casualty actuary in the Insurance Department.



5. FIRE INSURANCE

a. "Repair or replace" riders

Ch. 295 (SB 64). Amends G.S. 58-158 to permit fire insurance companies, by riders or endorsements to policies or otherwise, to provide insurance to indemnify for the difference between the actual value of the insured property at the time the loss occurs and the amount actually expended to rebuild or replace the damaged property with new materials of identical size and quality. In order to qualify for these additional benefits persons insured against fire under a "repair or replace" rider must rebuild within the State of North Carolina. G.S. 58-159 is amended so that its provisions limiting liability in total loss cases are made subject to the changes made in G.S. 58-158.

b. Standard policy forms

Ch. 418 (HB 101). Amends G.S. 58-177 to permit domestic mutual fire insurance companies doing business in no more than three counties and chiefly engaged in writing policies on rural properties on an assessment or non-premium basis to add restrictive provisions to the standard policy form contained in G.S. 58-176, if the restrictions are contained in the company's charter or by-laws.

c. Tobacco storage barn rates

Resolution 45 (SR 483). Directs the Commissioner of Insurance to investigate the rate fixed by the North Carolina Fire Insurance Rating Bureau for fire insurance on tobacco storage barns.

d. Farmers Mutual Fire Insurance Association

Ch. 674 (SB 145). Amends Chapter 343, Acts of General Assembly of 1893, as amended by Ch. 187 of the Private Laws of North Carolina, Session 1921, and Ch. 285 of the Session Laws of 1945, to raise the company's limit of risk in any one county from \$10 million to \$20 million.

6. FRATERNAL INSURANCE

Ch. 1080 (SB 301). Rewrites G.S. 58-303 to permit fraternal orders and societies to merge, consolidate or reinsure their risks with life insurance companies as well as with other fraternal orders or societies licensed in North Carolina. Rewrites G.S. 58-304, which sets out the regulations governing contracts of merger and reinsurance, to require 10-days written notice of a meeting of the governing body for approval of the contract and to require affirmative vote of a majority of the governing body of the organization for approval of the contract. The provisions of insurance laws concerning merger, consolidation and liquidation—G.S. 58-155.1 through G.S. 58-155.35—are made applicable to fraternal orders and societies doing insurance business in North Carolina. Those provisions of G.S. 58-289 in conflict with this act are specifically repealed.

7. MOTOR VEHICLE INSURANCE—ASSIGNMENT OF RISKS

Ch. 1209 (HB 769). Adds to the fifth paragraph of G.S. 20-276 a provision which requires insurance carriers to issue a motor vehicle liability policy when assigned a risk by the Commissioner of Insurance as a prerequisite to the further sale of motor vehicle liability insurance in the State. The Insurance Commissioner is required to accept for insurance any person licensed to drive a motor vehicle by the Department of Motor Vehicles.

C. CORPORATIONS

1. DIRECTORS AS STOCKHOLDERS

Ch. 917 (SB 125). Amends G.S. 55-48 to provide that directors of corporations need not be stockholders unless the articles of incorporation or the by-laws so provide.

2. STOCK CERTIFICATES, FORM OF

Ch. 809 (SB 192). Amends G.S. 55-67 to permit stock certificates to bear facsimile, engraved or printed signatures of the president, treasurer, or assistant treasurer if they are actually signed by a transfer agent or transfer clerk. Validates certificates so signed after the official whose name is printed on the certificate has ceased to hold an official position with the corporation.

3. CAPITAL STOCK

a. No-par stock, creation of

Ch. 442 (HB 659). Amends G.S. 55-73 to provide that shares of stock without nominal or par value may be created by adoption of a resolution by a majority of the outstanding capital stock entitled to vote instead of by two-thirds of the stock as is now required, thus bringing this section into conformity with G.S. 55-61 which also deals with the creation of stock. Does not apply to pending litigation.

b. Decrease of capital stock

Ch. 950 (HB 660). Amends G.S. 55-66 to eliminate the requirement that any corporation decreasing capital stock publish notice of the decrease.

D. UTILITIES

1. ELECTRIC INTERURBAN RAILWAYS

Ch. 496 (SB 262). Amends G.S. 60-144 by removing the prohibition against foreign companies of this type operating any part of their lines by steam or as parts of a general steam railroad system and, in lieu thereof, prohibits any such company from operating over municipal streets by steam power except with the consent of municipal authorities.

2. BUS ACT

Ch. 1132 (HB 384). Repeals present law regulating motor vehicles carrying passengers for hire, and prescribes new regulations as companion Act to the Truck Act of 1947. Utilities Commission is to administer Act. Exempts from regulations transportation: (1) for or under control of federal, state or local governments; (2) by taxicabs operating in normal intracity manner and within specified residential and commercial zones, as defined by the Commission, outside cities including operations therein over regular bus routes; (3) by hotel motor vehicles carrying patrons to and from hotels and common carrier stations; (4) to and from airports; (5) by electric trolley buses, except as to rate fixing; (6) by employers of their employees to and from place of work, with proviso that Commission may regulate if deemed necessary; (7) exclusively to and from religious services; (8) exclusively within municipalities or contiguous municipalities and a zone one mile beyond, except over regularly-served common carrier routes in such zone. Commission is authorized to: regulate common and contract carriers by motor vehicle with respect to service, transportation of baggage and mail, and accounts and records; regulate operation of passenger bus stations; prescribe qualifications, working hours, and safety measures for driver; cooperate with Highway Commission as to safety requirements and traffic load measures; maintain docket of pending proceedings and an official register of regulations open to public; give 20 days notice of any contemplated action directed at specific carriers by any rate change, rule, order, or regulation; give four weeks newspaper notice of similar orders, etc., affecting all carriers, but provision is made for emergency authorization by commission; supervise and regulate brokers in motor vehicle passenger transportation; investigate violations of Act and of rules, etc., of Commission and issue orders, after notice and hearing, to gain compliance; inspect motor vehicles and equipment and prohibit their use where found unsafe. Commission is to issue, as a matter of course, new certificates to common carrier holders under present Act, and to issue new permits to contract carriers operating on Oct. 1, 1948, who file specified information and prove fitness. Sets out procedure for obtaining new certificates and permits under this Act with terms and conditions to be set by Commission, for protesting granting of same, for subsequent amendment and modification, and for temporary or permanent discontinuance of service. Prescribes procedure for obtaining broker's license. Similar trade names and dual operation as both a common and contract carrier are prohibited, except in discretion of Commission. Prescribes procedure by which Commission may issue emergency authorization to operate as common carrier within emergency area for duration of emergency. Insurance regulations are same as provided in former law. Prescribes procedure for transferring certificates, permits, and corporate stocks effecting mergers or combinations of carriers. Certificates and permits will remain in effect until suspended or revoked by Commission upon notice for causes specified. Prescribes procedure for challenging reasonableness of rates and charges before or by Commission and authorizes Commission to adjust rates and charges found to be unjust, unreasonable, or discriminatory. Commission is given power to suspend new rate and charge schedules for 180 days upon complaint, but if hearing is not completed in that time, the new schedule shall go into effect. Rate and charge changes are not to be effective until after 30 days notice posted as Commission may direct. Commission is authorized to determine reasonableness of contract carrier minimum rates and charges and adjust on complaint filed or on its own initiative; power to suspend new schedules of minimum rates and charges extends to 180 days. Prohibits giving free transportation except to specified persons and the giving of any rebates. Provides for separation of races with substantially equal accommodations. Provides that in cases in which franchise applications affect intra city bus service the Commission must make provision for the protection of all interests and must allow local intra city opera-



tors to be heard. Provides penalties up to \$5000 for violations of the Act or of regulations of the Commission. Effective date October 1, 1949, with provisions as to procedure for changing present rules and regulations so that they may be prepared by the date.

#### 3. NEUSE RIVER DAMS

Ch. 599 (HB 687). Authorizes persons generating and selling electric power to the public in this State to use the waters of the Neuse for cooling and other purposes except the actual generation of hydroelectric energy in the operation of any steam electric plant located on its banks, and in connection therewith to construct a low-head dam and vehicular bridge near the site of the plant. Approval of the Chief of Engineers, U. S. Army, must be obtained for the location and plans therefor.

#### 4. U-DRIVE-IT AUTOMOBILES

Ch. 814 (HB 826). Provides that passenger motor vehicles of nine-passenger capacity or less which are leased for a term of one year or more to the same person or corporation are not to be deemed U-drive-it automobiles as the term is defined for purposes of G.S. Ch. 20, Art. 3 (the Motor Vehicle Act of 1937).

#### 5. MUNICIPAL GAS AND ELECTRIC POWER WORKS

Ch. 1081 (SB 303). Amends and repeals portions of the Revenue Bond Act of 1938, G.S. Ch. 160, and thus deals primarily with the issuance of bonds by municipalities for the financing of the various undertakings authorized by the cited chapter (these revenue features of the Act are digested under MATTERS OF INTEREST TO LOCAL OFFICIALS of this Summary). The Act also contains a proviso that no municipality shall construct any gas or electric power works for either public or private usage without having first obtained a certificate of convenience and necessity from the Utilities Commission, except for such undertakings as have been authorized or the bonds for which have been authorized prior to ratification of this Act (instead of prior to August 13, 1938 as former law, G.S. 160-421, provided).

#### E. MUTUAL BURIAL ASSOCIATIONS

Ch. 201 (HB 337). Amends G.S. 58-226 Article 18 to provide that each mutual burial association shall either publish a statement showing total income collected, expenses paid and burial benefits provided during the preceding year in a newspaper of general circulation in the county in which such association has its principal place of business, or mail a copy of this statement to each member in good standing; present law calls for mailing copies only. Amends G.S. 57-227 to reduce the license fee paid by soliciting agents to the burial association commissioner from \$10 to \$5. Amends G.S. 58-226 Article 13 and G.S. 58-228 to provide that the amount the burial association commissioner shall assess burial associations annually on a pro-rata basis for the supervisory cost of his office shall be increased from \$31,500 to \$36,500.

#### F. MUTUAL HOUSING ASSOCIATIONS

Ch. 1042 (SB 382). Amends G.S. 54-111 and 54-124 to include "housing" among the objectives for which 5 or more persons may associate themselves as a cooperative or mutual association, and to grant such associations power to conduct any housing business on the mutual plan. All housing organizations formed under this authority must be composed of veterans only. Following types of organizations are authorized: (1) low-rent veterans' housing projects which may be converted into projects with Federal assistance if that assistance becomes available; (2) non-profit cooperative housing corporations which may erect dwellings in which permanent occupancy is restricted to corporation members; (3) "a project constructed by a non-profit corporation organized for the purpose of construction of homes for members of the corporation at prices, costs, or charges comparable to the prices, costs, or charges proposed to be charged such members." Members are prohibited from renting to non-member for periods longer than 90 days. These associations are not to be exempt from ad valorem taxation.

#### G. CHURCHES OBTAINING EASEMENTS

Ch. 382 (HB 348). Amends G.S. 136-71 to enable a church to obtain rights of way for electric light, power, telephone, sewer or water lines in the same manner as it obtains necessary roads leading to the church.

### III. AGRICULTURE

#### A. SALE AND SHIPMENT OF LIVESTOCK

Ch. 997 (HB 1145). Amends G.S. 106-408 to provide that sales of livestock at auction markets shall start at 1:00 P.M. and continue until all livestock is sold. Amends G.S.

106-409 and G.S. 106-410 to provide that the health certificate required to be issued shall be issued by a veterinarian approved or provided by the Commissioner of Agriculture. Adds to G.S. 106-410 a provision authorizing the Commissioner to permit swine to be shipped out of the State under the same conditions as if the swine were being delivered for immediate slaughter, if the shipment is for immediate delivery to holding or feeding lots in another state which are operated in compliance with the laws of such other state. Amends G.S. 106-415 to provide for a \$100 fee for livestock market permits.

#### B. SUPERVISION OF FAIRS

Ch. 829 (HB 907). Adds to Art. 45 of G.S. Ch. 106 a new part entitled "Supervision of Fairs." G.S. 106-520.1 defines a fair as an exhibition designed to promote and improve agriculture, horticulture, livestock, poultry, dairy products, mechanical fabrics, domestic economy and 4-H and Future Farmer activities by awarding premiums for the best exhibits. G.S. 106-502.2 prohibits use of the word "fair" in connection with any other exhibition, circus or show. G.S. 106-520.3 gives the Commissioner of Agriculture, with approval of State Board of Agriculture, power to make rules concerning operation and licensing of fairs. G.S. 106-520.4 requires county or regional fairs to be operated under the supervision of a local board of directors and to offer premiums adequate to encourage agricultural, educational, home and industrial exhibits. G.S. 106-520.5 requires each fair to make such reports as the Commissioner of Agriculture may require. G.S. 106-520.6 authorizes the State Board of Agriculture to supplement premiums at local fairs and at the N. C. State Fair and to improve and expand the facilities for exhibits at the N. C. State Fair. G.S. 106-520.7 makes violation of the Act a misdemeanor. The Act amends G.S. 106-505 to (1) eliminate the provision that county associations to promote agriculture may hold property not in excess of a value of \$100,000, and (2) require such associations to incorporate. G.S. 106-507 is amended so as to require the Commissioner of Revenue to refer applications for exemptions from payment of license taxes to the Commissioner of Agriculture rather than to the Committee now designated in the section.

#### C. SOIL CONSERVATION DISTRICT SUPERVISORS

Ch. 268 (HB 315). Rewrites the caption of G.S. 139-6 to read as follows: "Election and Duties of County Supervisors; County Chairman to be Ex Officio Supervisor" and adds G.S. 139-15 providing that the terms "County Committeeman" and "County Committeemen" as used in this chapter relating to soil conservation districts shall be construed to mean "County Supervisor" and "County Supervisors" who shall have the same powers and duties and receive the same compensation now enjoyed by District Supervisors under this law.

### IV. REGULATING THE SALE OF COMMODITIES

#### A. WEIGHTS AND MEASURES

##### 1. COAL, COKE AND CHARCOAL

Ch. 860 (HB 767). Adds G.S. 81-14.8 to provide that coal, coke and charcoal be sold by weight only, and to set as the standard unit of weight the avoirdupois pound, a ton being 2000 pounds. Prohibits sale or delivery of these products until they have been weighed on scales tested and sealed by a state inspector of weights and measures. Requires each sale or delivery to be accompanied by a certificate containing information required in the Act, including the weight of the delivery and the signature of the weigh master. When delivery is made in railway carload lots, the railway bill of lading may be used in lieu of the certificate.

##### 2. BREAD LOAVES

Ch. 1005 (SB 309). Adds G.S. 81-14.7 to require that loaves of bread offered for sale in this state meet one of the following weights and sizes: (a) 1 lb., 11 1/2 in. maximum length, 5 in. maximum width at bottom; (b) 1 1/2 lbs., 15 in. maximum length, 5 in. maximum width at bottom; (c) 2 lbs., 15 in. maximum length, 5 in. maximum width at bottom; (d) 2 1/2 lbs., 15 in. maximum length, 5 in. maximum width at bottom.

##### 3. MILK AND CREAM

Ch. 982 (SB 243). Adds provisions to G.S. Ch. 81 authorizing the Board of Agriculture to regulate units of weight and measurement by which milk, cream and other fluids containing milk or milk products are sold at retail in sealed containers.

##### 4. UNIFORM WEIGHTS AND MEASURES LAW

Ch. 973 (SB 242). Amends G.S. 81-14.2 to prohibit the sale, except for immediate consumption by the purchaser,



on the seller's premises of liquid and non-liquid commodities other than by specific measures. The statute formerly prohibited such sales "except for immediate consumption on the premises."

Ch. 984 (SB 245). Clarifies and corrects several technical errors in Article 1, G.S. Ch. 81.

5. PUBLIC WEIGH MASTER AND SCALE MECHANIC

Ch. 983 (SB 244). Amends G.S. 81-37 to require that formal application for the position of public weigh master be made *under oath*, and to eliminate the requirement for certification by 3 witnesses to such application. Amends G.S. 81-58 by adding to the acts punishable under this section those of failing to issue a "service certificate" to a scale mechanic or issuing one containing false statements in regard to service rendered.

B. FOOD AND DRUGS

1. OLEOMARGARINE

Ch. 978 (SB 140). Amends G.S. 106-233 to expand the present definition of oleomargarine to include "margarine." Repeals G.S. 106-234 which prohibited the serving of colored oleo in public eating places. Amends G.S. 106-235 to reduce the license fee required of manufacturers and wholesalers for the manufacture and sale of oleo from \$75 to \$25. Rewrites G.S. 106-236 dealing with display of signs in places serving oleo to make it unlawful to have *yellow* oleo for serving unless that fact is indicated by a prominent sign or on the menu; each serving of *yellow* oleo in a public eating place must bear or be accompanied by some labeling identifying it as oleo.

2. BAKERY PRODUCTS

Ch. 985 (SB 246). Amends Article 22, G.S. Ch. 106 by adding Sections 106-225.1 and 106-225.2, which prohibit: (1) bakery products containing any premiums, souvenirs or trinkets which may endanger consumers by virtue of (a) insanitation, (b) contact with inks, paints or other substances not suitable for contact with food, (c) biting into or swallowing; the "safe and proper" use of such items as cake supports and decorations is exempted; (2) sale or offer for sale of grain cereals for human consumption in containers previously used for any purpose, packing such grain cereals in any except new containers, importing or shipping into N. C. of any such grain cereals not packed in new containers, or using any such grain cereals in foods.

3. MILK AND CREAM

Ch. 822 (SB 320). Adds Article 28A to G.S. Ch. 106 to regulate the distribution of milk and cream brought into the state from other states. It provides that any person shipping milk or cream into the state must obtain a permit from the Commissioner of Agriculture, pay a fee of \$25, and give advance notice of such shipment to the Commissioner of Agriculture. The Board of Agriculture is authorized to fix regulations governing such shipments, and the Commissioner may suspend immediately upon notice, or revoke after hearing and notice, any such permit issued. Provision for prompt hearings on suspended permits is made. Milk or cream shipped into the state must be delivered to a milk distributor holding an unrevoked permit. Issuance of temporary emergency permits to insure adequate milk supplies for a limited area is authorized. Provides that distributors of imported milk must obtain a permit from the Commissioner, paying a fee of \$25, with the same suspension and revocation provisions as for shipments into the state. Authorizes the Commissioner to issue "stop sale" orders in case imported milk does not meet the requirements of the regulations issued pursuant to this article. Directs that the Commissioner or his agents have access at reasonable hours to the plants or equipment of any milk-handler. The Board of Agriculture is empowered to make regulations for the enforcement of this article, not in conflict with any statutory provisions. Violation is made a misdemeanor punishable by a fine of not over \$50 for the first offense, with punishment for subsequent offenses to be in the discretion of the court. This article does not apply to evaporated milk, powdered whole milk, powdered skim milk, or cream used for manufacturing purposes. Provides for exemption, in the Commissioner's discretion, of out of state dairy farms producing milk for N. C. plants under a permit from the health department of the county or city where the milk is sold. Contains a severability clause.

4. DOG FOOD

Ch. 1058 (HB 800). Amends G.S. 106-150 to permit any manufacturer, corporation, firm or person distributing dog

food in this state to pay inspection taxes by means of a report, under a permit from the Commissioner of Agriculture, rather than by affixing inspection stamps to each carton sold. Granting of the permit is discretionary with the Commissioner, conditioned on his being satisfied that the applicant has a good bookkeeping system capable of indicating accurately the quantity of dog food sold in the state and open at all times for inspection and verification. Report is to be made quarterly on forms furnished by the Commissioner, and fees are due and payable quarterly, on or before the 10th day of January, April, July, and October. If fees remain unpaid 10 days following due date, the Commissioner may revoke the permit. If they are unpaid following a further 15-day grace period, the amount due shall bear a 10% penalty chargeable against an amount of \$250 required to be posted with the Commissioner in cash, securities, or surety bonds to guarantee performance.

5. DRUGS

Ch. 370 (HB 602). Rewrites G.S. 106-134(k) to declare a drug or device misbranded if (1) it is a drug sold at retail without prescription and contains any quantity of amidopyrine, barbituric acid, cinchophen, dinitrophenol, sulfanilamide, pituitary, thyroid, or their derivatives, or (2) it is a drug sold at retail, without prescription, and its label bears a statement that it is to be dispensed only on the prescription of a physician, dentist or veterinarian. Such drugs may be sold on the written prescription of a physician, dentist or veterinarian licensed to administer drugs. The form of label for sale on prescription is set forth, and such prescriptions are not to be refilled except on the specific authorization of the prescriber. Compounds containing salts or derivatives of barbituric acid are excepted if they produce an action other than hypnotic or somnifacient, or are for use as a spray, gargle, or external application. Effective date June 30, 1949.

C. AGRICULTURAL PRODUCTS

1. SEED LAW

Ch. 725 (HB 600). Rewrites Art. 31, of G.S. Ch. 106 (The North Carolina Seed Law) to make minor changes in phraseology throughout the article; to make minor changes in information required on seed analysis tags and labels; to make it unlawful to sell or offer for sale agricultural or vegetable seed having seed analysis tags attached to the container containing a liability or non-warranty clause; to require 10 days notice of public hearing on proposed new rules and regulations; to permit the Commissioner of Agriculture to adopt rules and regulations (1) declaring the minimum percentage of germination permitted in "agricultural seeds" offered for sale and (2) prescribing standards for the moisture content of seeds; to eliminate the provision that the seed is to be forfeited to the state if no attempt is made to comply with the Seed Law within 60 days following a "stop-sale" order by the Commissioner; to make a person repeatedly violating labeling requirements subject to all costs and expenses incurred in withdrawing seed from sale and the subsequent releasing of the seed; to give the seed owner the right of appeal to a court of competent jurisdiction from a "stop-sale" order; to set forth requirements for hearings in connection with issuance and revocation of seed licenses; and to increase penalty for violation of the statute or any rule or regulation adopted pursuant thereto to a fine of not more than \$500 or imprisonment for not more than 6 months, or both.

2. FERTILIZER LAW

Ch. 637 (SB 212). Adds to the North Carolina Fertilizer Law in G.S. 106-50.4 a provision that all fertilizer branded for tobacco must contain a minimum of 2% magnesium oxide or its equivalent in magnesium; adds to G.S. 106-50.5 a requirement that mixed fertilizer sold or to be sold in bags weighing more than 100 lbs. be tagged or labeled in a prescribed manner to indicate its grade; adds to G.S. 106-50.6 a provision that fertilizer distributors may make application to the Commissioner of Agriculture for permits to report tonnage sold and pay an inspection fee on the basis of this report in lieu of the present procedure of affixing inspection tags or stamps to each container. The permits are to be granted in the discretion of the Commissioner under conditions set out in the Act; amends G.S. 106-50.15 by striking the provision added by this Act to G.S. 106-50.6 and adding a provision authorizing the Board of Agriculture to regulate the weight of containers in which fertilizer is sold or offered for sale. The Act is to become effective July 1, 1949.



## 3. FEED LAW

Ch. 638 (SB 213). Amends the North Carolina Feed Law in G.S. 106-95 to provide that minerals and other materials not valuable for protein and fat content are to be labeled under State Board of Agriculture rules. G.S. 106-95 is rewritten to define "Commercial Feeding Stuffs" as mineral feeds and all feeds used for livestock, domestic animals and poultry, except cottonseed hulls, whole unground hays, straws and corn stover, when not mixed with other materials, and except whole unmixed, unground and uncrushed grains or seeds when not mixed with other materials. G.S. 106-99 is amended to permit makers and distributors of commercial feeding stuffs to apply to the Commissioner of Agriculture for permits to report its tonnage and pay the required tax thereon in lieu of affixing or furnishing inspection fee tags or stamps. The Act is effective July 1, 1949.

## 4. LIME TONNAGE FEES

Ch. 828 (HB 799). Amends G.S. 106-84 to permit any manufacturer or person distributing liming materials under this section to pay the tonnage fees prescribed in the section by reporting the materials sold, under permit from the Commissioner of Agriculture, rather than by affixing the inspection tags or labels now prescribed in the section. Granting of this permit is discretionary with the Commissioner, conditioned on his being satisfied that the applicant has a good accounting system capable of accurately indicating the tonnage sold in the State and open for inspection.

## 5. COTTON BALE MARKINGS

Ch. 824 (HB 194). Amends G.S. 106-451 so as to remove the alternative requirement that the serial number of the bale of cotton must be marked on the bagging in color; to make it a misdemeanor to buy a bale of cotton on which the serial number has been removed, defaced or otherwise altered unless properly replaced; and to require each public ginney to keep a book in which is registered all cotton received to be ginned showing the name of the owner and the person delivering the cotton to the gin and to deliver to the owner a tag showing name of the gin, serial number of the bale, weight of the bale and the owner's name, this tag to constitute *prima facie* evidence of ownership of the bale when offered for sale.

## D. ANTI-FREEZE

Ch. 1165 (HB 419). Adds a new article to G.S. Ch. 106 providing for the inspection and regulation of the sale of anti-freeze substances. Agencies planning to sell anti-freeze substances in the state are required to submit an adequate sample of the preparation to the State Chemist for testing in order to insure that the preparation is not adulterated or misbranded as defined in the Act. If the substance meets the requirements of the statute and of the standards established by the Board of Agriculture, the Commissioner of Agriculture is to issue a permit authorizing its sale, on payment of a \$25 fee. This permit is subject to annual renewal and is good for the fiscal year. The Board is empowered to require that the formula be submitted at the time application for a permit and test is made. Such formula is to be treated confidentially. If the inhibitor ingredients total less than 5% of the weight of the anti-freeze and the applicant gives the State Chemist satisfactory evidence that the anti-freeze is not adulterated within the meaning of the Act, then the statement of formula need not include the inhibitor ingredients. Gives the Board of Agriculture power to promulgate rules and regulations for administering the Act and gives the Commissioner power of enforcement, including: power to investigate the sale of anti-freeze to determine if this Act is being complied with; power to issue "stop-sale" orders upon discovery of a violation of Board standards. Stocks not meeting Board standards are made subject to seizure on complaint by the Commissioner to a court of competent jurisdiction which may issue a condemnation order after hearing. If the stocks can be processed so as to meet the required standards, the court may order their release to the owner for that purpose. The Commissioner is permitted to publish a list of licensed brands of anti-freeze. With the approval of the Commissioner of Revenue, the Commissioner of Agriculture may designate gasoline and oil inspectors as his agents for the purpose of inspecting anti-freeze substances. Violations of the Act or regulations of the Board are made misdemeanors. Adds a provision making a certified analysis by any Department of Agriculture chemist admissible as evidence in any state court on the

trial of any issue involving the merits of an anti-freeze. License fees collected must be used for administration of the program, and in addition, the Budget bureau is directed to allot funds from gasoline and oil inspection fees necessary to enforce this program. Contains severability clause.

## ROADS

## I. SECONDARY ROAD BONDS

Ch. 1250 (SB 52) as amended by Ch. 1255 (HB 1343). Authorizes the issuance of \$200,000,000 in bonds, if the voters of the State approve at an election to be held at a date set by the Governor before July 1, 1949. The proceeds of the bonds are to be allocated to each county in the State on the basis of a formula set out in the Act, provided however that the Highway Commission may retain 10% of the proceeds of the bonds as an equalization fund to be used for secondary road purposes; the latter may be used on streets and extensions thereof in incorporated cities and towns which form important connecting links to the State highway system of farm to market roads. If the voters approve the issuance of the bonds, the gas tax will be increased by 1 cent effective January 1, 1950, to be applied to debt service. Requires that all dealers and distributors having gas on hand on January 1, 1950, and consumers having more than 100 gallons of gas on hand on January 1, 1950, report the amount on hand to the Commissioner of Revenue by January 20 and pay the additional 1 cent tax on such gas.

## II. TOLL ROADS

Ch. 1024 (SB 356). Permits as few as 10 people to petition the Municipal Board of Control for organization as a municipal corporation for the purpose of acquiring rights-of-way and owning and operating toll roads. After notice the Board is to hold a public hearing on the petition, determine whether the proposed toll road is in the public interest, and, if it finds in the affirmative, order the creation of the corporation. Within 90 days after creation, petitioners must meet at the county courthouse and elect a board of from 3 to 7 commissioners to serve 6-year terms as members of the governing body of the corporation; successors are to be elected by the commissioners themselves. The right of eminent domain is conferred on the corporation, and it is also empowered to issue tax exempt revenue bonds under G.S. Chapter 160, Article 34. If the State Highway Commission subsequently determines to acquire any toll road constructed by any such corporation, it is empowered to enter into an agreement with the corporation for its acquisition upon the assumption of the corporation's obligations by the Commission.

STATE DEPARTMENTS,  
AGENCIES AND OFFICIALS

## I. WILDLIFE RESOURCES COMMISSION

## A. EXPENDITURE OF FUNDS

Ch. 1203 (HB 294). Amends G.S. 113-95 and 113-144 to change the purposes for which the 50c set aside from the sale of each hunting and fishing license may be expended. 25c is to be put into the special fund for purchasing, leasing, developing and managing lands and waters, into which the entire 50c now goes, and for the additional purpose of securing Federal funds for wildlife conservation projects by providing matching funds as the Federal law may require. The remainder is to be used by the Commission for enlarging, expanding and making more effective the work of the education and enforcement divisions of the Commission, and 50% of the fund heretofore accumulated for purchase and development of lands and waters may also be expended for these purposes.

## B. HUNTING AND FISHING REGULATIONS

Ch. 1205 (HB 381). Amends G.S. Ch. 113 as follows: (1) G.S. 113-101, to provide that game animals and game birds may be possessed on and after 10 days from the end of the open season provided that a statement of possession be made to the county game and fish protector within 10 days from the close of the season, but the possession of such animals shall not exceed the limitations on possession imposed by law; (2) G.S. 113-102, paragraph 3, to rewrite



the portion dealing with the sale of rabbits and squirrels so as to prohibit the purchase and sale of rabbits and squirrels for the purpose of resale; (3) G.S. 113-104, to prohibit taking birds and animals from any boat or floating device towed by a boat at any time, or from any other floating device during the hours between sunset and sunrise, and to permit the use of artificial lights when hunting raccoons or opossum with dogs or when hunting frogs; (4) G.S. 113-109, to make \$10 the minimum fine for violation of any provision of the article and to provide that certain acts shall constitute prima facie evidence of taking or attempting to take deer with an artificial light between sunset and sunrise.

- Ch. 887 (HB 162). Prohibits willful entry onto the lands, waters or ponds of another, which have been posted against hunting and fishing as prescribed in this Act, in order to hunt, fish or trap. No arrest can be made, however, without the consent of the landowner or his agent. The Act is not applicable to fishing in navigable waters and adjoining bays. Mutilation of signs posted is made a misdemeanor punishable by a fine of not more than \$15. Violation of the hunting and fishing prohibition is made a misdemeanor punishable by a fine of not more than \$50 or imprisonment for not more than 30 days.

## II. STATE PORTS AUTHORITY

### A. MEMBERSHIP

Ch. 892 (HB 725). Increases the number of members of the State Ports Authority from 7 to 9, and makes the Director of the Department of Conservation and Development an ex officio member. Members other than the Director of Conservation and Development are to be appointed from the state at large. The Authority is given power to appoint an executive secretary and to appoint an executive committee which may act for the Authority and is given power to make arrangements with other authorities tending to increase business in N. C. ports.

### B. BOND ISSUE

Ch. 820 (HB 936). Authorizes the issuance of \$7,500,000 of State Port Bonds, the proceeds to be used by the N. C. State Ports Authority for the construction, reconstruction, enlargement and improvement of seaports.

## III. STATE HIGHWAY AND PUBLIC WORKS COMMISSION

### A. ESTABLISHMENT OF CEMENT PLANT

Ch. 677 (HB 211). Authorizes the Governor to appoint a 5-member commission empowered to confer with proper agencies and individuals as to the needs and advantages of establishing a state-owned cement plant. The commission is to report its findings and recommendations to the Governor.

### B. CATTLE CROSSING SIGNS

Ch. 812 (HB 663). Requires the Highway Commission, on written request of any owner of more than 5 head of cattle, to erect signs giving warning of the crossing of cattle at a point on the highway near such crossings. Owners are limited to one sign per single tract or contiguous tracts of land.

### C. DISPOSITION OF SURPLUS GRADING MATERIAL

Ch. 1076 (SB 358). Requires the Highway Commission and contractors working for the Commission to make available to adjoining landowners surplus material derived from grading provided such material is not needed for use on the highways.

## IV. UTILITIES COMMISSION

### A. MEMBERSHIP

Ch. 1009 (HB 343). Rewrites G.S. 62-1 to provide that the Utilities Commission shall consist of five commissioners who shall be appointed by the Governor by and with the consent of the 1949 Senate before adjournment sine die. Successors of the three commissioners now serving 6-year terms are to be appointed for 6-year terms beginning Feb. 1 of the year in which their present terms expire. The two additional commissioners authorized by this Act are to be appointed for terms expiring February 1, 1953, and their successors are to be appointed for 4-year terms. Salaries of the additional commissioners are to be fixed by the Director of the Budget, subject to the approval of the Advisory Budget Commission, but they are not to exceed the salaries paid the other commissioners. G.S. 62-2 is amended to give the chairman of the Commission, with the approval

of the Commission, the authority to determine the internal organization of the Commission. Authority is given the Commission to employ technically qualified personnel including a communications engineer, electrical engineer, director of accounting and transportation expert.

### B. ADMINISTRATIVE PROCEDURE

Ch. 989 (HB 280). Repeals Article 2, G.S. Ch. 62 and rewrites the law governing procedure before the Utilities Commission as follows:

(1) *Evidence*. The Commission is required to observe the rules of evidence applicable to civil actions in the superior courts.

(2) *Privilege*. In hearings before the Commission the customary rules of privilege will be observed.

(3) *Record of proceedings*. The record of Commission hearings is to show reference to documents in the Commission's possession which are relied upon for evidence and all the record is to be in writing.

(4) *Hearings*. Each party to a hearing is given the right to call, examine, cross-examine and impeach witnesses. The rules of the superior courts apply as to the use of depositions and the use of affidavits is permitted after notice to the opposite party, but an opportunity to cross-examine the affiant at the hearing must be granted. All hearings are required to be public.

(5) *Complaints*. Complaints may be made by the Commission or by any person or organization for violation of laws or regulations enforceable by the Commission, provided that the complainant or intervenor has an interest in the subject matter. Utilities may file complaints on the same grounds as other complainants. The Commission is required to give notice and an opportunity for the complainant to be heard before a complaint may be dismissed.

(6) *Burden of proof*. The burden of proof in hearings before the Commission is placed on the utility concerned when the proceedings were instituted by the Commission. In all other proceedings the burden of proof is on the person or organization filing the complaint.

(7) *Orders of Commission*. Orders entered after hearings are required to be in writing with findings of fact and conclusions of law set forth separately and served on the party. Parties may submit proposed findings of fact and conclusions of law and may take exceptions to the findings of the Commission. The record is required to show the rulings on each conclusion, finding or exception so submitted. A petition for rehearing must be filed before an appeal may be taken from the final order or decision of the Commission.

(8) *Appeals*. Appeals from the Commission shall be directed to the superior court of a county agreed upon by the parties, or in the absence of such agreement, to the superior court of a county in which the business involved in the proceedings is conducted, or where the relief sought is to be applied or enforced. Appeals are to be heard on the record except for newly discovered evidence, and the review on appeal is limited to questions of law unless the Commission's decision is unsupported by any competent evidence or is arbitrary or capricious.

(9) *Mandamus*. The Commission may apply, on 10 days notice, to the judge of the superior court in any judicial district in which the business is conducted for a peremptory mandamus to enforce compliance with its orders.

The Act states that the procedural provisions of Article 6B and Article 7 are not affected or repealed by the Act.

### C. UTILITY LINES CROSSINGS

Ch. 1029 (HB 275). Rewrites G.S. 62-54 to give authority to the Utilities Commission (1) to order crossings of the lines and rights of way of one utility by another, or changes in existing utility crossings; (2) to regulate the manner of construction of such crossings; (3) to order such crossings discontinued; and (4) to apportion the costs and damages arising from such crossings.

### D. ORDERING SERVICE IMPROVEMENTS

Ch. 1029 (HB 275). Rewrites G.S. 62-74 to provide that the Commission, after notice and hearing, and a finding that the service of a public utility is inadequate, insufficient, discriminatory, or that persons are not served who may reasonably be served, or that additions ought to be made in one or more utilities, must order that such improvements, extensions or additions be made and that upon failure of



two or more utilities to agree on apportionment of the costs, the Commission may fix that portion of the cost to be borne by each utility.

#### E. ASSISTANT ATTORNEY-GENERAL; COOPERATION WITH STATE BOARD OF ASSESSMENT

Ch. 1029 (HB 275). Adds G.S. 62-10.1 and 62-10.2, the former providing that the Attorney-General shall appoint an assistant Attorney-General to be assigned to the Commission, and the latter directing the Commission and the State Board of Assessment to exchange information and services of personnel with respect to utility valuations.

#### V. STATE PERSONNEL DEPARTMENT

Ch. 718 (SB 51). Rewrites Article 2 of G.S. Ch. 143 as follows: (1) a state personnel department shall be established separate and distinct from the Budget Bureau; (2) the department shall be under the supervision of a Director appointed by, and serving at the pleasure of the State Personnel Council; (3) the Council shall consist of seven members appointed by the governor for 6 year overlapping terms, subject to removal by the Governor for cause after notice and hearing; at least two members of the Council shall be individuals of recognized standing in the field of personnel administration, at least two shall be actively engaged in private business, and not more than two shall be employees subject to the Act; (4) the Council shall fix the salary of the Director; (5) the Council shall assist the Director in preparing and promulgating rules and regulations, in determining job classifications and descriptions, job specifications, minimum employment standards, standards of salaries, etc.; (6) members of the Council who are not state employees shall receive \$7.00 per day and necessary subsistence and traveling expenses as provided by Ch. 1174 (HB 1181); (7) the Director, subject to the approval of the Council and the Governor, shall (a) determine and classify the necessary number of positions and employees and the type and nature of work to be performed, (b) establish a standard of salaries and wages with a minimum and maximum salary rate and intermediate rates for all positions subject to this Act, (c) accept applications for State employment, (d) examine the qualifications of each applicant and notify each applicant of the results of such examination, (e) keep a list of qualified applications which shall be open to the heads of the various departments, (f) post in his office a list of all positions which have been unfilled for a period of ten days, (g) make regulations governing hours of work, holidays, sick leave, vacations, etc., subject to a minimum of one and one-fourth days vacation per calendar month accumulative to 30 days and 10 days sick leave accumulative from year to year; (8) the Director shall (a) enforce the regulations of the Merit System Council as applicable to State employees, (b) select and appoint the Supervisor of Merit Examinations with the advice and approval of the Merit System Council, (c) undertake a new survey and investigation of the needs for personal service in all state agencies, (d) eliminate any existing inequalities between salaries and/or classifications, (e) file the position classification and salary and wage reports, as amended from time to time, with the Governor, the Budget Bureau, the State Auditor and all department heads, (f) determine the eligibility of employees selected by department heads, (g) approve the appointment of persons selected who are found duly qualified; (9) all disputes over any matter within the scope and purview of this Act shall be heard by the Council and may be appealed to the Governor whose decision shall be final; (10) each State Agency is required to appoint or designate from among its present employees a personnel officer; (11) the head of each state agency is required to report all positions to the Director that have been unfilled for 10 days and to abide by the classification and salary plan as established; (12) all employees meriting retention shall be granted annual increments up to the salary step nearest the middle of the salary range, and employees who meet higher standards of performance, as fixed by the State Personnel Director and the Council, shall be given annual increments up to but not exceeding the maximum for the position; (13) the head of each department in preparing the budget for the ensuing biennium shall request funds for salary increments; (14) all persons employed on the effective date of the Act shall be deemed qualified for the positions they hold or occupy provided that no person who has held any position for a period of less than six months shall be deemed qualified until he has completed six months of satisfactory ser-

vice; (15) the following persons are not subject to the law: persons employed solely on an hourly basis; public school superintendents, principals and teachers and other public school employees; instructional and research staff of state educational institutions; professional staff of hospitals and institutions; members of boards, etc., compensated on a per diem basis; constitutional officers and their chief administrative assistant; officials and employees whose salaries are fixed by the Governor or otherwise specifically fixed; (16) existing classifications and conditions of employment established by the present division of personnel shall continue in force until amended or replaced.

#### VI. DEPARTMENT OF AGRICULTURE

##### A. GASOLINE AND OIL INSPECTION

Ch. 1167 (HB 952). Transfers the administration of the gasoline and oil inspection law from the Department of Revenue to the Department of Agriculture, but leaves with the Department of Revenue the collection of fees and taxes. Transfers the duties of the Commissioner of Revenue contained in G.S. 119-6 and 119-26 through 119-44 to the Commissioner of Agriculture.

##### B. LIQUEFIED PETROLEUM GAS

Ch. 1294 (HB 1340). Transfers administration of the laws relating to regulation of the handling of liquefied petroleum gas from the Department of Insurance to the Department of Agriculture. Transfers the duties of the Commissioner of Insurance contained in Article 4 of G.S. Ch. 119 to the Commissioner of Agriculture.

#### VII. DEPARTMENT OF LABOR

Ch. 673 (SB 127). Inserts a provision in Article 4 of G.S. Ch. 95, which deals with the conciliation and mediation service of the Department of Labor, to provide that Department personnel engaged in this service shall not be compelled to disclose to any administrative or judicial tribunal any information, reports, documents, minutes or communications relating to or acquired in the course of their official duties; however, such personnel may be required to testify fully in any proceeding in which the commission of a crime is under inquiry.

#### VIII. DEPARTMENT OF ARCHIVES AND HISTORY

Ch. 1014 (HB 1090). Authorizes the transfer of three house trailers and three trucks, formerly used in the motor vehicle inspection program, from the Department of Motor Vehicles to the Department of Archives and History and the Department of Agriculture (State Museum Division) jointly, for the purpose of travelling educational exhibits and displays. The Department of Archives and History is to pay the Department of Motor Vehicles an amount for the trucks agreed on by the two departments.

#### IX. STATE BANKING COMMISSION

Ch. 372 (SB 73). Increases the membership of the Commission by rewriting the second paragraph of G.S. 53-92 so that the Commission will be composed of the following members: State Treasurer and Attorney General, ex-officio; 7 members to be appointed by the Governor, 4 of whom shall be "practical bankers," and 3 of whom shall represent the business, manufacturing, farming and dairying interests of the State. The present membership is to serve until April 1, 1951, and the Governor is to appoint two additional members to the present Commission to serve until that time. When the new Commission is appointed in 1951, the members shall be so appointed that thereafter all shall serve staggered terms of four years.

#### X. ATLANTIC STATES MARINE FISHERIES COMMISSION

Ch. 1086 (SB 394). Authorizes the State of North Carolina to enter into a compact with any one or more of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, Georgia, and Florida, and such other states as may join, to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard and to create the Atlantic States Marine Fisheries Commission. The North Carolina commissioners are to be: (1) either the Director of the Department of Conservation and Development, the chairman of the Committee on Commercial Fisheries, or the Commis-



sioner of Commercial Fisheries, *ex officio*, (2) a legislator who is a member of the Commission on Interstate Cooperation, selected by the chairman of that Commission, *ex officio*, and (3) a person with knowledge of and interest in the marine fisheries problems, to be appointed by the Governor by and with the advice and consent of the Senate. Appropriates \$600 for the expenses of the Commission as authorized and required by the compact. Authorizes the Governor to execute an amendment to the compact on behalf of the State which would permit 2 or more states to designate the Marine Fisheries Commission as a joint regulatory agency with powers as conferred by the participating states for the regulation of the fishing operations of the citizens and vessels of those states with respect to specific fisheries in which such states have a common interest. This function is to be separate and distinct from the principal objective of the Commission—conservation of marine resources. The Commission is to make recommendations to the legislature of each state with respect to regulations deemed advisable for conservation of marine resources and for stocking the waters of the state with fish and fish eggs. The Commission is to appoint an Advisory Committee representative of the commercial fishermen and salt water anglers of each state for the purpose of advising the Commission. No powers of the Commission are to act as a limitation on the laws of any state participating.

**XI. STATE PLANNING BOARD**

Resolution 24 (HR 452). Authorizes the Governor to appoint a special legislative commission of 5 members, 2 from the Senate and 3 from the House, to investigate the need and cost of establishing a permanent State Planning Board, which would be appointed by the Governor and have main offices at Raleigh plus several branch offices. The commission was charged with reporting its findings to the Governor and the General Assembly in time to permit action by the present session. (As a result of the study of this commission, SB 464 was introduced on April 20 providing for an appropriation of \$160,000 for the next biennium to cover the budgetary requirements of the State Planning Board. This bill was reported unfavorably by a House committee, and hence was not enacted into law.)

**XII. FIREMEN'S RELIEF FUND**

Ch. 1054 (HB 312). Amends G.S. 118-6 to provide that, beginning in January, 1950, the members of the boards of trustees of local firemen's relief funds named by local fire departments and local governing bodies shall hold office for two years and members appointed by the Commissioner of Insurance shall be appointed annually.

**XIII. MERIT SYSTEM COUNCIL**

Ch. 492 (SB 152). Amends G.S. 126-1 to extend the coverage of the Merit System Council to employees of the North Carolina State Hospitals' Board of Control who are paid in whole or in part from Federal funds.

Ch. 718 (SB 51). Rewrites G.S. 126-2 pertaining to the Merit System Council to provide that the supervisor of merit examinations be appointed by the State Director of Personnel.

**XIV. STATE SCHOOL FOR THE BLIND AND DEAF**

Ch. 507 (SB 189). Amends G.S. 116-109 to authorize the board of directors of the State School for the Blind and Deaf to expend funds for the out-of-state education of any students who "because of peculiar conditions of race or disability cannot be properly educated at the school in Raleigh." Expenditures are to be made from existing appropriations or scholarship funds.

Ch. 1070 (SB 295). Removes this school from the list of state charitable institutions whose inmates are required to pay the actual costs of their care, treatment, training and maintenance.

**XV. SALARIES OF STATE OFFICIALS**

**A. CONSTITUTIONAL OFFICERS**

Ch. 1278 (HB 1322). Amends G.S. 114-7 to raise the salaries of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Agriculture, Commissioner of Labor and Commissioner of Insurance, after the expiration of their present terms of office, to \$9,000 per year. The salary of the Attorney General was similarly raised to \$10,080 per year.

**B. SUPREME COURT JUSTICES**

Ch. 158 (SB 47). Amends G.S. 7-3 to provide annual salaries of \$14,400 per year for justices of the Supreme Court, beginning January 1, 1949.

**C. SUPERIOR COURT JUDGES**

Ch. 157 (SB 46). Repeals Ch. 763, S.L. 1945 and amends G.S. 7-42 to set the salaries of superior court judges at \$10,000 per year plus \$2,500 in lieu of necessary traveling expenses and subsistence; compensation at this rate is to be effective as of January 1, 1949.

Ch. 1092 (HB 515). Amends G.S. 7-51 to provide that retired regular or special judges shall be paid \$50 plus expenses for each week of any regular term held by such judge.

**D. SUPERIOR COURT SOLICITORS**

Ch. 189 (SB 108). Amends G.S. 7-44 and 7-45 to raise the salaries of solicitors to \$6,500 per year and their expense appropriations to \$1,500 per year as of January 1, 1949.

**XVI. STATE PROPERTY**

**A. OWNERSHIP OF TIDELANDS**

Resolution 29 (HR 1055). Requests the North Carolina delegation in the U. S. Congress to oppose legislation which would create federal ownership and control of land, fish or other resources beneath the navigable waters within the State boundaries, the latter being one marine league eastward from the low-water mark on the Atlantic seashore, and to support legislation continuing control and ownership in the State of such land, fish or other resources subject to constitutionally delegated federal powers with respect to such areas.

**B. DISPOSITION OF STATE PROPERTY**

**1. U.N.C. UTILITIES SYSTEMS**

Ch. 653 (HB 598). Authorizes the University to sell and/or lease its telephone system, its distribution system for electric light and power except such portion as supplies electric light and power to University buildings and grounds, and its water distribution system except such portion as supplies water to University buildings and grounds. The terms of sale or lease are to be negotiated by the Board of Trustees and are to include provisions as to the responsibility of the University and the purchasers and/or lessees with respect to maintenance, repair, upkeep and replacement of such systems. After payment of indebtedness against such systems, the proceeds from the sale or lease are to be paid into the General Fund. The University is authorized to furnish purchasers and/or lessees electric current and water at wholesale rates to be determined by agreement of the Board of Trustees and the purchasers and/or lessees. The Advisory Budget Commission must approve any deed, contract or lease as to manner and method of sale, sales price, rental or fees charged for the use of the facilities.

**2. STATE LAND, CHATHAM COUNTY**

Ch. 1109 (HB 1265). Authorizes the Governor and Secretary of State with the approval of the Council of State to dispose of the State's interest in four acres of land, more or less, near Moncure in Chatham County.

**C. PUBLIC BUILDING CONTRACTS**

Ch. 1137 (HB 905). Amends G.S. 143-128 to require preparation of separate specifications when the total cost exceeds \$15,000 instead of the present \$10,000 limitation, and to provide that when the estimated cost of work to be performed in any single subdivision is less than \$1,000, that estimate may be included in one of the several other contracts, irrespective of total project cost. Rewrites G.S. 143-135 to provide that the Public Building Contract article shall not apply to the State or its subdivisions in the expenditure of funds where the total cost of the structure or any repairs shall not exceed \$15,000.

**XVII. DEFUNCT AGENCIES**

**A. N. C. AERONAUTICS COMMISSION**

Ch. 865 (HB 959). Abolishes the N. C. Aeronautics Commission.

**B. SETTLING AFFAIRS OF INOPERATIVE AGENCIES**

Ch. 740 (HB 909). Requires person having charge of the funds, equipment, etc. of licensing or regulatory boards now or hereafter becoming defunct to turn the funds over to the State Treasurer and other assets to the Director of the Division of Purchases and Contracts. Requires the Director of Purchases and Contracts to turn the records over to the Archives Department and to convert the assets into cash by public sale, although he may allocate such assets to other State Departments. The proceeds of such sales are to be deposited with the Treasurer. Requires the



Treasurer to hold the funds deposited with him under this Act to the account of the particular board or agency, to be paid out one year after the board or agency became in which have been investigated and approved by the Director of Purchases and Contracts. Any balance remaining is to escheat to the University. If the funds available are not sufficient to pay all claims, partial payments on a prorated basis will be made. The Treasurer is authorized to have an audit made as soon as the agency becomes inoperative, and the cost of the audit is to have first priority for payment from agency funds.

## STATE FINANCE AND TAXATION

### I. THE REVENUE ACT

Ch. 392 (HB 30). Amends various schedules of the Revenue Act as follows:

#### A. LICENSE TAXES—SCHEDULE B

Adds G.S. 105-36.1 setting out a new schedule for drive-in or outdoor theaters based on car capacity and the population of the largest town whose corporate limits are within ten miles of the theater with an additional tax of \$1 on each seating space outside cars. Sets out a schedule which municipalities may levy on drive-in or outdoor theaters located inside their corporate limits.

Amends G.S. 105-37(b) to provide that the state theater license tax is lowered to one third the total state theater license tax in cases of colored theaters in towns of 2500 population or over. Ch. 1201 (HB 114) has the same provisions and, in addition, authorizes the Commissioner of Revenue to refund the difference between the amounts actually paid under G.S. 105-37(b) in the tax years 1947-48 and 1948-49 and the tax which would have been paid had this amendment been in effect if the request for refund is made within one year from ratification of the Act (April 23, 1949).

Amends G.S. 105-85 so as to make the state license tax schedule set out therein specifically applicable to laundrettes, launderalls and similar type businesses.

Amends G.S. 105-85 to remove the state 1% gross receipts tax on linen supply companies from that part of their business upon which a 3% sales tax is payable.

Amends G.S. 105-89(3)(b) to extend the exemption allowed to dealers in semi-trailers, to dealers in 4-wheel farm-type wagons designed to be towed by cars or farm tractors.

Amends G.S. 105-98 to set the state license tax on chain stores at \$65 per store in excess of one store.

Ch. 580 (HB 241). Amends G.S. 105-102 to extend the state license tax on junk dealers to include those who do not maintain an established place of business in the state and who sell to others than licensed junk dealers or manufacturers in this state.

Ch. 782 (HB 762). Amends G.S. 105-69 to set a state license tax schedule for counter-pressure or pre-mix soft drink bottling machines.

Ch. 1220 (HB 1123). Exempts from Schedule B license taxes machines dispensing milk, milk products, products of the dairy, or pure uncarbonated fruit or vegetable juices and stands selling only these products.

The Schedule B license tax amendments to the Revenue Act are effective June 1, 1949.

#### B. FRANCHISE TAXES—SCHEDULE C

Rewrites G.S. 105-116(6) to provide that utilities paying a franchise tax based on gross receipts will not be taxed under the general corporate franchise tax unless the latter is greater.

Adds G.S. 105-116(7) which provides that the municipalities of the state shall get an amount equal to a tax of  $\frac{3}{4}$  of 1% of the gross receipts of electric light and power, street railway, and gas company sales attributable to sales within the municipality distributed to them by the Commissioner of Revenue. While this distribution to municipalities is in effect, no municipality may impose any greater franchise, privilege, or license taxes on utilities, in the aggregate, than was imposed on or before Jan. 1, 1947.

Adds G.S. 105-120(4) which provides for the same distribution to municipalities of the tax of  $\frac{3}{4}$  of 1% of gross receipts in the case of telephone companies as was provided by G.S. 105-116(7) in the case of other utilities and adds the further provision that if telephone companies receive a credit on the gross receipts tax because of payments made to a municipality, such municipality's distributive share of the gross receipts of such company's local business ( $\frac{3}{4}$  of 1%) shall be reduced by the amount of such credit.

The Schedule C franchise tax amendments to the Revenue Act are effective April 1, 1949.

#### C. INCOME TAXES—SCHEDULE D

Amends G.S. 105-138(9) so as to tax co-operatives as if they were corporations in respect to income not distributed or allocated. Pools of agricultural products are given 90 days after sale of all products in the particular pool to distribute profits before such profits are deemed not distributed. Informational returns are required from all co-ops as to patrons receiving distributions of more than \$50.

Adds G.S. 105-147(9%) which allows deductions without limit for income tax purposes to individuals and corporations for gifts to the state or its subdivisions or any institution or agency thereof.

Adds G.S. 105-147(14) which allows payments of alimony under agreement or by order of court to be deducted up to \$1000.

Amends G.S. 105-149(e) to raise the exemption for dependents from \$200 to \$300.

Ch. 1173 (HB 1166). Amends G.S. 105-149 to give an exemption of \$1000 to persons totally blind or partially blind as defined in the Act.

Ch. 1171 (HB 1099). Adds G.S. 105-144.1 providing the method for computation of gain or loss resulting from involuntary conversions of property.

Amends G.S. 105-159 so as to (1) set a 5-year statute of limitations on the Commissioner's power to make assessment on back income when a Federal correction is made and not reported by the taxpayer and to set a 3-year statute of limitation when the correction is reported; (2) allow interest of 6% on refunds, commencing 90 days after the repayment is due, in cases where the refund is due as a result of a Federal correction.

The Schedule D income tax amendments to the Revenue Act are effective January 1, 1949.

#### D. SALES TAXES—SCHEDULE E

The following additional exemptions are added to the sales tax article:

1. Diesel oil, if the 6c gallonage tax has been paid thereon (G.S. 105-169(b)).

2. Fuel sold to farmers when used for farm rather than domestic purposes (G.S. 105-169(b-1)).

3. Building materials sold to contractors to be used for construction or repair of buildings of charitable, religious or educational institutions not operated for profit (G.S. 105-169(q)).

4. Cinder blocks, cement blocks and clinker blocks used for building (G.S. 105-187).

5. Semen to be used in the artificial insemination of animals (G.S. 105-169). (This amendment was made by Ch. 1271 (HB 1203)).

All these exemptions become effective July 1, 1949 except the exemption for fuel sold to farmers for farm purposes which becomes effective May 1, 1949.

#### E. INTANGIBLE TAXES—SCHEDULE H

Amends G.S. 105-199 by adding a provision that bank deposits of foreign and alien insurance companies are exempted from the tax on intangibles if the company has paid the  $2\frac{1}{2}$ % gross premiums tax.

#### F. GENERAL ADMINISTRATION—SCHEDULE J.

Amends G.S. 105-241 to provide that the lien of state taxes shall not attach to real estate until the judgment is docketed, or to personalty until levy is made on the property. The priority of the state lien is preserved in case of insolvency proceedings and in the event of a bulk sale.

Adds G.S. 105-241.1 setting out a uniform method of assessing the taxpayer for additional taxes due under any schedule, a uniform procedure for notice and hearing before the Commissioner, and the right to appeal from his



decision or to pay under protest and sue to recover the tax.

Amends G.S. 105-242 to provide a 10-year statute of limitations on state tax judgments and the Commissioner is required to cancel any judgment now on record over 10 years old.

Adds G.S. 105-244.1 authorizing the Commissioner to cancel and abate all assessments made after Oct. 16, 1940, for any tax owing to the state prior to induction into the armed forces against any person who was killed while a member of the armed forces or who has a service-connected disability for which disability benefits are drawn.

Adds G.S. 105-250.1 requiring a quarterly report of all distributors of coin-operated machines showing each machine owned, sold or serviced with its location.

**G. MISCELLANEOUS PROVISIONS**

Ch. 605 (HB 823). Amends G.S. 105-404 to provide that this section relating to remittance of uncollected inheritance taxes shall be retroactive in its effect.

**II. STATE FINANCE**

**A. INVESTING SURPLUS STATE FUNDS**

Ch. 213 (HB 144). Rewrites G.S. 147-69.1 to provide that the State Treasurer shall analyze the amounts of cash in the General Fund, any special purpose funds, and in permanent improvement funds, on or before the 10th day of each month. If in the Treasurer's opinion the cash in such funds is in excess of current needs he shall report this fact to the Governor and Council of State. The Governor and State Treasurer, with the approval of the Council of State are authorized to deposit excess funds at interest in depositories of this State, provided that the yield on such certificates of deposit must not be less than the rate on U. S. Treasury notes or certificates of deposit of comparable maturities, or to invest such funds in obligations of the U. S. or its agencies when the obligations are guaranteed by the U. S. All income on such investments is to be paid into the General Fund. A report to the General Assembly and a quarterly statement to be delivered to the Governor and posted in the Treasurer's office is required.

**B. RETIRING VETERAN LOAN BONDS**

Ch. 655 (HB 694). Amends G.S. 142-52 to provide that the General Fund bonds for World War Veterans Loans be included in the bonds to be retired by the General Fund Bond Sinking Fund.

**VETERANS AFFAIRS AND THE NATIONAL GUARD**

**I. THE VETERANS COMMISSION**

Ch. 430 (HB 169). Amends G.S. 165-2 to define a "veterans organization" as a nationally recognized organization of veterans which has been chartered by an Act of Congress. Provides that the official head of each recognized veterans organization in the State shall be an ex-officio member of the State Veterans Commission without vote or compensation.

**II. COUNTY VETERANS SERVICE OFFICERS**

Ch. 1292 (HB 463). Appropriates \$50,000 for each year of the biennium to be used by the Veterans Commission, in its discretion, for supplementing the salary and expenses of county veterans service officers. The Commission is authorized to pay up to \$1,000 (in quarterly installments) to any county to match at least an equal sum appropriated by the county commissioners for the service officer. The payment of the salary and expenses of the county veterans service officer by the county is declared to be for a public purpose, and the board of county commissioners is authorized to appropriate whatever amount it deems necessary for such salary and expenses. Effective date July 1, 1949.

**III. TAX EXEMPTIONS**

**A. EMPLOYMENT SECURITY**

Ch. 863 (HB 912). Exempts services performed in the employ of nationally recognized veterans organizations from the requirements of the Employment Security Act.

**B. VETERAN AMPUTEES**

Ch. 132 (HB 170). Amends G.S. 105-297 to exempt from ad valorem taxation any vehicle specially constructed and equipped for veteran amputees and given to a veteran by the Federal government. The tax exemption is to apply so long as the vehicle is owned by the original donee or other veteran entitled to receive such gift.

Ch. 127 (HB 42). Amends G.S. 20-87 (e) to reduce to \$1 the fee for the registration and licensing of vehicles given by the Federal government to disabled veterans of

World War II. The reduction is available only to the original donee or other veteran entitled to receive such gift. (See MOTOR VEHICLE LAW.)

**IV. VETERANS CHILDREN EDUCATION**

Ch. 1040 (SB 255). Amends G.S. Chapter 116 to extend tuition, room rent and board benefits at state educational institutions to any child whose father was a resident of North Carolina at the time he entered the U. S. armed forces and was, prior to death or at the time benefits are sought, suffering from 100% disability and drawing compensation for that disability whether service-connected or not. These benefits are limited to not more than 15 children per year.

**V. UNITED SPANISH WAR VETERANS**

Ch. 500 (HB 434). Provides for the disposition of interest in the amount of \$13,000 which has accrued on the undistributed portion of a fund turned over to the State by the Federal government for payment to veterans of the Spanish-American War from the time of their call to duty in 1898 until their muster into the service of the United States. The State Treasurer is declared trustee of the fund and is directed to pay to the Quartermaster of the Department of N. C. United Spanish War Veterans \$1,000 within 10 days from ratification of this act and \$1,000 annually thereafter until \$13,000 has been paid out. The Quartermaster is required to furnish \$1,500 bond and may pay out the sums only on the written approval of the Department Commander for welfare work among needy comrades, their widows and children, and for current use of the organization.

**VI. OTEEN GUEST HOUSE**

Ch. 1219 (HB 1114). Appropriates \$10,000, subject to the approval of the Budget Bureau, for improving and enlarging the guest house owned and operated by the N. C. Chapter of the American War Mothers near the Veterans' Hospital at Oteen, N. C.

**VII. NATIONAL GUARD**

**A. ADJUTANT GENERAL'S RANK**

Ch. 1225 (HB 1228). Amends G.S. 127-12 to provide that the Adjutant General shall have the rank of major general instead of brigadier general.

**B. CHANGES IN THE NATIONAL GUARD LAW**

Ch. 1130 (HB 218). Amend G.S. Chapter 127 as follows: (1) G.S. 127-1 to 4 to lower the age limit for the state militia and its components from 18 to 17; (2) G.S. 127-30 to provide that the retirement of officers shall be regulated so as to conform to federal laws and regulations of the U. S. relating to retirement of national guard officers; (3) G.S. 127-79 to raise per diem pay of officers on duty in connection with examining, efficiency, and advisory boards and courts of inquiry from \$4 to \$6 per day, in addition to actual expenses; (4) G.S. 127-102, first paragraph, to raise the allowance for commanding officers of separate battalions, squadrons, and similar organizations from \$125 to \$225, and to delete the provision that such payments are for maintenance of headquarters, substituting instead that no payments will be made unless the officer has satisfactorily performed all duties required of him by law; (5) G.S. 127-102, second paragraph, to raise the expense allowance of companies, batteries, troops, and similar organizations federally-recognized from \$600 to \$1,500; (6) adds G.S. 127-110.1 to authorize national guard officers to administer oaths when required. G.S. 20-80 is amended to increase the number of national guard license plates authorized from 300 to 900.

**VIII. NORTH CAROLINA ARMORY COMMISSION**

Ch. 1202 (HB 217). Amends Chapters 1064 and 1010 of the Session Laws of 1947 to provide that if the appropriation there made to the Armory Commission is unexpended at the end of the 1947-49 biennium, such funds shall constitute a permanent fund to be expended from time to time for purposes set out in these acts.

**WORKMEN'S COMPENSATION, EMPLOYMENT SECURITY AND LABOR**

**I. WORKMEN'S COMPENSATION ACT**

**A. STATE AND LOCAL EMPLOYEES, SCOPE OF EMPLOYMENT**

Ch. 399 (HB 625). Amends the definition of an "employee" in G.S. 97-2(b) to provide that state, county and municipal employees covered by the definition are to have the same rights under Workmen's Compensation while



working outside the territorial limits of the State, county, or municipality in discharge of their official duties as if such duties were performed within such territorial limits.

Ch. 89 (HB 231). Amends G.S. 160-238 to (1) assure firemen of rights under the Workmen's Compensation Act when they perform duties outside the areas specified in that section under orders or instructions from superior officers and (2) specify that in permitting its fire department to answer fire calls outside the 12-mile limit, the municipality and its employees in the fire department shall be considered as acting in a governmental capacity.

## B. OCCUPATIONAL DISEASES AND HAZARDS

### 1. HEART DISEASE, FIREMEN

Ch. 1078 (SB 261). Adds the following kinds of heart trouble to the list of occupational diseases covered by Workmen's Compensation, pursuant to G.S. 97-53, for voluntary, partly-paid and fully-paid members of city, county and other municipal fire departments: coronary thrombosis, coronary occlusion, angina-pectoris or acute coronary insufficiency, provided that any of these must develop or first manifest itself at a time when the fireman is an active member of a unit or department. Before this can apply to a fireman he must have served at least five consecutive years immediately preceding manifestation of the disease as an active member of the unit or department, and, either upon entering service or not less than 5 years prior to the first manifestation of disease, he must have had a medical examination that failed to disclose the disease. Cities are authorized to adopt their own plans in order to carry out the intent of this Act.

### 2. SPINAL PARALYSIS

Ch. 1017 (HB 1171). Amends G.S. 97-29 to change to January 1, 1941, the date after which payments must have been made under the Workmen's Compensation Act for spinal paralysis, in order that medical, nursing and hospital expenses may be allowed from the second injury fund, such expenses to be paid only from April 4, 1947. Adds a proviso that when compensation is allowed in any case under this amendment, the Commission may authorize payment of treatment expenses accrued prior to the date compensation was allowed but after the employer's liability therefor has ceased.

## II. EMPLOYMENT SECURITY LAW AMENDMENTS

Ch. 424 (SB 155). Amends G.S. Ch. 96 as follows: (1) G.S. 96-4(1)(D), to permit the Employment Security Commission to enter into reciprocal agreements with similar agencies in other states under which the Commission would pay contributions which have been erroneously paid to it by an employer in another state to the state agency administering the Employment Security program in such other state without the payment by this state of any interest which had accrued on the contributions; (2) G.S. 96-5, to authorize the Commission to withdraw from its account in the Treasury of the U. S. any funds which may hereafter be permitted by Federal law to be used for administration expenses; G.S. 96-8(f)(1), to provide that for the purpose of that subsection, when a calendar week falls partly in each of two calendar years, such week shall be deemed to be within the calendar year in which such week ends; (4) G.S. 96-8(f)(6), to provide that employers subject to the N. C. Employment Security Law because they are liable under the Federal Unemployment Tax Act, shall cease to be subject to the law of his state during any year such employer does not meet the requirements of the Federal act; (5) G.S. 96-8(g)(1) and (6), to define "employment" so that it is the same as the common law "master and servant" relationship, except that officers of corporations are specifically included in the definition; (6) G.S. 96-8(n), to permit an employer to pay the tax imposed on employees by the Federal Insurance Contributions Act without such payment being considered wages; (7) G.S. 96-8(r), to raise from \$130 to \$200 the minimum amount of wages which an individual must have received during the applicable base period in order that he may file a valid claim; (8) G.S. 96-9(b)(4)(B), to reduce all rates of employers' contributions except the normal rate of 2.7%, effective January 1, 1949; (9) G.S. 96-9(c)(1), to provide that if the partially pooled account amounts to \$25 million on April 1, 1949, an employer's total contribution per year is to go to his reserve account, but that if the partially pooled account is below that figure, 1/10 of 1% of the wages paid by an employer is to go to the partially-pooled account and the remainder is to go to the

employer's reserve account; (10) G.S. 96-9(c)(2), and 96-14(a) and (b), to provide that where employees voluntarily separate from employment or are discharged for misconduct, the benefits shall be charged to the partially pooled fund rather than to the reserve account of the employer, effective July 1, 1949; (11) G.S. 96-9(c)(4), to authorize transfer of a part of the reserve account in cases where a *portion* of a business is taken over by a successor business and to delete the section providing that when an employer ceases to be subject to the Act his reserve account reverts to the partially pooled account; (12) G.S. 96-9(e), to provide that should an employer cease to be subject to the Act for *any* reason, his reserve account is to be maintained for 5 years, and to clarify provisions with regard to the status of such reserve accounts upon reinstatement; (13) G.S. 96-10(a), to provide that interest collected on contributions shall be paid into the Special Employment Security Administration Fund; (14) G.S. 96-10(e), to authorize refunds to those employers erroneously paying the State of N. C. instead of another state; (15) G.S. 96-10(i), to limit to 5 years the time the Commission can go back to determine status or liability of a particular employer; (16) G.S. 96-11, to terminate automatically the coverage of an employer who has not had anyone in employment for 5 consecutive calendar years; (17) G.S. 96-12(b), to provide a minimum benefit of \$6 and a maximum of \$25 per week; (18) G.S. 96-12(d), to increase the maximum length of benefits from 16 weeks to 20 weeks; (19) G.S. 96-13(c), to define unemployment due to vacation to be a payroll week during which as much as 60% of the full time working hours at the plant consists of a vacation period; (20) G.S. 96-14(c), to provide for carrying over weeks of disqualification not elapsed in the preceding benefit year into the new benefit year; (21) G.S. 96-18(f), to withdraw from a claimant who has been discharged for larceny or embezzlement and who has been convicted of or has confessed to such crime the right to draw benefits based on wages earned prior to discharge unless eligibility was established prior to discharge.

Ch. 969 (HB 1188). Amends G.S. 96-9(c)(4) as rewritten in Ch. 424 (SB 155) to delete the provision that (1) when an employer acquires a distinct and severable portion of the business of another employing unit, as provided in G.S. 96-8(f) paragraph 2, any benefits paid during benefit years in progress on the date the transfer is approved by the Commission are to be charged to the reserve account of the predecessor, and (2) when the reserve account is transferred in toto to the successor employing unit, then all benefit payments shall be charged to the account of the successor.

Ch. 523 (HB 249). Amends G.S. 96-8(f)(2), to provide that an employing unit becoming an employer subject to the statute solely by virtue of the acquisition of another business, which at the time of acquisition was an employer subject to the statute, shall not be responsible for contributions based on wages paid to individuals for employment performed prior to the date of such acquisition. If the predecessor employing unit was an employer subject to the statute at the time the business was transferred only because of failure to apply for termination of coverage in accordance with G.S. 96-11, the successor employing unit may be relieved from definition as an employer by applying for such relief within 60 days after the date of acquisition. Effective date July 1, 1949.

Ch. 522 (HB 248). Amends G.S. 96-11(a) to make an employing unit, which becomes an employer subject to the statute within the calendar year under the definition of G.S. 96-8(f)(2) as rewritten in Ch. 523 (HB 249), subject to the statute for only the remainder of that calendar year instead of for the whole calendar year. Effective date July 1, 1949.

## III. MUNICIPAL SOCIAL SECURITY PARTICIPATION

Ch. 103 (HB 247). Amends G.S. 160-200(25) to authorize municipalities to take such action or to appropriate the funds necessary to enable their employees to share in the benefits of the Social Security Act, if Congress extends its provisions to include such employees.

## IV. MAXIMUM HOURS, MOTOR VEHICLE MECHANICS

Ch. 1057 (HB 783). Amends G.S. 95-17 to provide that the 10-hour day maximum shall not apply to employees who are motor vehicle mechanics on a commission basis or on a part commission, part wage basis.

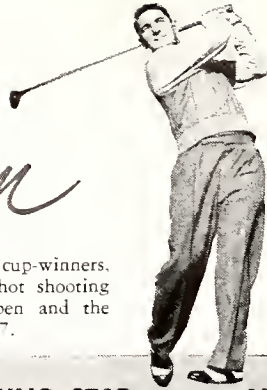


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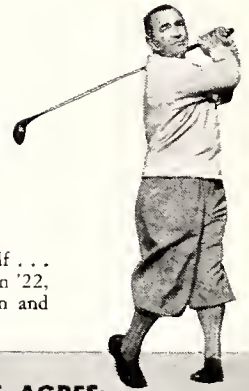


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