

Laws of the State of North Carolina, Passed at the Session of 1886-'87.

[Revised Statute.]

REVENUE.

An Act to provide for the collection and management of a Revenue for this State.—Concluded.

Sec. 65. It shall be the duty of every such sheriff, before he settles his account with the Comptroller, to deposit such deed or deeds in the office of the Secretary of State, who shall record and keep the same in his office for the benefit of the State.

Sec. 66. Each respective sheriff shall be allowed, in his settlement with the Comptroller, (the requisites of the three last sections being complied with,) the amount of the tax on all lands so purchased for the use of the State, together with the costs of advertising and recording, and also shall be allowed commissions on the same as if the money had actually been collected; and such sheriff shall also be credited in his settlement with the county treasurer or trustee, and with the wardens of the poor for such of the county and poor tax as the said lands may be sold to satisfy.

Sec. 67. Any person purchasing lands sold for the taxes due thereon, shall be considered as taking and holding the same subject to the taxes accruing and growing due thereon from the first day of April next preceeding the time of his purchase; but if such person shall fail to complete and perfect his title to said lands according to the above provisions, such lands shall be deemed lapsed or vacant land, and to have reverted to the State, and liable to be entered in the entry taker's office as if the same had never been appropriated.

Sec. 68. Where any sheriff shall sell any lands for the taxes due thereon, and die or remove, or be out of office, before a deed or deeds have been executed for the same, it shall be lawful for his successors in office to make and execute a deed or deeds to the person or persons purchasing the same, if it shall appear that the sale was bona fide made: Provided always, that before any deed or deeds shall be executed by the sheriff to the person or persons so claiming as purchasers of the land aforesaid, such purchaser or purchasers shall produce to the court of the county in which such lands lie, the receipt of the deceased sheriff for the purchase money, and shall also produce such other testimony, to shew that they had well and truly purchased and paid for the said lands, as may by the said court be deemed satisfactory; and shall also make it appear that they have surveyed the same, and registered a plat thereof, agreeably to law; and also that they have paid the lawful taxes on said lands; on which proof, the said court may issue an order, directing the sheriff to make and execute titles for the same; and all deeds made and executed contrary to the provisions of this section shall be void.

Sec. 69. All sheriffs and receivers of public monies shall settle their public accounts, or cause them to be settled with the Comptroller of this State, the whole of which settlements, except those which now are or may hereafter be accepted by law, shall be made in the months of July, August and September, in each and every year; and it shall be the duty of the Comptroller, on making any such settlement, forthwith to report the sums or amount due from such account to the Treasurer of the State, setting forth in such report (if a sheriff's account) the net amount of each species of public tax; and the Treasurer shall raise an account against each and every of such persons, and debit them accordingly.

Sec. 70. It shall be the special duty of the several sheriffs of this State, in making settlements of their accounts annually with the Comptroller, to designate, in a list by them to be rendered, the different sources from which the taxes by them accounted for were received, and the particular amount of tax from each. And the Comptroller shall give the sheriffs a certified copy of the lists returned by them respectively, which said copy it shall be the duty of the said sheriffs to deposit with the clerks of their respective counties for public inspection.

Sec. 71. Every sheriff shall return, upon oath, to the Court of Pleas and Quarter Sessions of his county, at the term next preceeding the time at which he shall settle with the Comptroller for public taxes, a list of all the monies which he may have received from taxes imposed on merchants, retailers of spirituous liquors, stage players, slight of hand performers, rope dancers, tumblers, wire dancers, company of circus riders, equestrian performers, and all exhibitors of natural or artificial curiosities, setting forth, in such list, the name of each person who may have paid any such tax, the amount paid by each and for what tax; which list the court shall cause to be publicly read in open court; and it shall be the duty of the clerk of the court to enter upon the minutes of said court, and preserve such return, and to cause to be set up in some conspicuous place in the court house a fair copy thereof at each and every court which may be held in his county, within six months thereafter, and to furnish each Grand Jury with a copy of the same.

Sec. 72. If the term of the County Court in any county shall happen before the sheriff can complete the collection of the taxes mentioned in the above section, or, from any other cause, the sheriff shall have failed to make his return to the court aforesaid, then the said list of taxes may be returned and filed with the clerk of said court during vacation, which list shall be sworn to, in the presence of the clerk, before two justices of the peace, by the sheriff returning the same.

Sec. 73. The clerk shall deliver to the sheriff a certified copy of such return, which copy the sheriff shall deliver to the Comptroller at the time of settling for public taxes; and the Comptroller shall charge the sheriff according to such return: Provided, that nothing herein contained shall be so construed as to exempt any sheriff from liability for any monies which he may have received on account of such taxes, whether contained in such return or not: And provided further, that nothing herein contained shall be so construed to affect in any manner the provisions regulating the issuing of licenses and accounting for them.

Sec. 74. If any sheriff fail to make the returns to the court, or to the clerk in vacation, or shall fail to deliver a copy thereof to the Comptroller as above required, he shall forfeit and pay the sum of two hundred dollars, and the Comptroller shall charge him with the same in stating his account with the State, and the sheriff shall be moreover liable to pay the taxes which he has or ought to have collected.

Sec. 75. It shall be the duty of the Comptroller, when he shall have just cause to suspect that any sheriff may have made a false return, or sworn falsely, in any matter relative to the collecting or accounting for any tax, to communicate the same to the officer presenting in the Superior Court of the county wherein the offence may have been committed; and it shall be the duty of such officer to prosecute such sheriff, if, in his opinion, the circumstances of the case shall justify a suspicion of such sheriff's guilt; and in all such prosecutions, a copy of any list returned on oath, filed in the Comptroller's office, duly certified by the Comptroller, shall be admitted as evidence in the same manner, and have the same effect, as the original, unless the court, for special reasons, shall previously order the original to be produced on trial.

Sec. 76. If any clerk shall fail to perform the duties required of him by the 71st section of this act, or shall neglect or refuse to certify any return made to him as required by the 73d section, or shall falsely certify any return duly made to him, he shall be deemed and taken to be guilty of a misdemeanor in office, and shall, on conviction in any court having cognizance thereof, for any or either of the aforesaid offences, be punished by fine or imprisonment, or removal from office, at the discretion of the court.

Sec. 77. All sheriffs shall, at the time of their annual settlements, render unto the Comptroller, on oath, a list of the names of those persons from whom they have recovered a two fold tax, together with the amount, specifying from what source each species of tax arose.

Sec. 78. Each and every sheriff shall, in his annual settlement with the Comptroller, be allowed for insolvent taxables; but in order to obtain such allowance, he must return to the Court of Pleas and Quarter Sessions of his county, at some term preceeding his settlement with the Comptroller, a list containing the names of those for whom he claims as insolvent; and he must make oath that he hath been at the dwelling house or usual place of residence of the person or persons therein named, and that he could not find property of such person or persons sufficient to discharge the respective taxes, or any part thereof, and that the persons contained in such list were insolvent at the time when he ought by law to have accounted for such collection; and the said court shall not be at liberty to allow such sheriff for more insolvent taxables than he shall have thus expressly named and sworn to.

Sec. 79. Such list of insolvent taxables shall be advertised by the clerk, in the court house, within ten days after its return; and any clerk neglecting or refusing to perform the duty hereby required, shall, for every such neglect or refusal, forfeit and pay one hundred dollars, one half to the wardens of the poor, the other half to the person suing for the same.

Sec. 80. If any sheriff shall return to court as insolvent the name of any person who is not enlisted or has actually paid his tax for that year, or shall presume to collect or receive by himself or deputy from any person, his tax for the year for which he has been returned an insolvent, without accounting for the same, such sheriff shall forfeit and pay, for every offence, the sum of forty dollars, to be recovered as directed in last section, and applied one half to the use of the county where the offence shall be committed, the other half to the party injured, who may sue for the same.

Sec. 81. Each and every sheriff, previous to settling his accounts, shall take and subscribe the following oath in the Comptroller's office: "I, A. B. sheriff of the county of _____, do on this _____ day of _____, one thousand eight hundred and _____, make oath that the list now by me given in, is to the best of my knowledge and belief, complete, perfect and entire, and contains the full amount of all monies by me or for me received, or which ought to have been received on account of the public taxes for the year one thousand eight hundred and _____, and that I have truly and faithfully endeavored to execute and govern myself by the revenue laws of this State, without favor, affection, or partiality, to the best of my knowledge and ability: so help me God."

Sec. 82. In addition to the foregoing oath, said sheriff shall swear, that if he collects any delinquent tax beyond those accounted for in said settlement, he will render a true account thereof to the Comptroller, within one year after such collection. And if it shall be discovered that any sheriff, or any person by virtue of having been a sheriff, shall collect delinquent taxes and not account for the same as herein required, each sheriff or other person shall be liable to pay four fold the amount of the sum collected and not accounted for, to be recovered in the name of the State before any jurisdiction having cognizance thereof.

Sec. 83. Each and every sheriff, as a compensation for his services in collecting and paying into the treasury, in due time and according to law, the public taxes, shall be entitled to a commission of six per centum on the net amount of the taxes of his county, to be allowed him by way of deduction in the settlement of his accounts with the Comptroller.

Sec. 84. Each and every sheriff shall also be allowed the sum of three dollars for every day he may be necessarily engaged in making his settlement with the Treasurer, and shall also be allowed the sum of one dollar and fifty cents for every thirty miles of the estimated distance of going and returning home, by the most usual road from his place of residence to the seat of government, to be paid by the Treasurer; and if any sheriff shall fail to pay the whole amount of the taxes due from him to the State at the time he makes such settlement, he shall not be entitled to any mileage, nor to the three dollars a day allowed for his attendance in making the settlement.

Sec. 85. Over and above the other bonds directed by law to be given by the sheriff of each county before his entering into office, he shall enter into a distinct bond, with two or more sufficient sureties, to be approved of by the County Court, payable to the State of North Carolina, in the sum of four thousand dollars, conditioned for the due collection, payment and settlement of the public taxes as required by law.

Sec. 86. It shall be the duty of the clerks of the County Courts, at the same time when they make a return of the lists of taxable property to the Comptroller, to furnish the

Comptroller with a certificate of the name of the sheriff of his county, and the sureties to his bond for the collection of public taxes; which certificates, when certified by the Comptroller, shall, on motion of the Treasurer for judgment against any such sheriff and his sureties, be deemed equally valid in law with the bond of such sheriff; and the court shall give judgment and award execution thereon accordingly.

Sec. 87. If any clerk of the County Court shall fail to furnish the Comptroller with such certificate as directed in the last section, he shall forfeit and pay one thousand dollars to be recovered by the Treasurer, for the use of the State; and such clerk so failing and forfeiting or failing to return a list of taxable property, as prescribed in this act, shall be considered guilty of a misdemeanor in office, and on conviction shall be dismissed accordingly, and shall thereafter be held ineligible to the appointment of the clerkship of his county.

Sec. 88. In all cases of failure of a sheriff, or other accounting officer, to settle his account within the time by law required, and to take the oaths prescribed by law, it shall be the duty of the Comptroller, and he is hereby directed to report immediately on the same, allowing to the failing sheriff neither commissions nor insolvents, but adding to his account the sum of four hundred dollars as the supposed amount of such delinquent receipts from the tavern-keepers and persons failing to give in their lists of taxable property. And upon such report, and such sheriff or other accounting officer failing to appear and fully pay up and finally settle for the sums so reported against him as directed by law, it shall be the indispensable duty of the Treasurer, and he is hereby required to take judgment without delay for the several sums or balances due the State agreeably to such report, against the sheriff and his sureties, against such other accounting officer and his sureties; and it is hereby declared that in all cases of delinquency of sheriffs or other accounting officers, the Comptroller's certificate shall be held and deemed sufficient testimony for the court and jury to found their verdict on.

Sec. 89. No citation or other warning shall be required or held necessary, preparatory to the taking judgment against any delinquent sheriff or other collecting revenue officer; but the delinquency of all such officers shall be, and the same is hereby declared to be held and deemed good and sufficient, and I shall be so considered by the courts in this State, as well for the officers themselves as for their sureties; and all motions, at the instance of the Treasurer, by the Attorney General, in behalf of the State, for arrears of taxes or other money due the State, judgment shall be granted as well against the principals as their sureties, without further notice, accordingly.

Sec. 90. All penalties imposed by this act upon clerks, sheriffs and justices, for delinquencies in the performance of any of the duties here enjoined, where the penalties are declared to be solely for the use of the State, shall be recovered in any court of record by the Treasurer, on motion of the Attorney General, or any of the Solicitors of the State, on the certificate of the Comptroller, stating such delinquency, which certificate the Comptroller is hereby required to furnish to the Treasurer immediately after the first day of October in each year.

Sec. 91. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

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Sec. 144. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 145. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 146. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 147. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 148. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 149. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 150. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 151. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 152. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 153. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.

Sec. 154. The Public Treasurer shall have power and authority to move for judgment against any person indebted to the State, in any court of record in this State, in the same manner, and under the same rules and regulations which are prescribed in cases of delinquent sheriffs; and the said court shall render judgment and award execution, though the amount thereof may be within the jurisdiction of a justice of the peace.